

# Public Document Pack

## **NITHSDALE DIVISIONAL LICENSING BOARD**

Meeting of Thursday 16 November 2023  
at 10.30 am- This meeting will be held online

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

**VLAD VALIENTE**  
**Clerk to the Licensing Board**

## Nithsdale Divisional Licensing Board

Meeting of Thursday 16 November 2023  
at 10.30am - This meeting will be held online

- |     |  |           |
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Next Meeting Date: Date Not Specified

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**NITHSDALE DIVISIONAL LICENSING BOARD**

**Minute of Meeting of Thursday 31 August 2023 at 09.30am  
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**

Julia Farroll	-	Licensing Standards Officer
Sergeant Amy Ritchie	-	Police Scotland
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 11 MAY 2023**

**Decision**

**AGREED**

4. **MINUTE OF MEETING 19 MAY 2023**

**Decision**

**AGREED**

5. **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 **3 May 2023 until 8 August 2023**:

**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

6. **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

7. **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

8. **LICENSING (SCOTLAND) ACT 2005: SURRENDER OF PREMISES LICENCES (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

**Decision**

**NOTED** and detailed in **Appendix 3**

9. **THE GAMBLING ACT 2005: SURRENDER OF PREMISES LICENCES (GRANTED UNDER DELEGATED AUTHORITY) – REPORT BY THE CLERK TO THE BOARDS**

**Decision**

**NOTED** and detailed in **Appendix 4**

10. **LICENSING (SCOTLAND) ACT 2005: CONFIRMATION OF PREMISES LICENCE - REPORT BY THE CLERK TO THE BOARD**

**Decision**

**NOTED** that the applications in **Appendix 5** were granted under delegated authority

11. **LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR PROVISIONAL PREMISES LICENCE – FOOD WAREHOUSE, UNIT 3 CUCKOO BRIDGE RETAIL PARK, 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**

12. **LICENSING (SCOTLAND) ACT 2005 – APPLICATION FOR VARIATION OF PREMISES LICENCE – SHELL COLLIN, ANNAN ROAD, COLLIN - 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 application as detailed in **Appendix 7**

### **13. LICENSING (SCOTLAND ) ACT 2005: PERSONAL LICENCE REVIEW – CALLAN MALONEY – REPORT BY THE CLERK TO THE BOARDS**

Having heard from Police Scotland and Mr Maloney and considered all information before them, the Board **AGREED** to **ENDORSE** the personal licence as it was satisfied that it was necessary to do so for the purposes of the Licensing Objective Preventing Crime and Disorder.

### **14. LICENSING (SCOTLAND ) ACT 2005: PERSONAL LICENCE REVIEW – GARRY GIBSON – REPORT BY THE CLERK TO THE BOARDS**

Members **AGREED** to **ADJOURN** this matter to the next sitting of the Nithsdale Divisional Licensing Board meeting as requested in advance by the licence holder's solicitor.

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

Having discussed and considered the terms of the report, the responses received to both consultations and the NHS Assessment on Overprovision and its associated presentation, Members **AGREED**

15.1 to retain existing on sales licensed hours and not amend them;

15.2 to adopt a Policy in relation to Outdoor Drinking areas the terms of which will be finalised at the Conjoined meeting of the Board 6 October 2023. Said terms – pursuant to the preventing public nuisance Licensing Objective – are to include a 10pm terminal hour in respect of their use and a 10pm terminal hour with regard to music being played within the outside drinking area. It was **AGREED** also to include within the newly revised Policy Statement narrative that the Board expects noise within outside drinking areas to be reasonable at all times and that monitoring by staff should be undertaken at reasonably frequent intervals ours to ensure that patrons are acting responsibly pursuant to the preventing public nuisance Licensing Objective;

15.3 to not follow the suggestions offered in respect of promoting the Licensing Objectives as Members agreed that the suggestions were either covered within the Policy Statement, the law or outwith the remit of the Board.

15.4 that there was insufficient evidence to make a finding that there is overprovision of licensed premises in Dumfries Central for on and off sales as suggested by the NHS and that there was insufficient evidence to make a finding that there is overprovision of licensed premises within any other locality in Nithsdale. Accordingly, it was **AGREED** there is no overprovision of licensed premises of any description in Nithsdale.



15.5 Members **NOTED** 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).

**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 Applicant or Agent</b>	Mr Thomas Neeson 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

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.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

Appendix 3

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

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**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

**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



Appendix 5

**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

<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>	<p><b><u>Off Sales</u></b></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>Recorded Music both within and outwith core hours.</p> <p>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.</p> <p><b><u>Any other Activities</u></b></p> <p>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 &amp; 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.</p>
<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

<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>

**DUMFRIES AND GALLOWAY LICENSING BOARDS**

Minute of Conjoined Meeting – Friday 6 October 2023  
at 10.30am – Hybrid Meeting (Teams and Council HQ, English Street, Dumfries)

**MEMBERS PRESENT****ANNANDALE AND ESKDALE DIVISIONAL LICENSING BOARD**

Ian Carruthers (Convener) - Annandale South  
Archie Dryburgh - Annandale East and Eskdale  
George Jamieson - Annandale South  
Stephen Thompson - Annandale North

**NITHSDALE DIVISIONAL LICENSING BOARD**

Tony Beretti - Mid and upper Nithsdale  
John Campbell - Nith  
Emma Jordan - North West Dumfries  
Tracey Little - Lochar

**STEWARTRY DIVISIONAL LICENSING BOARD**

Tony Beretti - Mid and upper Nithsdale  
Iain Howie - Castle Douglas and Crocketford  
Kim Lowe (Convener) - Abbey  
Andy McFarlane - Dee and Glenkens

**WIGTOWN DIVISIONAL LICENSING BOARD**

Ben Dashper - Stranraer and the Rhins  
Andrew Giusti - Stranraer and the Rhins  
Katie Hagman - Mid Galloway and Wigtown West  
Chrissie Hill - Stranraer and the Rhins  
Jackie McCamon - Mid Galloway and Wigtown West

**APOLOGIES**

Karen Carruthers (A&E Board) - Annandale East and Eskdale  
Gail Macgregor (A&E Board) - Annandale North  
Linda Dorward (Nithsdale Board) - Lochar  
Ivor Hyslop (Nithsdale) - Lochar  
Dougie Campbell (Stewartry) - Dee and Glenkens  
Kim Lowe (Stewartry) - Abbey  
David Inglis (Wigtown) - Mid Galloway and Wigtown West

**IN ATTENDANCE**

Sharon Davidson - Licensing Manager  
Julia Farroll - Licensing Standards Officer  
Mary Irving - Licensing Standards Officer  
Cheryl Syme - Senior Licensing Officer  
Caroline Treanor - Solicitor

**Vlad Valiente**  
**Clerk to the Licensing Boards**

15 Members present via MS Teams, 2 Members present in Council Hall and 7 apologies.

## 1. APPOINTMENT OF CONVENER

**AGREED** to appoint Councillor Stephen Thompson as Convener.

## 2. SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION

Apologies – Councillors Karen Carruthers, Gail Macgregor Linda Dorward, Ivor Hyslop, Dougie campbell, Kim Lowe and David Inglis

## 3. DECLARATIONS OF INTEREST

**NONE** declared.

## 4. LICENSING (SCOTLAND) ACT 2005 (2005 ACT): SECTIONS 6 AND 7 – RENEWAL OF STATEMENT OF LICENSING POLICY AND DUTY TO ACCESS OVERPROVISION - Report by the Clerk to the Licensing Boards

### Decision

4.1 Nithsdale Board members Agreed:-

4.1.1 to approve the terms of the Outdoor Drinking Policy detailed at paragraph 1.6.15 of the draft Policy Statement

4.1.2 to approve the terms detailed at paragraph 1.6.15 of the draft Policy Statement in respect of noise and monitoring in outside drinking areas.

4.2 Wigtown Board Members Agreed:-

4.2.1 to approve the terms of the plastic glass narrative detailed at paragraph 1.6.15 draft Policy Statement;

4.2.2 to note the inclusion of the Board's Festive Hours Policy detailed at paragraph 1.14.2 draft Policy Statement.

4.2.3 to revise paragraph 1.14.4 to include the exception of Children and Young Persons' policy apply to those who are residing in licensed premises.

4.3 Stewartry Board Members: noted the inclusion of the Police Drugs Policy to be adopted as a local condition detailed at paragraph 2.1.4 draft Policy Statement

4.4 Annandale and Eskdale Board Members: noted the inclusion of the adoption of the local condition requiring Premises licence holders to maintain a refusals register to include a daily incidents log and delete the local condition that premises licence holders require to maintain a Daily Incidents Register (which shall include all refusals) at paragraph 2.15.

4.5 All four Boards Members:

4.5.1 Agreed to the final terms of the Licensing Policy Statement including Overprovision Statements the draft of which is detailed at **Appendix 1**; .

4.5.2 Agreed the sundry changes that have been made to the draft Policy Statement shown in track change red throughout the draft at **Appendix 1**.

4.5.3 Agreed amended paragraph 1.6.6 in respect of more clarity with regard to delegation to the Convener of each Board including the authority to decide an application for an Occasional licence that has not attracted an objection or representation but requests hours that are outwith Policy

4.5.4 Agreed amended paragraph 1.6.13 in respect of including details of the areas across Dumfries and Galloway covered by the Council's Byelaws prohibiting consumption of alcohol in designated public places

4.5.5 Agreed amended paragraph 1.6.37 in respect of Occasional licences.

4.5.6 Agreed new paragraph 1.6.39 (N.4) in respect of Occasional licence requirement for individual stalls.

4.5.7 Agreed a new bullet point after 1.12.1 (N.5) in respect of the submission of Extended Hours applications.

4.5.8 Agreed a new paragraph after 1.15.2 (N.2) in respect of Home Deliveries.

4.5.9 Agreed a new paragraph after 1.15.2 (N.3) in respect of premises that have ceased to be used for the sale of alcohol.

4.5.10 Agreed a new paragraph after 1.15.2 (N.1) in respect of Confirmation as suggested by the Statutory Guidance.

4.5.11 Agreed to Remit to the Clerk the power to make copies of the Licensing Policy Statement available for public inspection free of charge including the giving of hard copies free upon request and publicise the fact that the Statement has been published.

Separate to the Recommendations, Members asked for it to be noted that they wish the Clerk to raise with Solar with a possible view to raising with the Scottish Government the difficulty in establishing a causal link in respect of Overprovision

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**APPENDIX 1**

## LICENSING OBJECTIVES

The 5 core licensing objectives underpinning the Licensing (Scotland) Act 2005 (the Act) are:-

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm

“We wish to propose that certain principles should be specifically enshrined in statute as principles which should at all times guide the Licensing Boards and others in the exercise of their functions”.

(The Nicholson Committee: Review of Liquor Licensing Law in Scotland Paragraph 2.23)

## 1. STATEMENT OF LICENSING POLICY

### 1.1 Preamble

1.1.1 This Statement of Licensing Policy has been prepared by the Dumfries and Galloway Licensing Boards in terms of Section 6 of the Act to assist in the implementation and administration of the licensing of the sale and supply of alcohol within their areas and to outline the way they intend exercising their functions under that Act.

1.1.2 The Dumfries and Galloway Local Authority Area is divided into 4 Divisions each with its own Board – Annandale & Eskdale Divisional Licensing Board, Nithsdale Divisional Licensing Board, Stewartry Divisional Licensing Board and Wigtown Divisional Licensing Board.

1.1.3 With a view to enhancing consistency of approach across Dumfries and Galloway, each Divisional Board has agreed to fulfil the requirement under Section 6 of the Act by approving this shared Statement. Where the approach of each Board is different (for example relating to licensed hours policy) this is clearly stated. Therefore in this document where the word “Board” is used, it refers to the 4 Divisional Boards unless otherwise specified.

1.1.4 This statement came into effect on 4 November 20~~23~~<sup>18</sup> and will exist for a maximum of 5 years. The Board may agree to prepare and publish Supplementary Statements within that period. ~~If you consider that the Board should do so please contact the Licensing Service at the contact point stated on the front page setting out your suggestions on the issues which should be included within a Supplementary Statement.~~

### 1.2 Introduction

1.2.1 The 2005 Act establishes a contemporary liquor licensing system which introduces more flexibility for the licensed trade balanced by extensive, and in appropriate cases immediate, enforcement powers for the Board.

