



Dumfries and Galloway Licensing Boards' Annual Functions Report

Licensing (Scotland) Act 2005, Section 9A

01/04/2021 – 31/03/2022



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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 5000. 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 2022, there were 604 (611 - 2020/21) licensed premises in Dumfries and Galloway. Within each Licensing Board Division, the breakdown is:

Board	2021/22	2020/21
Nithsdale	191	192
Wigton	149	151
Annandale & Eskdale	154	157
Stewartry	110	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 2021/22 would normally be published no later than 30 June 2022. 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 2022 for the financial year 2021-2022 (being 1 April 2021 to 31 March 2022).

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 on 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 2021 to 31 March 2022, the Licensing Boards met as follows:

Board	2021/22	2020/21
Nithsdale:	5 times	5 times
Annandale & Eskdale:	6 times	5 times
Stewartry:	2 times	3 times
Wigtown:	8 times	4 times
Conjoined meeting of all 4 Boards	2 times	n/a

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 granted by the Boards in 2021/22 are detailed within the **Appendix**.

4.3 During the course of the year, 1,546 occasional licences and 30 extended hours applications were granted. For comparison purposes, during 2020/21 542 occasional licences and 4 extended hours were granted.

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 178 (2020/21 – 108) personal licences. 169 were revoked (2020/21 – none).

5. Reviews

Premises Licence Reviews

5.1 In the 2021-22 period, 2 applications for review of premises licence were considered by the Board. Consideration of one review was deferred pending the outcome of court proceedings and in relation to the other review no grounds of review were established (2020/21 one).

Personal Licence Reviews

5.2 In the 2021-22 period, 2 reviews of a Personal Licence took place. In one case, the decision was deferred pending the outcome of the alleged offence and in the other case no further action was taken (2020/21 two).

6. Licensing Policy Statement

The Board's reviewed Licensing Policy Statement came into effect on 4 November 2018 and will exist for a maximum of 5 years. The Board may agree to prepare and publish Supplementary Statements within that period. The 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 5 "HMO, Landlord Registration and Licensing Standards Officers" (LSOs):

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

7.2 The LSOs' 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 Following easing of Covid restrictions early 2022, LSOs recommenced routine licensed premises visits.

7.3.1 Common findings Included:

- Designated Premises Managers left without notification to the Board
- Outdoor drinking areas extended
- Outdoor bars been installed in outdoor areas
- Staff training issues

7.4 The LSOs continued to deal with 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:

- Complaints of noise and anti-social behaviour at licensed premises
- Non payment of annual fees

7.5 During October 2021, LSOs participated in a Gambling Harm Pilot Exercise organised by the Gambling Commission.

7.5.1 LSOs undertook gambling training in terms of the Gambling Act 2005 and accompanied Gambling Commission compliance officers to various gambling premises throughout Dumfries and Galloway. 26 visits were made and only minor issues were identified.

7.6. LSOs continue to work closely with Police Scotland and other partner agencies carrying out joint visits as and when necessary.

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

**List of Applications granted by the Licensing Boards
for Premises Licences – 2021-2022**

Wigtown

The Vault Arts Centre 40 Victoria Street Newton Stewart DG8 6BT	On and Off sales
Portpatrick Brewery 24 Main Street Kirkcolm Stranraer DG9 0NN	Off sales
Kenmuir Arms Hotel 31 Main Street New Luce Newton Stewart DG8 0AJ	On and Off sales

Annandale & Eskdale

Galldachd Na H-Alba Limited trading as Lowland Brewing 8 Well Street Lockerbie DG11 2EY	Off sales
Ninefold Distillery Dormont Home Farm Dalton, Lockerbie DG11 1DJ	On and Off sales
Colvin Filling Station High Street Moffat DG10 9HG	Off sales
Convenience Store Leamington Square Lochmaben DG11 1LG	Off sales
Sandpiper Queensberry Bay Powfoot, Annan DG12 5PN	Provisional - On and Off sales
Lonsdale Cinema Lady Street Annan DG12 5DA	On sales

Stewartry

Brambles Delicatessen 48A St Mary Street Kirkcudbright DG6 4DN	Off sales
Ernespie Farm Centre Castle Douglas DG7 3JG	On and Off Sales

Nithsdale

Moat Brae 101 George Street Dumfries DG1 1EA	On and Off Sales
Crichton Central Criffel View The Crichton Dumfries DG1 4ZZ	Provisional – On sales
The Bank Bar and Tapas 68 Whitesands Dumfries DG1 2RS	On and Off Sales

2020/21 for comparison	New Premises Licences granted
Wigtown	1 On Sales
Annandale & Eskdale	1 On and Off Sales 1 Off Sales
Stewartry	1 On and Off Sales 1 Off Sales
Nithsdale	None