1.2.2 At the heart of the legislation are the licensing objectives which should at all times guide the licensing boards and others in the exercise of their functions.

These enshrined licensing objectives are:-

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm

~~These objectives coincide with the licensing objectives adopted in England and Wales, with the addition of the objective “Protecting and Improving Public Health”.~~

### 1.3 Context – Dumfries and Galloway

1.3.1 Dumfries and Galloway is a mainly rural area in south west Scotland. It covers around 6425 square kilometres (2470 square miles), with a population of around 148,000. The main settlements are Dumfries (including Heathhall/Locharbriggs) (around 37,100 residents), Stranraer (10,600), and Annan (8,250). All other settlements have populations of under 6,000. The region is divided into four traditional areas: Annandale & Eskdale, Nithsdale, the Stewartry and Wigtownshire.

- Annandale & Eskdale Division – is essentially a rural area without any city or large town to provide a central or focus point. The population is around 37,000. Among its settlements, Annan has the highest population. The other main settlements are Lockerbie, Gretna, Eastriggs, Moffat, Lochmaben and Langholm.
- Nithsdale Division – is Dumfries and Galloway’s most populated area with a total population of some 58,000 with Dumfries as the largest town in Dumfries and Galloway. The other main settlements include Sanquhar, Kirkconnel and Thornhill.
- Stewartry Division – covers an area of 1,700 square kilometres (645 square miles) and has a high quality natural environment that includes 2 National Scenic Areas, with the coastal waters providing an important recreational resource. The Stewartry is purported to be the most heavily forested part of Britain with one third forested.

1.3.2 The Stewartry is the least densely populated area within Dumfries and Galloway with a population of some 23,900. More than half the population live in the countryside or in settlements of fewer than 1,000 people. The remainder are concentrated in the towns of Dalbeattie, Castle Douglas and Kirkcudbright.

- Wigtown Division – with a population of under 29,100, Wigtown accounts for nearly 20% of the total population of Dumfries and Galloway. The 2 main towns, Stranraer and Newton Stewart, account for over 50% of the population. All other settlements in the area have populations of under 1,000.

1.3.3 Wigtown enjoys a vast length of varied coastline, boasts a main ferry route and indeed the “gateway” to Ireland.

### 1.4 Preparation of Statement

1.4.1 This Statement of Licensing Policy has been prepared and includes having regard to:-

- the Licensing Objectives;
- ~~section 142 Statutory Guidance~~~~the Guidance for Licensing Boards and Local Authorities issued by the Scottish Government;~~
- the terms of the Licensing (Scotland) Act 2005 (“the Act”) with particular reference to Sections 6 and 7.

1.4.2 In preparing this Statement including the Overprovision Assessment the Board had 2 periods of consultation:-

- An initial, informal consultation took place from ~~15 November 2017 to 27 December 2017.~~ 31 January to 28 February 2023.
- ~~A formal Consultation which took place for a full three month period from 1 March 2018 to 31 May 2018.~~ from 1 April to 15 June 2023.
- Consultees in respect the formal Consultation are detailed at Appendix 1.
- ~~1.4.3 The Consultation also involved 2 public meetings which were held on 27 April 2018 as follows:~~
- ~~10am to 12pm – Licensing Office, Municipal Chambers, Buccleuch Street, Dumfries and~~
- ~~2pm to 4pm – McMillan Hall, Dashwood Square, Newton Stewart~~

~~Present at both these meetings were members of the public, Board staff and Board Members. The purpose of these meetings was to involve members of the public in the Consultation and allow them to have their say in relation to the Consultation.~~

~~1.4.4 — 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)~~
- Dumfries and Galloway Council.

1.4.5 ~~During In August/~~ September 2023~~18~~, each Board considered the responses to both consultations at individual Hearings (including ~~a presentation each at each Hearing from the Alcohol and Drugs Partnership on behalf of the NHS with regard to overprovision considering the terms of NHS Dumfries and Galloway's Overprovision Assessment and associated presentation given at each Board Hearing~~). A conjoined Hearing was also held in October 2023~~18~~ to finalise the Statement of Licensing Policy (2023~~18~~-2028~~3~~) and agree the Overprovision Assessment for inclusion within this Statement.

## 1.5 General Principles

1.5.1 This Statement of Licensing Policy seeks:-

- to promote the 5 licensing objectives and
- to comply with the terms of the Act.

1.5.2 This Statement of Policy sets out a general approach to the way the Board will make licensing decisions but nothing in this Statement will:-

- undermine the rights of any person to apply under the Act and to have that application considered on its individual merit;
- override the right of any person to make representations on any applications or seek a review of a licence where permitted to do so under the Act.

The Board will consider all applications on their merits within the context of this Policy Statement. In particular, the Board will give due consideration to whether or not an application conforms to any requirements set out in this Policy Statement. However, applicants wishing to persuade the Board to depart from this Policy Statement will need to demonstrate, by way of evidence, good reason for so doing, and, in particular, evidence how a departure is not inconsistent with any or all of the five licensing objectives

1.5.3 The Policy Statement relates to how the Board will exercise its functions under the Act in relation to the regulation of the sale of alcohol and premises in which alcohol is sold all within the terms of the Act.

1.5.4 Applicants and licence holders can be assured and objectors and representors made aware that only considerations relevant to the Act and the Licensing Objectives will be taken into account when determining applications or considering reviews. Representors are considered to be those persons entitled to make representations to the Board. For example, in respect of an application for a premises licence, any person making representations:-

In support of the application

- As to modifications which that person considers should be made to the operating plan, or
- As to conditions which the person considers should be imposed

1.5.5 It must be recognised also that licensing law is not the primary mechanism for the general control of nuisance and antisocial behaviour by individuals once they are no longer on the licensed premises and beyond the direct control of the individual, club or business holding the licence concerned. However, if the nuisance or antisocial behaviour is caused by misuse of alcohol then supply of alcohol would be a significant factor and the Board may consider using their powers to prevent a recurrence.

1.5.6 In this regard, the Board wishes to make it clear that if any antisocial behaviour/nuisance/ disorder occurs outwith licensed premises and a causal link can be established linking that behaviour to the sale of alcohol within those premises, then the Board will make a premises licence review proposal in terms of its powers under section 37 of the 2005 Act

## 1.6 Types of Applications and Scheme of Delegation

1.6.1 The Board is a licensing authority for the purposes of the Licensing (Scotland) Act 2005 and is responsible for consideration of:

- premises licences
- occasional licences
- temporary licences
- provisional licences
- personal licences
- variations of licences
- review of licences
- transfer of licences
- extensions of licensing hours
- the sale of alcohol by retail;
- the supply of alcohol in members' clubs

1.6.2 The Board recognises that any application should only be submitted to the Board when necessary and where straightforward should be decided by the Clerk or a member of the Clerk's staff having authority to do so, to save resources and to create as little inconvenience to applicants as possible.

1.6.3 The Board has therefore agreed that only those applications and matters which by statute are required to be considered by the Board will be submitted to them for a hearing and the other applications will be determined by the Clerk to the Boards.

1.6.4 Those applications and matters which require to and will be submitted to the Board are:-

- a premises licence application
- a premises licence variation where the variation sought is not a minor variation
- an application for transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence
- determining a personal licence application or a personal licence renewal application where the applicant has been convicted of a relevant offence or a foreign offence
- conducting any hearing including issuing a written warning, revoking or suspending the licence, making a variation of a licence, or in respect of a personal licence making an order revoking, suspending or endorsing a personal licence
- making a closure order
- refusing an application for confirmation of a provisional premises licence.

1.6.5 Determination of the following are delegated to the Clerk of the Board and ~~higher~~ staff:

- An application for a transfer of a premises licence where the applicant has not been convicted of a relevant

offence or a foreign offence or the Chief Constable is not recommending refusal

- All applications for variation of a premises licence where the variation is a minor variation;
- All applications for personal licences or for the renewal of personal licence where the applicant has not been convicted of a relevant offence or a foreign offence or the Chief Constable is not recommending refusal
- All applications for occasional licences where there is no notice of objection or representation or no notice from the Chief Constable recommending refusal
- Grant of extended hours applications where the Chief Constable has not submitted an objection.

1.6.6 Determination of the following are delegated to the Convener:-

- authority to decide whether any application for a Premises Licence Review is vexatious or frivolous or does not disclose any matter relevant to any ground for review and if so to reject it on behalf of the Board.
- authority to decide an application for an Occasional licence that has not attracted an objection or representation but requests hours that are outwith Policy
- authority to decide an application for Extended Hours that has not attracted an objection or representation but requests hours that are outwith Policy
- authority to determine applications for occasional licences that have attracted objections or representations, including authority to reject an objection or representation if it is considered vexatious or frivolous
- whom failing the Clerk ~~or Depute Clerk~~ to decide, where an application for an occasional licence or for extended hours is lodged late (28 days in respect of an occasional and 14 days in respect of extended hours) whether the reason given for lateness is sufficient for the application to be processed.
- whom failing the Clerk ~~or Depute Clerk~~ to agree whether on application for an occasional licence or for extended hours requires to be dealt with quickly and if so to decide the period for responses being not less than 24 hours.
- ~~authority to determine applications for occasional licences which have attracted objections or representations, including authority to reject an objection or representation as vexatious or frivolous~~ and
- authority to determine extended hours applications which have attracted an objection from the Chief Constable or an adverse report from the Licensing Standards Officer.

1.6.7 All applications for premises licences must be accompanied by an operating plan and a layout plan all complying with the Act and Regulations made under that Act.

1.6.8 Operating plans must make clear how the premises are to be run, what activities will be undertaken on the premises and at what time.

1.6.9 An “operating plan” in relation to any premises is a document in the prescribed form containing:-

- (a) a description of the activities to be carried on in the premises,
- (b) a statement of the times during which it is proposed that alcohol be sold on the premises,
- (c) a statement as to whether the alcohol is to be sold for consumption on the premises, off the premises or both
- (d) a statement of the times at which other activities in addition to the sale of alcohol are to be carried out on the premises,
- (e) where alcohol is to be sold for consumption on the premises, a statement as to whether children or young persons are to be allowed entry to the premises and, if they are allowed entry, a statement of the terms on

which they are allowed entry including, in particular:-

- (i) the ages of children or young persons to be allowed entry,
  - (ii) the times at which they are to be allowed entry, and
  - (iii) the parts of the premises to which they are to be allowed entry
- (f) information as to the proposed capacity of the premises,
- (g) prescribed information about the individual who is to be the premises manager, and
- (h) such other information in relation to the premises and the activities to be carried on there as may be prescribed.

1.6.10 Where alcohol is to be sold both for consumption on and for consumption off any premises, the operating plan for the premises may state different times for:-

- (a) the sale of alcohol for consumption on the premises, and
- (b) the sale of alcohol for consumption off the premises.

1.6.11 In preparing and presenting the operating plan applicants should be aware that the Board expects premises to be run in a way compliant with and promoting the licensing objectives:-

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm

1.6.12 The layout plan must conform with the regulations including being to the scale of 1:100 unless otherwise agreed with the Board.

1.6.13 **Bye-laws:** ~~Dumfries and Galloway Council has introduced byelaws prohibiting the consumption of alcohol in designated public places within certain towns and villages in their area. Bye-laws are in place in respect of the following areas throughout Dumfries and Galloway prohibiting consumption of alcohol in designated public places:~~

- [Annan, Moffat, Lockerbie, Gretna, Langholm and Eastriggs](#)
- [Dumfries and Stranraer](#)
- [Upper Nithsdale](#)
- [Newton Stewart and Minnigaff.](#)

[For more information please call the Council on 030 3333 3000](#)

1.6.14 Applicants should make themselves aware of the content of the Council's current byelaws and make sure that the layout plan clearly shows which outside areas or area forms part of the licensed premises. Any outside areas not clearly identified as part of the licensed premises will be "public places" where the byelaws apply and alcohol must not be consumed there as this would be contrary to the byelaws and constitute an offence.

1.6.15 **Outdoor Drinking Areas:**

[The Board recognises the trend in increased use of outdoor drinking areas in respect of licensed premises. It will expect the licence holder who intends to provide outdoor drinking areas to hold a premises licence to include the outdoor drinking area.](#) In respect of an application for a Premises Licence or for a Variation to a Premises Licence which proposes an outdoor drinking area the applicant must be mindful of the impact this would have on neighbours - particularly those who live in close proximity to proposed outdoor drinking areas. The Board will expect

the applicant to have thought of measures to minimise any reasonably foreseeable adverse impact and to address the Board on these measures. These might include signage, prohibition of music, restricting use of the outdoor drinking area to certain times during the licensed hours authorised by the Operating Plan and use of non-glass vessels.

As with all applications :-

- Each proposed outdoor drinking area will be determined on its merits and the Board may impose conditions to a premises licence as it considers necessary or expedient for the purposes of any of the licensing objectives (Nithsdale Board position differs as detailed below), and
- The safeguarding of the Licensing Objectives and implementation of the statutory provisions will be at the forefront of the Board's decision making.

If the Board - taking into account all material before it, including the Licensing Standards Officer's report/assessment of the likely effect of the grant of the application on the Licensing Objectives - considers that granting the application would be inconsistent with the Licensing Objectives the application must be refused. It may be that in certain cases the Board would grant the application attaching conditions which might cover, for example, restriction of hours of use of the Outdoor Drinking Area and/or prohibition of playing of music.

#### Nithsdale Board

The Board is of the view that 10pm is the appropriate terminal hour for the operation of outside areas and accordingly the terminal hour for outside areas shall be 10pm in respect of consumption/sale of alcohol. This is also the terminal hour for sales for consumption off licensed premises. In non-residential areas s the Board recognises that premises licence holders may wish to operate outside areas to a later time and each case will be determined on its own merits.

No music shall be audible in an outside drinking area post 10pm.

The Board expects noise within outdoor drinking areas to be reasonable at all times and that staff should monitor outdoor drinking areas at reasonably frequent intervals to ensure that patrons are acting responsibly pursuant to the Preventing Public Nuisance Licensing Objective.

#### Wigtown Board

The Board expects consideration to be given to the use of plastic glasses in Outdoor Drinking areas pursuant to the Licensing Objectives of Preventing Crime and Disorder, Securing Public Safety and Preventing Public Nuisance

Where an Outdoor Drinking Area is to be situated on a public footway the Board will expect the applicant to have obtained any necessary consent under Section 59 of the Roads (Scotland) Act 1984.

1.6.16 It is permissible under the Act for the Dumfries and Galloway Council to seek premises licences in its own name. When this is the case the Board and its officers will consider the matter from an entirely neutral stand point. If relevant representations are made, they will be given full and equitable consideration by the Board.

1.6.17 Although guidance might be sought from the Clerk and Licensing Standards Officers, it is for the applicant to make sure that the operating plan is in the correct form and covers all aspects of the operation of the premises. It is strongly recommended that any applicant, and indeed objector or representor, seeks independent legal advice.

1.6.18 Where a Hearing is to take place, the Board is mindful of its will attempt to make the experience as informal as possible consistent with the carrying out of the Board's quasijudicial function and suggested procedure for Hearings/meetings will be read out in advance of each Hearing/meeting.

1.6.19 If something is not understood or has not been heard the applicant or objector or representor should draw this to the Convener's attention.

1.6.20 The normal procedure would be to hear the submission of the objector or representor or person seeking review of the premises licence. Next the Board might ask questions of the speaker. The applicant or licence holder or

~~agent would then have the opportunity to address the hearing and Board Members might ask questions. There would then be the opportunity for final submissions by all parties.~~

1.6.21 Although meetings of the Board must be held in public the members of the Board retain the legal authority to may, before deciding any matter, conduct their deliberations on the matter in private.

1.6.22 ~~Normally formal~~ Formal evidence ~~will not be called for~~ may be requested and each case in this regard is determined on its own merits. However, it is noted that under Section 133 of the Act, Scottish Government may make regulations providing procedures to be followed at any hearing.

1.6.23 **Grounds of Refusal:** The grounds for refusal of a premises licence are:-

- The premise are excluded premises ~~(that in terms of the Act a licence cannot be granted for example a motorway service area, or subject to exceptions, a garage)~~
- 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.
- Where an application for the premises has been refused within the previous year and there was no direction made by the Board to allow further application within that time or there has not been a material change of circumstances.
- Where 24 hour operation is sought and there are no exceptional circumstances to justify this
- The application relates to off-sales and seeks hours outwith 10am to 10pm
- The licensing board considers that the granting of the application the application would be inconsistent with one or more of the licensing objectives
- Having regard to:-
  - the nature of the activities proposed to be carried on in the premises
  - the location, character and condition of the premises; and
  - the persons likely to frequent the premises

The Board considers that the premises are unsuitable for use for the sale of alcohol.

- Having regard to the number and capacity of:-
  - Licensed premises; or
  - Licensed premises of the same or similar description as the application premises

In the locality in which the subject premises are situated the Board considers that if the application were granted there would, as a result, be overprovision of licensed premises, or licensed premises of that description in that locality.

1.6.24 If the Board considers that none of these grounds apply it must grant the application and if it considers that one or more applies it must refuse the application.

1.6.25 When considering whether any licence should be granted, the Board will take into account relevant matters including:

- the nature of the premises, the style and type of use, the potential number and profile of the customers likely to attend the premises
- the proposed hours of operation
- the means of access to the premises including the location and adequacy of customer entrances and exits
- the level of public transport accessibility for customers either arriving or leaving the premises and the likely



means of public transport that will be used by them

- the likely level of car parking demand on principal roads and surrounding residential streets in comparison with the existing situation, its effect on local residents and on residential parking and emergency access
- the provision of toilet facilities and ventilation of the premises
- appropriate risk assessments.

1.6.26 Where it is possible to take steps to mitigate or prevent any potential impact the Board may still be able to grant a licence subject to conditions; each case will be considered on its merits and appropriate advice will be sought by the Board.

1.6.27 When considering any application for premises which have been previously licensed, or in any review of an existing licence, the Board may take into account any licensing history, especially of the impact on local residents and will also look at the measures put into effect by the applicant to mitigate the adverse impact.

1.6.28 Every premises requires to have one or more personal licence holders. In terms of the mandatory conditions in Schedule 3 of the Act, the Premises Manager must hold a personal licence.

1.6.29 A personal licence permits the holder to supervise and authorise sales of alcohol on the premises. The personal licence is intended to ensure that anyone managing premises is suitable to do so. A personal licence holder is qualified to provide the training which all staff making sales of alcohol or serving alcohol must undertake.

1.6.30 Applicants for a Personal Licence should ensure that they comply with the provisions of the Regulations made under the Act when submitting their applications.

1.6.31 ~~Where the applicant resides in Scotland the application must be made to the applicant's local Board. Therefore the Board can only entertain applications from a person residing in Dumfries and Galloway or residing outwith Scotland. An application for a personal licence must be submitted to the licensing board for the area in which the applicant normally resides. Therefore the Board will normally only entertain applications from applicants who reside within the Board area or outwith Scotland.~~

1.6.32 When considering applications the Board will consult with Police Scotland to establish if the applicant has been convicted of any relevant or foreign offences and/or whether the Chief Constable is recommending refusal of the application.

1.6.33 Applicants are reminded of the provisions of Section 75 of the Act which places a duty on them to inform the Board of any relevant or foreign offence that they have been convicted of in the period between making their application and it being determined by the Board. Similarly if a licence holder is convicted of a relevant offence after they have been granted a licence they are also required to inform the Board.

1.6.34 Personal licence holders are reminded that it is mandatory for them to undertake prescribed training every 5 years and to provide the Board with evidence that they have undertaken this training. Should a personal licence holder fail to undertake the necessary training, they will have their personal licence revoked immediately.

1.6.35 In terms of Section 88 of the Act, the holder of a personal licence must notify the Board of any change of name or address within one month and must enclose the personal licence (or a statement of reasons for failure to produce the licence) with such notice. Failure to do so is an offence. Where the holder of a personal licence is working on licensed premises, a constable or Licensing Standards Officer may require the holder to produce his or her personal licence. Failure to produce the licence is an offence under Section 93 of the Act.

1.6.36 **Occasional Licences:** An occasional licence authorises the temporary sale or supply of alcohol which is not authorised by a premises licence.

It may be applied for by:

- the holder of a premises licence

- the holder of a personal licence
- a representative of any voluntary organisation

To cover a period of a maximum of 14 days.

1.6.37 In respect of rRepeated applications for Occasional licences for the same unlicensed premises, and which are:-

~~Not for detailed specific events; and/or~~

For activities that have been occurring (either in identical or largely similar terms) on the premises regularly over a period of at least 3 months; then the Board expects an application for a full premises licence or major variation to be submitted.

~~will not generally be considered to be suitable for the grant of an Occasional Licence and will not be granted by the Board under delegated authority. They will require a hearing before the Board. The Board expects such premises to be operating under a Premises Licence.~~

-

1.6.38 Section 59(6) of the Act specifies the grounds for refusal of an application for an Occasional Licence. These grounds include “that the Licensing Board considers the granting of the application would be inconsistent with one or more of the licensing objectives”. These licensing objectives include:-

- Securing public safety.

The degree of scrutiny afforded by an application for a Premises Licence is not present where premises operate under a series of consecutive Occasional Licences. Accordingly, in the interests of better securing public safety, the Board considers that it is not generally appropriate for a premises to operate on a series of consecutive Occasional Licences rather than apply for a Premises Licence and, in these circumstances, the Board will require an applicant to explain why an application for a Premises Licence is not being made.

1.6.39 The Board will require an application to be made for an Occasional licence at least 28 days prior to the ~~proposed event date~~ the applicant wishes the licence to commence. This is to enable the Board to both advertise and process the application. If applications are received within 28 days of the ~~proposed event date~~ the applicant wishes the licence to commence, then the Board may not be able to determine the application in time. This risk falls with the applicant as it is the applicant’s responsibility to give the Board sufficient notice to process the application.

N.4 In respect of farmers' markets and other similar events which include the operation of more than one trading stall, an Occasional Licence shall be required in respect of each stall that wishes to sell alcohol.

1.6.40 **Extended hours applications:**

in terms of section 68 of the Act, these allow for an occasional extension of licensed hours and operate only for a period of up to one month. If the Board receives a number of applications from the same applicant to extend licensed hours it will expect the applicant to consider whether an application should be made to vary the premises licence, by adjustment of the operating plan.

1.6.41 **Power of the Board to grant General Extension of Licensed Hours**

The Board recognises the power in Section 67 of the Act for them to grant General Extensions of Licensed Hours in connection with a special event of local or national significance. This can be a means of acknowledging a special event in one location within the Board’s area or an event such as, for example, a Royal Occasion across the whole of the Board area.

1.6.42 ~~If~~As the Board ~~granting~~ sing a General Extension of Licensed Hours ~~does away with the need for licence holders to apply for the extended hours there is little inconvenience to the Trade or the Licensing Service. It would be~~ it is clearly a matter for each premises to decide whether or not they wish to use the additional licensed hours offered ~~by the Board’s grant of the General Extension of Licensed Hours~~

1.6.43 ~~As a The~~ grant of a General Extension of Licensed Hours will normally follow consultation with the Chief Constable ~~and the Local Licensing Forum there should be little deleterious impact on the Licensing Objectives.~~

1.6.44 Each request for the Board to consider granting a General Extension of licensed hours for a specific event, whether coming from, for example, the local trade or community organisations, will be considered on its merits. However, the Board would expect ~~a local event to be truly exceptional and uncommon~~ it to be a special event of local or national significance.

The Board has determined that

- Royal Events
- Major Sporting Events such as the World Cup and the Olympics where the time difference with the Host Nation means that coverage is outwith normal licensed hours

are likely to be given favourable consideration though the above is a non exhaustive list.

1.6.45 Where the Board has agreed a Festive Hours Policy it ~~requires expects~~ that Festive Hours Policy to be ~~detailed requested~~ via Seasonal Variations in the Operating Plan. However, it may accept Extended Hours applications from applicants where no Seasonal Variations have been requested.

1.6.46 ~~In terms of~~ **Section 123 of the Act Excluded P**remises

includes premises used as a garage or which form part of premises which are so used. No premises licence or occasional licence can be obtained for excluded premises.

Premises are used as a garage if used for one or more of the following:

- the sale by retail of petrol or derv
- the sale of motor vehicles or
- the maintenance of motor vehicles

1.6.47 However, premises used for the sale by retail of petrol or derv or which form part of premises so used are not excluded premises and may therefore be the subject of a premises or occasional licence but only if persons resident in the locality in which the premises are situated are, or are likely to become, reliant to a significant extent on the premises as the principal source of (a) petrol or derv or (b) groceries.

1.6.48 The Board ~~would expects~~ an applicant making such an application to provide evidence (such as a Market Research report) from community groups and members of the public of local residents' reliance on the service including together with an impact assessment in relation to the anticipated impact taking into account the licensing objectives.

1.6.49 The following information should in no way be seen as overriding the right of any person to make an objection to an application or to seek a review of a premises licence.

1.6.50 Although anyone is entitled to object to an application for a premises licence or seek a review of a premises licence the Board may reject an objection or an application for review where it is considered to be "frivolous" or "vexatious". "Frivolous" and "vexatious" are the words used in the Act. In determining this, the Board is entitled to recover any expenses incurred by the Board in considering the objection or application for review.

1.6.51 ~~These matters will be considered on their merits and the usual meaning of "vexatious" and "frivolous" will be adopted.~~ The meaning of frivolous and vexatious will depend on the terms of the objection/representation.

## 1.7 Licensing Hours

1.7.1 Whilst each individual application will be considered on its merits, this part of the Policy Statement sets out the Board's general approach to on sales licensed hours and the reasons for adopting that approach.

Licensed hours will be those agreed following the Board's consideration of the operating plan and any mandatory

and local licence conditions applied.

For those premises that wish to operate after 1am, additional mandatory conditions shall apply and local conditions may be applied.

1.7.2 ~~Mention must first be made of certain provisions within the Act which limit the power of the Board:- It is noted that:~~

- Section 64 of the Act provides that when the Board has before it an application for a premises licence; a premises licence variation application; an occasional licence application; or an extended hours application, which seeks to allow alcohol to be sold on the premises during a continuous period of 24 hours the Board must refuse the application unless satisfied that there are exceptional circumstances. The Board shall observe the presumption against continuous 24 hour trading though~~The Scottish Government Guidance suggests that this would relate to special events such as one off local or national festivals and should be unlikely to be satisfied by routine requests for 24 hour operation;~~ notes that the section 142 Guidance provides that Ministers are of the view that Licensing Boards should consider "exceptional circumstances" to cover social events such as one-off local or national festivals. Each case however shall be determined on its own merits.
- Section 65 provides that where the Board has before it a premises licence application; a premises licence variation application; an occasional licence application or an extended hours application, which seeks to allow alcohol to be sold for consumption off the premises any time before 10am, after 10pm or both the Board must refuse the application.

~~And a provision which allows the Board to grant general extensions of licensed hours:-~~

- ~~The Board is empowered under Section 67 of the Act to grant general extensions of licensed hours. This would have the effect of increasing licensing hours for a special event. It could cover the whole of the Board's area or specified parts. It could effect licensed hours generally or only to a specified description of licensed hours and may relate to all licensed premises or only to specified descriptions of such premises. The Board will consult with the Local Licensing Forum and licensed trade bodies where appropriate when considering granting a general extension on its own initiative or considering a suggestion that such an extension be granted. Paragraph x above details the position of the Board's power to grant a general extension of licensed hours.~~

In forming these policies for licensing hours the Boards have been mindful of the 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

1.7.3 Where the application relates to hours for the sale of alcohol for consumption off the premises the Boards must specifically consider the effect (if any) which the off-sales hours proposed in the application would have on the occurrence of antisocial behaviour.

1.7.4 The Boards also recognise that licensing hours are important not only to individual licensed premises but can have a wider impact on an area. For example should there be a staggering of closing times to allow dispersal of customers over a reasonable time? This issue may be raised during preparation of a statement of transport arrangements as discussed later in this document.

1.7.5 Although promotion of the licensing objectives is paramount, licensing hours need not unnecessarily inhibit the development of thriving and safe evening and night time local economies which may be important for investment,

employment and tourism.

1.7.6 The Scottish Government's Guidance for Licensing Boards and Local Authorities states that "in considering applications for licensed hours Boards may wish to consider applications for up to 14 hours as being reasonable but local circumstances and views of Local Licensing Forums should always be considered. Any application for licensed hours for more than 14 hours should require further consideration to the effect of granting extra operating hours".

### **Annandale & Eskdale**

#### 1.8 Policy Hours

##### 1.8.1 The Board agreed at its meeting on 15 September 2023 to retain on sales licensed hours and make no changes as follows:

Whilst considering every individual application on its merits, in general in respect of a premises licence application; a premises licence variation application; an occasional licence application; or an extended hours application:-

- Where the premises do not have a function room the closing hours would be restricted to midnight and only in relation to Thursday, Friday and Saturday of each week, with the other days limited to 11pm.
- Where the premises have a function room or consist of a room or rooms set aside for a function suitable for the provision of dancing and/or other forms of entertainment the closing hour would be restricted to 1am and only in relation to Thursday, Friday and Saturday each week, with the other days limited to 11pm. The room should meet disability requirements in terms of the law. ~~#the requirement for access under the Disability Discrimination Act.~~
- The Board would normally be disposed towards grant of applications from hotels and other premises providing meals for an extension from 11.00am to 12.30am on Sundays to allow for the service of alcohol with meals.
- On Sunday the closing hour would normally be restricted to 11pm with an extension to 12 midnight for one off events such as some particular national or local festivity or event or special birthday or anniversary milestone. To prevent public nuisance applicants would be recommended to consider if public entertainment such as disco, quiz nights and karaoke evenings could be considered for another evening.
- Favourable consideration would be given to the grant of an extension to 12 midnight on Sunday in respect of the following dates:-
  - January 25th Burns Night (when appropriate)
  - May Day Holiday Weekend
  - Scottish August Bank Holiday
  - November, 30th St Andrews Night (when appropriate)
- However, where the function relates to a religious or cultural festival following on a Monday a closing hour of 1am on the Monday morning from the Sunday evening would be given favourable consideration.
- For the avoidance of doubt the Board confirms its understanding that where entertainment is not provided the premises should not remain open till the later hour but should instead close at the earlier time, one hour earlier.
- Applications for extensions beyond 1.00am, other than recognised local festivals for which each community will be allowed one occasion each year, would only be approved in exceptional circumstances.
- Individual consideration will be given to applications relating to hours before 11am, Monday to Saturday and before 12.30pm on a Sunday. The Board requests full details of the reason for seeking early hours, with the application.
- These provisions relate to supply of alcohol for on sale consumption. Applications insofar as relating to sales

of alcohol for consumption off the premises will be dealt with on their merits. However, the Board would be minded to grant operating hours for the full statutory period of 10am to 10pm unless there was material before them that restricted hours were necessary to safeguard the licensing objectives or the Board in considering the effect which the off-sales hours proposed in the application would have on the occurrence of anti-social behaviour decides that such a restriction is justified.

### **Festive Hours Policy**

1.8.2 The Board has introduced a Festive Hours Policy for on sales premises only to allow up to 1am on 24, 25, 26, 31 December and 1 January-without requirement of providing entertainment.

1.9 Reasons for Policy

1.9.1 The Boards' Licensing Policy Statement must seek to promote the licensing objectives. This relates to licensed hours policies just as much as to any other part of the Statement.

1.9.2 The Board at its meeting on 11 September 2018 agreed not to change the Licensed Hours Policy.

1.9.3 In forming and reaffirming this licensed hours policy the Board sees the terminal hour policy of 12 midnight Thursday Friday and Saturday and to 11pm on the other days as fair and workable within a quiet rural environment. Annandale and Eskdale area is widely seen as a tranquil peaceful area and the terminal hours specified reflect and support this. In doing so the policy is promoting the licensing objectives especially (a) (Preventing Crime and Disorder) (b) (Securing Public Safety) and (c) (Preventing Public Nuisance).

1.9.4 The Board also recognises that certain premises have function rooms or a room or rooms suitable for a function. As these function rooms can host entertainment such as the provision of dancing the Board considers that a 1am terminal hour would not detract from the licensing objectives so long as this is restricted to Thursday, Friday and Saturday only.

1.9.5 The Board has further identified that to prevent inconsistency with the licensing objectives, (in particular (a) (Preventing Crime and Disorder) (b) (Securing Public Safety) and (c) (Preventing Public Nuisance)) licensed hours on a Sunday should normally be restricted to 11pm. Opening until 12 midnight on a Sunday would only be favourably considered where the extra hour was to celebrate one of the special events named. To minimise any disturbance and potential breach of the licensing objectives the operator is asked not to consider arranging public entertainment such as discos, quiz nights or karaoke on Sunday evening.

1.9.6 However a function relating to a religious or cultural festival following on a Monday from a Sunday evening, a terminal hour of 1am on the Monday morning from the Sunday evening is likely to be given favourable consideration. It is considered unlikely that this situation will arise very often and any potential breach of the licensing objectives is likely to be minimal.

### **Nithsdale**

1.10 Policy Hours

The Board agreed at its meeting on 31 August 2023 to retain on sales licensed hours and make no changes as follows:

1.10.1 Whilst considering every individual application on its merits, in general in respect of a premises licence application; a premises licence variation application; an occasional licence application; or an extended hours application:-

- The closing hour will be restricted to 1am at the latest except in premises where the sale of alcohol is considered by the Board to be ancillary to entertainment where the closing hour might be 2am.
- Where the provision of entertainment will tend towards an activity which encourages the active participation of patrons in that activity, a grant to the later closing hour of 2am will be looked on favourably.
- The Board however consider dancing provided to the setting of a live band or singer or DJ as being different in quality to listening to a jukebox even with the possibility of being able to dance to the music produced by

that means: there is a greater social experience and interaction with a live band or singer or DJ: a grant to the later closing hour of 2am will be looked on favourably where dancing is provided to the setting of a live band or singer or DJ but generally not where the opportunity to dance would be to a juke box or other recorded music not operated by a DJ or other performer.

- In general where patrons are merely watching or listening to the form of entertainment, for example recorded music or television this will not be regarded as entertainment which would justify the later closing hour of 2am.
- The Board freely recognises that there will be exceptions to this policy for events which would not normally be permitted the later closing hour of 2am but would be unlikely to breach the licensing objectives; entertainment such as the performance of a play or a specific act such as a stand up comedian or an open mic stand up comedy night. Each application, which the Board envisage would most often be by way of extended hours application for licensed premises, will be considered on its merits.
- For the avoidance of doubt the Board confirms its understanding that where entertainment is not provided the premises should not remain open till the later hour but should instead close at the earlier time, one hour earlier.
- Applicants are reminded that the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 impose mandatory conditions where the premises have a capacity of at least 250 and which:-
  - will regularly provide at any time between 1am and 5 am live music with a decibel level exceeding 85db, facilities for dancing or adult entertainment or
  - when fully occupied are likely to have more customers standing than seated.
- All applications seeking hours before 11am will be considered on their merits. The Board requests full details of the reason for seeking early hours, with the application.
- These provisions relate to supply of alcohol for on sale consumption. Applications insofar as relating to sales of alcohol for consumption off the premises will be dealt with on their merits. However, the Board would be minded to grant operating hours for the full statutory period of 10am to 10pm unless there was material before them that restricted hours were necessary to safeguard the licensing objectives or the Board in considering the effect which the off-sales hours proposed in the application would have on the occurrence of anti-social behaviour decides that such a restriction is justified.

#### Festive Hours Policy

1.10.2 The Board has introduced a Festive Hours Policy and will allow one extra hours trading following closing time for all on sales premises on the following days: 26 December; 31 December and 1 January. For example, for a trading day that commences on 26 December with a closing time of 1am 27 December, the extra hour will allow the sale of alcohol to 2am 27 December; and, for a trading day that commences 31 December with 2am closing 1 January, the extra hour will permit the sale of alcohol to 3am 1 January. With regard to a trading day that commences 1 January, if the usual terminal hour is 2am 2 January, the extra permitted hour will allow the sale of alcohol to 3am 2 January.

#### 1.11 Reasons for Policy

1.11.1 The Board's Licensing Policy Statement must seek to promote the licensing objectives. This relates to licensed hours policies just as much as to any other part of the Statement.

1.11.2 In November 2010 the Board amended their licensed hours policy from the policy adopted in November 2007.

1.11.3 The amendment reduced the terminal hour by one hour respectively from 2am to 1am for general policy and from 3am to 2am for premises where the sale of alcohol is considered by the Board to be ancillary to entertainment.

1.11.4 This amendment was made in the circumstances at that time:-

- The Board was aware of problems which the Chief Constable had in providing resources across the Division to police the late night economy especially at and after closing time of licensed premises.
- In the light of the then economic situation and the requirement for the public purse to find year-on-year savings this situation would only become more and more compelling.
- The Board's responsibility is to safeguard and promote the licensing objectives. This responsibility must be seen in real time and to accord with present and anticipated future conditions.
- The Chief Constable would no doubt use the resources available to him in the most effective way and in accordance with best value. Reduction in resources will put ever more pressure on the Chief Constable.
- To safeguard and promote the licensing objectives especially (a) (Preventing Crime and Disorder) (b) (Securing Public Safety) and (c) (Preventing Public Nuisance) the Board amended their licensed hours policy from the policy adopted in November 2007.
- This amendment, in November 2010 had followed consideration by the Board of all material received during the consultation process towards the preparation of that Statement, including a response from the Chief Constable and a response from the Local Licensing Forum and the results of a survey relating to Nithsdale Local Licensing Hours Policy each of which recommended the Board to change their policy by outlining earlier terminal hours.

1.11.5 The Board had agreed the one hour differential where the sale of alcohol is considered by the Board as ancillary to the entertainment, as the provision of entertainment is seen as increasing the sociability of the experience and viewing the consumption of alcohol as only one aspect, and perhaps not the most important aspect, of that social experience.

1.11.6 In February 2012 the Board received a report on the Impact Assessment which had been undertaken in conformity with the Council's procedures relating to the change in Licensed Hours Policy.

1.11.7 The responses received during the consultation for the Impact Assessment had been considered by a Focus Group made up of a representative from/ of the Local Licensing Forum, Dumfries and Galloway Constabulary; Dumfriesshire Licensed Victuallers Association, NHS Dumfries and Galloway and the Licensing Standards Officers assisted by a Policy Officer, Dumfries and Galloway Council, William P. Taylor Service Manager, Licensing and Sharon Hines, Licensing Manager.

1.11.8 The Focus Group identified 10 Neutral Impacts, 5 Positive Impacts and no Negative Impacts.

1.11.9 The Positive Impacts related to:-

- Health (Low Impact),
- Environmental Sustainability (Low Impact),
- Licensing Objective (a) Preventing Crime and Disorder (High Impact),
- Licensing Objective (b) Securing Public Safety (High Impact) and
- Licensing Objective (d) Protecting and Improving Public Health (Low Impact).

1.11.10 Although the Focus Group did not identify any negative impacts and in particular, Economic Sustainability, the Focus Group noted that there was help and advice available for businesses if necessary.

1.11.11 In addition, in relation to age, it was noticed that since the introduction of the Challenge 25 Policy, premises had made their age verification more robust therefore the issue of underage drinkers in the premises has lessened resulting in a positive impact.

1.11.12 When finalising this Licensing Policy Statement the Board considered that there was no material produced as a result of either period of consultation which would have made Members mindful of changing their Licensed Hours Policy at the time of finalising this Statement.

1.11.13 In finalising this Licensing Policy Statement the Board agreed to re-affirm the Licensed Hours Policy agreed in November 2010'.

1.11.14 The Board at its meeting on 12 September 2018 agreed not to change the Licensed Hours Policy and



further agreed to introduce a new Festive Hours Policy.

1.11.15 On Wednesday 4 December 2019 the Board agreed a Supplementary Licensing Policy Statement which inserted the omitted reasons for the Board's Policy Hours. These reasons are now inserted at new paras 1.11.2 to 1.11.13 Licensing Policy Statement. This Supplementary Licensing Policy Statement

### Stewartry

1.12 Policy Hours

The Board agreed at its meeting on 13 September 2023 to retain on sales licensed hours and make no changes as follows:

1.12.1 Whilst considering every individual application on its merits, in general in respect of a premises licence application; a premises licence variation application; an occasional licence application; or an extended hours application:-

- There will be a general presumption against the sale of alcohol, outwith the hours 10:30am to midnight for consumption on the premises.

However the Board will normally be prepared to grant hours of operation to 1am for particular functions such as:-

- Wedding Receptions and Civil Partnership Celebrations;
- Silver, Ruby, Golden and Diamond Wedding Anniversaries;
- Birthday celebrations for a 21st, 25th 30th and 5th Anniversary after that;
- Retirement celebrations; and
- Burns Suppers
- Around the time of major Religious and Cultural Festivals (for example, at Christmas one evening either 24, 25 or 26 December and at New Year one evening either Hogmanay or New Years Day)

N.5 - To take advantage of the above additional hours, all four Boards shall require submission and grant of an Extended Hours application unless this is specifically referenced in the Operating Plan.

- These provisions relate to supply of alcohol for on sale consumption. Applications insofar as relating to sales of alcohol for consumption off the premises will be dealt with on their merits. However, the Board would be minded to grant operating hours for the full statutory period of 10am to 10pm unless there was before them material that restricted hours were necessary to safeguard the licensing objectives or the Board in considering the effect which the off-sales hours proposed in the application would have on the occurrence of anti-social behaviour decides that such a restriction is justified.

1.13 Reasons for Policy

1.13.1 The Boards' Licensing Policy Statement must seek to promote the licensing objectives. This relates to licensed hours policies equally as part of that Statement.

1.13.2 The Board at its meeting on 12 September 2018 agreed not to change the Licensed Hours Policy.

1.13.3 In forming licensing policy hours the Board sees the terminal hours policy of 12 midnight in general as fair and workable within a quiet rural environment. The Stewartry is renowned as a tranquil, peaceful area and the 12 midnight terminal hour reflects and supports this. In doing so, it is promoting the licensing objectives especially (a) (Preventing Crime and Disorder) (b) (Securing Public Safety) and (c) (Preventing Public Nuisance).

1.13.4 The Board also recognises that certain events both merit a later terminal hour and by their nature are

unlikely to detract from the licensing objectives. It has therefore been agreed that a proposed terminal hour of 1am will be given favourable consideration for the types of events stated above.

### Wigtown

#### 1.14 Policy Hours

The Board agreed at its meeting on 12 September 2023 to retain on sales licensed hours and make no changes as follows

1.14.1 Whilst considering every individual application on its merits, in general in respect of a premises licence application; a premises licence variation application; an occasional licence application; or an extended hours application:-

- Generally the closing hour for licensed hours should be:
  - Monday to Wednesday up to 12.30am
  - Thursday to Sunday up to 1am

1.14.2 The Board has a Festive Hours Policy as follows: will give favourable consideration to extended hours up to 2am for applications for major Religious or Cultural Festivals (for example, Christmas and New Year)

- -on-sales are permitted on 24, 25, 26, 31 December and 1 January to 2am. This requires to be clearly referenced in the Operating Plan if licence holders wish to take advantage of these Festive Hours.
- Where the premises are purpose built or designed, fitted out and operated for the regular provision of entertainment in the form of music whether live or in the form of a discothèque, the closing hour for licensed hours may be either:-
  - Sunday to Wednesday up to 12:30am
  - Thursday to Saturday up to 2:00am within Stranraer (and up to 1am for licensed premises within any other location within the Division).

or

  - Monday to Thursday up to 12:30am
  - Friday to Sunday up to 2:00am within Stranraer (and up to 1am for licensed premises within any other location within the Division).

1.14.3 In considering applications for such premises the Board would wish to be satisfied that the operation of the premise was such that the sale of alcohol was ancillary to the entertainment provided.

1.14.4 The Board would also expect such premises to have a fairly high occupant capacity and consequently to be fitted out with a high standard of equipment with appropriate ancillary facilities that meet the access requirements under the Equality Act 2010.

- For the avoidance of doubt the Board confirms its understanding that where entertainment is not provided the premises should not remain open till the later hour but should instead close at the earlier time, one hour earlier.
- The Board freely recognises that there will be exceptions to this policy for events which would not normally be permitted the later closing hours but would be unlikely to breach the licensing objectives; Each application, which the Board envisages would most often be by way of extended hours application for licensed premises, will be considered on its merits.

- With regard to Children and Young Persons' access to all on sales licensed premises, the Board expects the following minimum criteria to be adhered to in pursuance of the Protecting Children and Young Persons from Harm Licensing Objective:
  - Children must be accompanied by a responsible adult at all times;
  - Young Persons must be accompanied by a responsible adult from 10pm onwards;
  - Children and Young Persons must vacate the premises by 10pm;
  - However, if there is a bona fide function/organised event to which Children and Young Persons are invited and its terminal hour is later than 10pm, then Children and Young Persons may vacate the premises by that later terminal hour for the purposes of the function/event only.
  - The above is without prejudice to those Children and Young Persons who reside within licensed premises.(eg: a hotel with a premises licence)
- Applicants are reminded that the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007 impose mandatory conditions where the premises have a capacity of at least 250 and which:-
  - will regularly provide at any time between 1am and 5 am live music with a decibel level exceeding 85db, facilities for dancing or adult entertainment or
  - when fully occupied are likely to have more customers standing than seated
- There will be a general presumption against the sale of alcohol for consumption on the premises before 11.00am Monday to Saturday and before 12.30pm on a Sunday. However favourable consideration will be given to applications from 12 noon on a Sunday where meals or substantial refreshments are available.
- These provisions relate to supply of alcohol for on sale consumption. Applications insofar as relating to sales of alcohol for consumption off the premises will be dealt with on their merits. However, the Board would be minded to grant operating hours for the full statutory period of 10am to 10pm unless these was before them material that restricted hours were necessary to safeguard the licensing objectives or the Board in considering the effect which the off-sales hours proposed in the application would have on the occurrence of anti-social behaviour decides that such a restriction is justified.

#### 1.15 Reasons for Policy

1.15.1 The Board's Licensing Policy Statement must seek to promote the licensing objectives. This relates to licensed hours policies just as much as to any other part of the Statement.

1.15.2 The Board at its meeting on 19 September 2018 agreed not to change the Licensed Hours Policy generally except in relation to Children and Young Persons' access to licensed premises, where it introduced a new Policy.

#### N.1 Confirmation

Where an application is made for the confirmation of a provisional premises licence (section 46 of the 2005 Act refers), the Board may make a variation to the conditions for the purposes of ensuring consistency with the Policy since the licence was issued.

#### N.2 Home Deliveries which include online purchases of alcohol

The Board acknowledges concerns raised by NHS Dumfries and Galloway at individual meetings held August/September 2023 with regard to increased levels of online sales of alcohol. The Board encourages applicants for premises licences which will include online sales to provide the Board with details of how the deliveries will operate and in particular :

1) the hours, of delivery;

2) the steps which will be taken to verify the age of the person ordering and accepting delivery of the alcohol ; and

3) the use of age verification policies such as Challenge 25 or a similar verification scheme for all deliveries

### N.3 Premises ceased to be used for the sale of alcohol

The Board has considered the terms of section 28 of the Act stating that a premises licence ceases to have effect where the premises cease to be used for the sale of alcohol. It is aware that on one interpretation this could be read as requiring an application for a new premises licence in the situation where premises have ceased to trade and are being actively marketed for sale. The Board has determined in the absence of a definitive legal interpretation that it will require an application for a new premises licence where the premises have not been used for the sale of alcohol for a period of one year and the circumstances suggest that there is no active marketing of the premises for sale or lease. However, before making any determination the Board will ask the LSOs to ascertain where possible, the reason for closure of the premises, with a view to then deciding whether or not to review the premises licence.

This Policy Statement does not override the right of any person to make representations on an application or to seek a review of a licence where such provision has been made in the 2005 Act.

#### 1.16 Overprovision of Licensed Premises

1.16.1 Under Section 7 of the Act the Board is required to produce a statement as to the extent that 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.

1.16.2 The Board has undertaken an Assessment of Overprovision.

1.16.3 The Board has taken into account all material before it and, in particular, the ~~2023~~ 2018 report Assessment submitted prepared by the Alcohol and Drug Partnership, NHS Dumfries and Galloway.

1.16.4 This ~~report~~ Assessment sets out recommendations to the Licensing Board on the levels of provision, and possible overprovision, of alcohol licences across Dumfries & Galloway.

~~Number and capacity of licensed premises were taken into account though hours were not. based on analysis of available data including from local data sources: NHS, Police, Fire and Rescue Service and Dumfries and Galloway Council and also sought to inform this Statement of Licensing Policy (2018–2023):-~~

~~Each data source was assessed to see whether it met the necessary requirements:~~

~~Should be part of a standard dataset that is routinely collected so the data can be updated when needed in the future;~~

~~Collected over a reasonable time period, especially the last few years;~~

~~Available at both locality and Intermediate Data Zone (IDZ) level;~~

~~Believed to be of good accuracy and completeness;~~

~~Must contain large enough numbers to permit robust analysis.~~

~~Of the six data sources adopted, the first two data sources were measures of the provision of alcohol while the last four sources are measures of alcohol related harm in Dumfries & Galloway.~~

- ~~• Numbers of on-licensed premises, divided into different categories of premises. Where a licensed premises had both an on-licence and an off-licence, it was classified as an on-licence for analysis, as on-sales make up the majority of its business. For on-licences, the maximum licensed capacity was available. Private members' clubs were excluded (licensing information held by Dumfries & Galloway Council at February 2018)~~

- ~~Alcohol sales area for off-licensed premises, available in square metres of sales area. (licensing information held by Dumfries & Galloway Council at February 2018)~~
- ~~Alcohol-related hospital admissions. The data came from the NHS. These were identified over the period from April 2016 to March 2017 using alcohol-related International Classification of Diseases (ICD-10) codes.~~
- ~~Alcohol-related police incidents, including road traffic incidents, over the period from April 2015 to March 2018. This included cases identified by the Police whether or not a crime was committed.~~
- ~~Alcohol related crimes or road offences from April 2013 to March 2017.~~

1.16.5 The ~~report~~ Assessment prepared by ~~the Alcohol and Drugs Partnership~~ NHS Dumfries and Galloway forms Appendix 2 to this Statement of Licensing Policy.

#### 1.16.6 Section 7 of the Act: Statement on Overprovision

Having carefully considered the terms of NHS Dumfries and Galloway's Assessment on Overprovision and the Alcohol and Drugs Partnership report following a presentation from the ADP NHS Dumfries and Galloway at their individual Hearings in August/September 2023~~18~~, ~~and~~, after much discussion and deliberations, ~~all four Divisional Boards have determined that there is no overprovision of licensed premises or licensed premises of a particular description in any locality within their respective areas.~~ the Statement by each Divisional Licensing Board is as follows:

##### Nithsdale Divisional Licensing Board

The Board considers there to be no overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area as there is no evidence to support a finding of overprovision.

##### Stewartry Divisional Licensing Board

The Board considers there to be no overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area as there is no evidence to support a finding overprovision.

##### Wigtown Divisional Licensing Board

The Board considers there to be no overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area as there is not enough evidence to support a finding of overprovision.

##### Annandale and Eskdale Divisional Licensing Board

The Board considers there to be no overprovision of licensed premises or licensed premises of a particular description in any locality within the Board's area as there is insufficient evidence to support a finding of overprovision.

1.16.7 ~~The Overprovision Assessment undertaken by each Board in terms of section 7 of the Act is that there is no overprovision of licensed premises or licensed premises of a particular description in any Board locality in Dumfries and Galloway.~~

#### 1.17 **Licensing Standards Officers**

1.17.1 The Council has appointed 3 Licensing Standards Officers who have a statutory remit relating to guidance,

mediation and compliance.

[Current contact details of all 3 Licensing Standards Officers can be found at:](#)

<https://www.dumgal.gov.uk/article/15196/Dumfries-and-Galloway-Divisional-Licensing-Boards>

1.17.2 The Board sees the LSOs as having crucial roles to play within the Alcohol Licensing System. Indeed the LSOs have been vital and constructive consultees when preparing this Statement: they have attained knowledge on the local operation of the system through their day to day work in fulfilling their remit of guidance, mediation and compliance.

~~1.17.3 However the Board has identified a role in relation to the Board's consideration of applications for new Premises Licences and for Variation of Premises Licences.~~

~~1.17.4 The Board considering an application for a new Premises Licence or a major variation of an existing Premises Licence is a one-off situation.~~

1.17.5 The Board must be in a position to decide whether any of the grounds for refusal apply. The Board therefore requires full information on applications for Premises Licences and for variation of Premises Licences to fulfil their responsibility to determine each application on its merits.

1.17.6 The best information is a fully detailed report by the LSO following inspection of the premises and discussion with the applicant/licence holder.

1.17.7 The Board therefore consults with the LSOs on any application for a new Premises Licence or a major variation of an existing Premises Licence.

1.17.8 The Board expects the LSOs using their powers under the Licensing (Scotland) Act 2005 including where necessary their specific powers under Section 137 to enter premises to assess the likely effect of the grant of an application for a Premises Licence or for a variation to a Premises Licence, to submit a detailed report on each such application for the assistance of the Board in their decision making.

1.17.9 The Board expects that within the report the LSO would set out his/her own opinions as well as factual information eg location of outdoor drinking area and domestic and other properties in the area and opinion on likelihood of public nuisance and the best means of reducing/eliminating them.

1.17.10 For the avoidance of any doubt the Board considers that the LSO's opinions/views form evidence which the Board is entitled to take into account when determining an application.

1.17.11 A copy of the LSO's report would be passed to the applicant/ licence holder, any objector, if appropriate, and the Chief Constable.

## 2. PROMOTION OF THE LICENSING OBJECTIVES

2.1.1 The Board will continually promote the Licensing Objectives:-

- (a) Preventing Crime and Disorder
- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm.

2.1.2 Local Conditions: The Board may agree a range of conditions which will, when determined necessary or expedient for the purposes of any of the licensing objectives as stated above, may be applied to a particular licence. Each application will normally be determined on its own merits.

2.1.3 However, the Board has determined that the following local conditions, in pursuance of its powers under section 27 shall apply to premises licences:

#### 2.1.4 POLICE DRUGS POLICY

This local condition applies to the following Boards: Nithsdale; Annandale and Eskdale, ~~Stewartry and Wigtown only~~.

In pursuance of the licensing objective preventing crime and disorder, the Board will apply the following local condition to all on sales premises:

- 'Drugs Policy: it is a condition that the licence holder has in place and enforces the drugs policy formulated by the police and attached hereto and displays a notice to the effect that such a drugs policy is in operation'.

#### 2.1.5 REFUSALS REGISTER: PREMISES LICENCES

This local condition applies to the following Boards: Nithsdale; Annandale and Eskdale, Stewartry and Wigtown ~~only~~.

In pursuance of the preventing crime and disorder objective, the Board will apply the following local condition to all on sales and off sales premises;

- 'Premises licence holders must maintain a refusals register to include a daily incidents log and said register must be made available for inspection by Police Scotland and/or an LSO upon request'.

#### ~~2.1.6 REFUSAL REGISTER: PREMISES LICENCES~~

~~This local condition applies to Annandale and Eskdale Board only.~~

~~In pursuance of the preventing crime and disorder objective, the Board will apply the following local condition to all on sales and off sales premises:~~

- ~~• 'Premises licence holders must maintain a Daily Incidents Register (which shall include all refusals) and said register must be made available for inspection by Police Scotland and/or an LSO upon request'.~~

The Board has also determined that the following local conditions, in pursuance of its powers under section 60 of the Act, shall/may apply to Occasional licences:

#### 2.1.7 STAFF TRAINING: OCCASIONAL LICENCES

This local condition shall apply to all four Boards.

In pursuance of the licensing objectives preventing crime and disorder and securing public safety, the Board may apply the following local condition for large scale events (said events to be determined on a case by case basis):

- All staff employed or engaged to sell or serve alcohol will require to complete mandatory licensing training as prescribed by the Licensing (Training of Staff) Scotland Regulations 2007 and to include any subsequent amendments made to those Regulations'.

#### 2.1.8 DISPLAY OF OCCASIONAL LICENCE

This local condition shall apply to all four Boards.

In pursuance of the licensing objective preventing crime and disorder, the Board will apply the following local condition to an Occasional Licence:

- 'The Occasional Licence must be prominently displayed at all times at the premises whereby it can be conveniently read by persons frequenting the premises'.

#### 2.1.9 REFUSAL REGISTER: OCCASIONAL LICENCE HOLDERS

This local condition shall apply to Nithsdale and Wigtown Boards only.

In pursuance of the licensing objective preventing crime and disorder the Board will apply the following local

condition to an Occasional Licence:

- 'The Licence Holder must maintain a refusals register to include a daily incidents log and said register must be made available for inspection by Police Scotland and/or an LSO upon request'.

#### 2.1.10 REFUSAL REGISTER: OCCASIONAL LICENCE HOLDERS

This local condition shall apply to Annandale and Eskdale and Stewartry Boards only.

In pursuance of the licensing objective preventing crime and disorder the Board may apply the following local condition to certain Occasional Licences (for those that pertain to larger scale events - said events to be determined on a case by case basis):

- 'The Licence Holder must maintain a Daily Incidents Register (which shall include all refusals) and said register must be made available for inspection by Police Scotland and/or an LSO upon request'.

## **2.2 Preventing Crime and Disorder**

2.2.1 The Board in carrying out its functions will have regard to the likely impact of licensed activities and related crime and disorder when considering the location, operation and management of all licence applications, reviews and variations.

2.2.2 Applicants are expected to consider how they can promote the prevention of crime and disorder licensing objective.

2.2.3 Applicants are encouraged to discuss crime prevention procedures in their premises with Dumfries and Galloway Council and Police Scotland. Factors to consider may include underage drinking, drunkenness on premises, intoxication outwith licensed premises with a dependable causal link to specific premises, illegal drugs, violent behaviour and antisocial behaviour.

2.2.4 Control measures might include:-

- Effective and responsible management of premises
- Training and supervision of staff
- Acceptance of accredited proof of age card
- Provision of effective CCTV in and around the premises. The CCTV should conform to the current specification prepared by the Police Scotland.
- Employment of Security Industry Authority licensed door staff
- Provision of litter bins and lighting outside premises
- Provision of plastic or toughened drinking vessels
- The Board strongly encourages that evidence based staff training is documented in a comprehensive handbook, demonstrating that staff members have read and been tested on its contents. Regular refresher training for staff is vital.
- Robust measures should be in place to ensure glassware is not removed from on-sale licensed premises.
- Glass collecting during the evening should be a continuous process to ensure that extra glasses are accessible to customers, for example, not piled up at the end of the bar waiting to be washed.
- There should be regular toilet checks with documented check list and if appropriate, toilet attendant
- Frequent monitoring of beer gardens should take place to check for any noise nuisance/anti social behaviour, broken glass and other litter
- It is recommended that notices be displayed within premises to make patrons aware of any local Byelaws



prohibiting consuming alcohol in designated public places as breaching the Byelaws is an offence

2.2.5 The Board notes the establishment of Pubwatch Online/MOBS and Best Bar None schemes across Dumfries and Galloway but would welcome a consistent and dedicated approach locally. The Board believes that these schemes have a positive impact on the Licensing Objectives and provide a network of support to those licence holders who adopt a diligent approach to their responsibilities under the legislation. They strengthen the need for ID checks and exclusion of troublemakers. They also send out a strong message to those who engage in unacceptable and criminal behaviour: it acts as a further sanction outwith the criminal justice system: it says that their behaviour will not be tolerated.

2.2.6 The Board strongly supports the use of these schemes as examples of good practice and expects all licence holders to actively participate in them. However, the Board also expects all licence holders to ensure that all customers are treated fairly and with respect irrespective of whether they (the licence holders) are participants of these schemes.

2.2.7 Licence holders are called upon to actively discourage drink driving which is a serious offence and can have catastrophic effects on families of both victims and offenders. Licence holders are therefore encouraged to play an active part in preventing drink driving by:-

- Displaying anti drink driving materials
- Supplying reasonably priced soft drinks
- Promoting awareness of campaigns such as designated drivers scheme
- Offering free soft drinks to designated drivers.

2.2.8 Dumfries and Galloway Council has introduced byelaws prohibiting the consumption of alcohol in designated public places within certain towns and villages in their area.

Applicants should make themselves aware of the content of the Council's current byelaws and make sure that the layout plan clearly shows which outside areas or area forms part of the licensed premises. Any outside areas not clearly identified as part of the licensed premises will be "public places" where the byelaws apply and alcohol must not be consumed there as this would be contrary to the byelaws and constitute an offence.

### 2.3 **Securing Public Safety**

2.3.1 The Board recognises that "licensed premises" will cover a wide range of premises and activities, each with their own safety risks or issues. The premises must be constructed or adapted and operated in such a manner as to safeguard occupants from those risks.

2.3.2 Issues may involve

- occupancy capacity of the premises
- age, design and layout including means of escape
- nature of activities such as music and dancing
- hours of operation
- customer profile (e.g. age, disability, sexual orientation, gender, race/ethnicity)
- use of special effects such as lasers, pyrotechnics, smoke machines

2.3.3 Examples of control measures might include:-

- suitable and sufficient risk assessments
- effective and responsible management of premises
- sufficient number of staff

- appropriate instruction, training and supervision of staff
- training need not only relate to licensing, the sale or supply of alcohol and its misuse but wider issues especially those relating to equal opportunity and diversity
- adoption of best practice
- provision of effective CCTV. The CCTV should conform to the current specification prepared by the Chief Constable.
- provision of toughened or plastic drinking vessels
- implementation of crowd management systems
- proof of regular testing of procedures
- preparation and introduction of a policy around accessible transport for lone women and other vulnerable groups.

## 2.4 The Prevention of Public Nuisance

2.4.1 Licensing premises have a significant potential to impact adversely on communities through public nuisance that arise from their operation. The Board wishes to maintain and protect the amenity of residents and local businesses from the potential consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

2.4.2 Although interpretation is ultimately a matter for the Court the Board would intend to interpret “public nuisance” widely and takes it to include such issues as noise, light, odour, litter and antisocial behaviour where these matters impact on those living, working or otherwise engaged in normal activity in an area.

2.4.3 “Antisocial Behaviour” is defined in the Antisocial Behaviour etc (Scotland) Act 2004 as where a person acts in a manner that causes or is likely to cause alarm or distress or pursues a course of conduct that causes or is likely to cause alarm or distress to at least one person who is not from the same household as the person engaging in the behaviour; conduct includes speech.

2.4.4 The Board acknowledges that smoking itself is not a licensing matter but is regulated under other legislation.

2.4.5 The health risks associated with smoking and with passive smoking continue to be well publicised; licence holders will be aware of their own statutory responsibilities, customer expectations for a smoke free environment and the legislation concerning smoking in public places.

2.4.6 The Board expects licence holders to ensure that patrons do not create a nuisance or disturbance for residents living nearby. This includes noise from patrons using any outdoor drinking area or when leaving the premises, in particular at closing time, or patrons smoking outside the premises. In respect of smoking areas:-

- These areas must be properly managed and monitored
- Location: where possible smoking areas should not be in a public facing area but should be in a private well ventilated area away from the passing public: patrons should be discouraged from standing around any doors which should be kept free from obstruction.
- Location: where the only available area is on the public street smokers should be discouraged from blocking pavements and otherwise causing a nuisance
- The area should be supervised, kept tidy, clean and clear during hours of operation
- There should be made available plenty of ashtrays/bins of appropriate size and durability which should be emptied or replaced on a regular basis to prevent unsightly build up of smoking debris and odour
- Patrons should be made aware of the need for consideration for neighbours

- Consideration should be given to measures to prevent smoke returning inside the building, for example, through double doors or removing seating directly next to smoking exits
- Licence holders should be aware, and make their staff and patrons aware, that where continuous complaints on the operation of these areas are received and mediation fails, the LSO may submit a report to the Licensing Board seeking review of the Premises Licence

2.4.7 Every business has a duty to ensure that waste is disposed of securely and to keep their premises clear of all litter generated by staff and customers; the Board expects licence holders to be aware of their responsibilities and of the possibility of statutory street litter control notices in the case of non compliance.

2.4.8 In addition where the Premises Licence authorises the use of Outdoor Drinking Areas regard should be had to the need to ensure that the use of such areas will not cause disturbance or nuisance to the occupiers of other premises in the vicinity. This should be undertaken through awareness of staff and patrons of the need to give neighbours consideration for their peace and privacy and by proper management and monitoring. Consideration should be given to the use of non-glass vessels to avoid injury within a garden/family environment.

2.4.9 Where continuous complaints on the operation of an Outdoor Drinking Area are received and mediation fails, an LSO may submit a report to the Licensing Board seeking Review of the Premises Licence.

2.4.10 Licence holders are responsible for ensuring that all other consents and permissions are obtained including from Planning, Building Standards and any roads consent or permit.

## 2.5 Protecting and Improving Public Health

2.5.1 The Nicholson Committee was aware that the Licensing Act 2003 would provide licensing objectives for England and Wales. The Report's recommendation was to adopt similar objectives for Scotland with the addition of this specific objective.

2.5.2 The harmful impacts of alcohol on health are very well known. Nicholson's recommendation was obviously an important one.

2.5.3 Licence-holders can help promote this objective in many ways. Educating the public on sensible levels of drinking is a key public health message. Licence-holders can support public health activity in this area by participating in the following nationally recognised schemes/programmes:

- Drink Wise and Designated Driver Scheme
- National Alcohol Awareness Week
- Healthy Working Lives programme

It is suggested that a co-ordinated approach to this activity is adopted, with local agencies such as; NHS Dumfries and Galloway, Dumfries and Galloway Council, ADP and Police working with Licence-holders to ensure that any interventions are evaluated in terms of impact.

2.5.4 Within their own premises licence holders would be expected to consider introducing or establishing simple measures which will have a positive impact, for example:-

- Provide free soft drinks to designated drivers and advertise this to customers
- Show the number of units in drinks on menus
- Call last orders in good time so customers have enough time to drink-up within the time allowed in law
- Consider withdrawing non-premium extra strength alcoholic products
- Ensure that staff are briefed regularly on the health hazards involved with drinking above the level of the recommended number of units including the potential impact on the drinker's family
- Assess whether the availability of food when premises are near closing would have a beneficial impact.

2.5.5 In terms of good practice businesses should have in place a workplace alcohol policy, which raises awareness about alcohol and its potential negative impact upon health. The policy should detail procedures for dealing with situations when staff may have alcohol related problems and, include information on support services. Staff should be able to access support (without fear of job loss) when a problem arises.

2.5.6 Licence holders, especially those operating on sale premises have a real role to play in ensuring that customers do not misuse alcohol on the premises. Licence holders are reminded of the raft of offences relating to sale of alcohol especially the offences of sale of alcohol to a drunk person and allowing drunkenness to take place on the premises.

2.5.7 In terms of public health action around alcohol there are real opportunities to link with other public health programmes. For example public health issues around drugs, sexual activity, gambling addiction, road safety and personal safety are often linked. This emphasises the need to ensure that future actions are delivered through a multi-agency approach with full support from the Licensed Trade.

## 2.6 **Protecting Children and Young Persons from Harm**

2.6.1 The wide range of premises licensed under the Act means that children and young persons will visit many of these premises.

2.6.2 The Board encourages applications that make venues family friendly and safe for children and young persons. However there will be very serious concern where:-

- there have been convictions for serving alcohol to underage persons or there have been substantiated allegations of underage drinking
- there is a serious element of gambling within the premises
- entertainment of an adult or sexual nature is provided
- the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the service provided (so called vertical drinking establishments)
- licence holders or staff have convictions for offences against children or have otherwise been found unsuitable to work with children.

2.6.3 The protection of children and young persons from harm should include the protection of children and young persons from moral, psychological and physical harm. This would cover exclusion from serious gambling, lap or pole dancing or other sexually orientated entertainment.

2.6.4 Control measures might include:-

- extra measures to secure the safety of children such as Disclosure Certificates for staff working within the premises or employed as stewards
- effective and responsible management of premises
- appropriate instruction, training and supervision of staff
- adoption of best practice
- limitation on the hours when children may be present, in all or parts of the premises
- limitations or exclusions by age
- acceptance of accredited proof of age schemes
- measures to ensure children do not purchase, acquire or consume alcohol
- measures to ensure children are not exposed to incidences of strong and offensive language, violence or disorder

- Production and implementation of a written robust age verification policy signed up by the licence holder and all staff
- Keep refusals book
- Train staff in recognising fake ID
- Consider adopting a policy whereby a limit is placed on the amount of
- alcoholic drinks served to those adults in charge of children or young persons

2.6.5 When preparing the operating plan applicants must set out the terms on which children and young persons are to be allowed entry including the ages of children to be allowed entry, times and parts of the premises to which children will have access.

2.6.6 The Board has sought and allowed flexibility in relation to access by children and young persons within licensed premises. However, licence holders must operate within that flexibility in a responsible manner always mindful of the need to safeguard Licensing Objective (e) Protecting Children and Young Persons from harm.

2.6.7 The Board will not hesitate to make a Premises Licence Review Proposal where this or any other Licensing Objective is negatively engaged, for example, due to failure to comply with this access policy.

2.6.8 Children (defined as 0-15 years of age) should normally be accompanied by an adult. There will, of course, be exceptions. Teenage children wish to have their own social lives, perhaps among a group which also includes young persons. The Board could see this scenario as acceptable where the group is going to licensed premises for a celebratory meal. The licence holder and staff would be legally obliged to ensure that no alcohol is consumed by or sold to children and, in certain cases, young persons. It is to be noted that there is a specific policy with regard to Children and Young Persons' access to licensed premises adopted by the Wigtown Board.

2.6.9 The Board recognises that the parent or guardian is ultimately responsible for the welfare of the child and a responsible adult will in most cases act in the best interests of the child. There will of course be circumstances where the licence holder or Designated Premises Manager will have to make a decision in the best interests of the child but contrary to the views of the accompanying adult.

2.6.10 A wedding reception or other major celebration is an exceptional family event. It is therefore likely that parents/guardians will want to stay to the end of the event with their children. Although this is acceptable to the Board, it is so as an exception. Children - especially younger children - should not be in licensed premises, unless resident in an hotel, for long periods of time and/or to late hours.

2.6.11 The Board does see a distinction between premises serving meals and Vertical Drinking Establishments.

2.6.12 Licence holders should consider adopting a policy whereby a limit is placed on the amount of alcoholic drinks served to those adults in charge of children or young persons.

2.6.13 The Board has been made aware that in some remote areas the only place children can purchase a soft drink or piece of confectionery after 5.00pm is the local pub or hotel. This access would appear to be acceptable if covered by the operating plan. A similar situation may arise where older children wish access to premises to play indoor sport, such as pool, especially if it is part of a competition.

2.6.14 The legislation gives more freedom to young persons (16 and 17 year olds). For example, an adult can purchase beer, wine, cider or perry for consumption by a young person along with a meal. The protection is still there - the young person cannot purchase the alcohol for him or herself. Only an adult can make the purchase.

2.6.15 In most occasions the Board will find it generally acceptable for young persons to be allowed into premises unaccompanied by an adult. However there will be circumstances when there will be concerns:

- Crowded premises during a local event where there is a tradition of dedicated drinking
- Crowded premises before or after a football match especially if animosity between fans

- Where any type of gambling entertainment is being catered for in the premises

2.6.16 No children or young persons should be within any part of the premises where adult entertainment is being catered for.

2.6.17 The question should be “why is the child or young person in the premises?”

### 3. RELATIONSHIP WITH OTHER STRATEGIES

3.1.1 The Board will endeavour to secure proper integration with local crime prevention, community safety, health, planning, transport, tourism, race equality and cultural strategies.

3.1.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Board will receive, when appropriate reports on the needs of the local tourism authority to make sure that these are reflected in the Board’s consideration. The Board will also consider the terms of any reports by LSOs on the impact on the licensing objectives should the application be granted. The applications concerned are for:-

- a premises licence
- a premises licence variation
- temporary premises licence
- occasional licence
- extended hours

3.1.3 The Board recognises that licensing applications should not be seen as a rerun of the planning process and there will be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency. However there will continue to be proper liaison and communication between these 2 regimes.

3.1.4 In addition the Board will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives. Conditions will generally be considered unnecessary where they are also already adequately covered by other legislation.

3.1.5 The Board will liaise closely with the Local Alcohol and Drugs Partnership, the importance of such co-operation being recognised as part of the wider alcohol agenda, especially in relation to public health and child protection licensing objectives.

### 4. AVOIDING DUPLICATION

4.1.1 The Board will so far as possible avoid duplication with other regulatory regimes such as health and safety at work and fire safety. However, the Board recognises that there will be areas where responsibilities overlap between the Board and other public authorities or bodies for example the Boards’ responsibilities under Equalities legislation.

### 5. CONDITIONS

5.1.1 The Act in Schedule 3 provides mandatory conditions for premises licences. The Scottish Government is empowered to make regulations to amend those conditions or to add to them.

5.1.2 In addition, the Scottish Government has introduced mandatory conditions relating to certain premises with licensed hours at any time between 1am and 5am (the Licensing Conditions (Late Opening Premises) (Scotland) Regulations 2007).

5.1.3 The Board has power to impose additional conditions to a premises licence which they consider necessary or expedient for the purposes of any of the licensing objectives. These conditions will not be inconsistent with or seek to strengthen or restrict mandatory conditions or relate to a matter which is regulated by another enactment and will only be imposed when considered necessary for the promotion of the licensing objectives.

5.1.4 Schedule 4 to the Act sets out the mandatory conditions for an Occasional Licence.

5.1.5 Paragraph 2 of this Statement lists the local conditions that the Board may adopt in terms of its powers under section 27 and 60 of the Act.

## 6. THE HUMAN RIGHTS ACT 1998

6.1.1 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way which is incompatible with a Convention Right. The Board will have particular regard to the following relevant provisions of the European Convention on Human Rights in respect of its licensing responsibilities:

Article 1 of the First Protocol: that every person is entitled to the peaceful enjoyment of their possessions, including for example the possession of a licence

Article 6: that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law and

Article 8: that everyone has the right to respect for their home and private life.

## 7 EQUALITY

7.1.1 The Board consists of Councillors of Dumfries and Galloway Council. Board Members therefore undertake the training required of Councillors including training on Diversity, Unlawful Discrimination and Equality of Opportunity.

7.1.2 Our Council recognises that to provide a good service staff must be well trained including training on Diversity, Unlawful Discrimination and Equality of Opportunity.

7.1.3 The Board is of course a Public Body in terms of the Equality Act 2010 and is therefore under a General Duty to :-

- Eliminate Discrimination
- Advance Equality of Opportunity
- Foster Good Relations

7.1.4 In addition, from 30 April 2013 the Board has also required to publish:-

- A set of equality outcomes
- Employment information (however it is the Council and not the Board which employs staff)
- A mainstreaming report

7.1.5 The Board has agreed that to fulfil these duties with a view to making a tangible positive difference to the elimination of discrimination, harassment and victimisation, advancing equality opportunity and fostering good relations between people who share a protected characteristic and those who do not:-

7.1.6 The Board's Mainstreaming Report would comprise:-

- Awareness of protected characteristics and equality issues
- Encouragement of licensed trade to develop facilities to welcome persons with protected characteristics
- Access to information
- Engagement with local representative groups.

7.1.7 The Board's 2 Equality Outcomes ~~would be~~:-

- ~~● Raising awareness of equality and diversity; and~~
- ~~● Promoting accessibility to local licensed services for people with Protected Characteristics~~
- Reduce the opportunities for children and young people to be involved in risky behaviours relating to alcohol and gambling
- The protected characteristic group is age and the general equality duty is helping to eliminate discrimination, advance equality of opportunity and foster good relationships. which This would be achieved by the actions of :-
- Supporting awareness programmes about the dangers of under-age consumption of alcohol and gambling and •
- Supporting reductions in opportunities for alcohol and gambling to be available to children and young people
- ~~● Spreading equality materials including participation in appropriate campaigns~~
- ~~● Encouraging operators to participate in the campaigns~~
- ~~● Having regular dialogue about improvements to services between people with Protected Characteristics and operators in the Equalities Forums.~~

## 8. ENFORCEMENT

8.1.1 The Board will follow best practice in enforcement including adoption of the best Regulation Principles.

8.1.2 When a matter is submitted to the Board by an LSO it would be anticipated, except in the most serious cases, that attempts have been made through advice, negotiation and mediation to address the issues.

8.1.3 However it should be appreciated that in appropriate cases, the Board will not hesitate to use their powers to suspend or revoke a Licence notwithstanding that this may have a detrimental impact on the business.

8.1.4 Clubs complying with Section 125 of the Licensing (Scotland) Act 2005, subject to their statutory privileges, come under the full remit of the Board.

8.1.5 Clubs complying with Section 125 of the Act and the Club Regulations are in a privileged position:-

- Their fees are lower than commercial premises,
- They do not require to have a Premises Manager,
- It is competent for a Club to apply for an occasional licence for the premises during which anyone might be allowed to purchase alcohol (not only members, guests of members and members of other clubs) and
- An application for a Premises Licence from a qualifying club cannot be refused on grounds of overprovision.

8.1.6 Qualifying Clubs should appreciate that privileges can be withdrawn if misused.

8.1.7 Members Clubs are not commercial operations and should not be run with a view to making a profit.

8.1.8 The sale of alcohol must be restricted to Club Members and their bona fide guests unless an Occasional Licence is in effect in the Club Premises.

8.1.9 If the Club cannot comply with this and other statutory requirements for qualification for the privileges under Section 125 then it is open to them to apply for a variation of the Premises Licence and relinquish Members Club status.

8.1.10 For the avoidance of any doubt the Board may consider failure to comply with the Club Regulations and the Club Constitution as a breach of the mandatory conditions 2 and 3 attached to the Club Premises Licence and grounds for a Premises Licence Review. An example might be failure to restrict the sale of alcohol to Club Members



and their guests.

## 9. GENERAL PROCEDURE

9.1.1 The Board or any Committee established by the Board shall hold in every calendar year such meetings as are necessary.

9.1.2 Meetings shall be held at such place ([exclusively remotely/hybrid or wholly in person](#)) and on such days and times as determined by or on behalf of the Clerk of the Boards which would be publicised on the Council's website.

## 10. DURATION AND SUPPLEMENTARY LICENSING POLICY STATEMENTS

10.1.1 This Statement of Policy came into effect on 4 November 20~~23~~<sup>18</sup> and will remain in effect until, at the latest, 18 months after the next ordinary election of Councillors for local government (the latter of which is at the time of publishing this Statement, due to take place May 202~~7~~<sup>2</sup>). If necessary and/or appropriate, the Board will prepare, consult upon and publish a Supplementary Statement/s within that period.

## APPENDIX 1

### Consultees

- Age Concern Scotland
- Alcohol and Drugs Support, South West Scotland
- Alcohol Focus Scotland
- All Community Councils in Dumfries and Galloway
- All Premises Licence Holders
- All Designated Premises Managers
- Annandale and Eskdale Licensing Forum
- Anti Poverty Group
- Belendon Hospitality Services
- BIIAB
- Building Standards, Dumfries and Galloway Council
- Chief Officer, Scottish Fire and Rescue Service
- City & Guilds
- Colin Grant, Director CYPLL
- CPL Training Ltd
- Crichton University Campus Students Association
- Deputy Chief Constable Designate
- DG Training
- DG Voice
- Dumfries and Galloway Alcohol and Drugs Partnership
- Dumfries and Galloway Carers Centre
- Dumfries and Galloway College
- Dumfries and Galloway College Students' Association
- Dumfries and Galloway Council Equality and Diversity Working Group
- Dumfries and Galloway Council Youth Justice Service
- Dumfries and Galloway Disability Access Panel
- Dumfries and Galloway Inter Faith Group
- Dumfries and Galloway International Women's Group
- Dumfries and Galloway LGBT Plus
- Dumfries and Galloway Multicultural Association
- Dumfries and Galloway Strategic Housing Forum
- Dumfries and Galloway Voice
- Environmental Health Service, Dumfries and Galloway Council
- Highfield
- JMG Training
- LGBT Youth Scotland
- Licensing Standards Officers
- Licensed Victuallers Association
- Lillian Cringles, Head of Social Work
- National Union of Students Scotland
- NHS Dumfries and Galloway
- Nithsdale Health and Wellbeing Partnership
- Nithsdale Licensing Forum
- Personal Licence Training (UK) Ltd
- Planning Service, Dumfries and Galloway Council
- President, Dumfries Licensed Trade Association
- President, South West Scotland Licensed Trade Association
- Scottish Beer and Pub Association
- Scottish Children's Reporter Administration
- Scottish Youth Parliament – 4 Members
- Specialist Drug and Alcohol Service, Dumfries
- Specialist Drug and Alcohol Service, Newton Stewart
- Stewartry Licensing Forum
- Students' Union, University of Glasgow

- ~~Students' Union, University of Glasgow – QMU~~
- ~~The Scottish Licensed Trade Association~~
- ~~Third Sector, Dumfries and Galloway~~
- ~~Visit Southwest Scotland~~
- ~~Wigtown Licensing Forum~~
- ~~Women's Aid, Dumfriesshire & Stewartry~~
- ~~Women's Aid, Wigtownshire~~
- ~~Youth Enquiry Service, Dumfries~~

- The Chief Constable, Police Scotland
- Chief Officer, Scottish Fire and Rescue Service
- NHS Dumfries and Galloway
- Dumfries and Galloway Alcohol and Drugs Partnership
- All Premises Licence Holders in Dumfries and Galloway
- All Designated Premises Managers in Dumfries and Galloway
- 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

- Dumfries Licensed Trade Association
- The Scottish Licensed Trade Association

Responses received from initial consultation:

- ~~Police Scotland~~ Alcohol Focus Scotland

Responses received from formal consultation

- ~~46 162~~ responses (all four Boards)
- Dumfries and Galloway Licensing Standards Officers
- ~~Alcohol and Drugs Partnership~~, NHS Dumfries and Galloway
- ~~Police Scotland~~
- ~~The Dumfries and Stewartry Licence Association~~

# **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

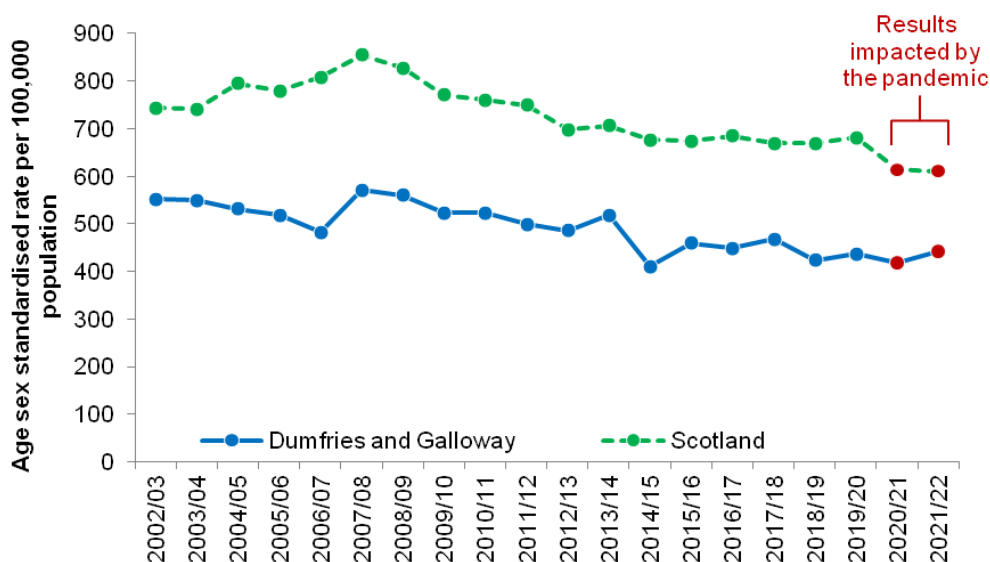


Figure 2: Age Sex Standardised Rate for Alcohol-Related Admissions for Young People and Young Adults (aged 11 to 25 years), Dumfries and Galloway compared to Scotland, 2002/03-2004/05 to 2019/20-2021/22

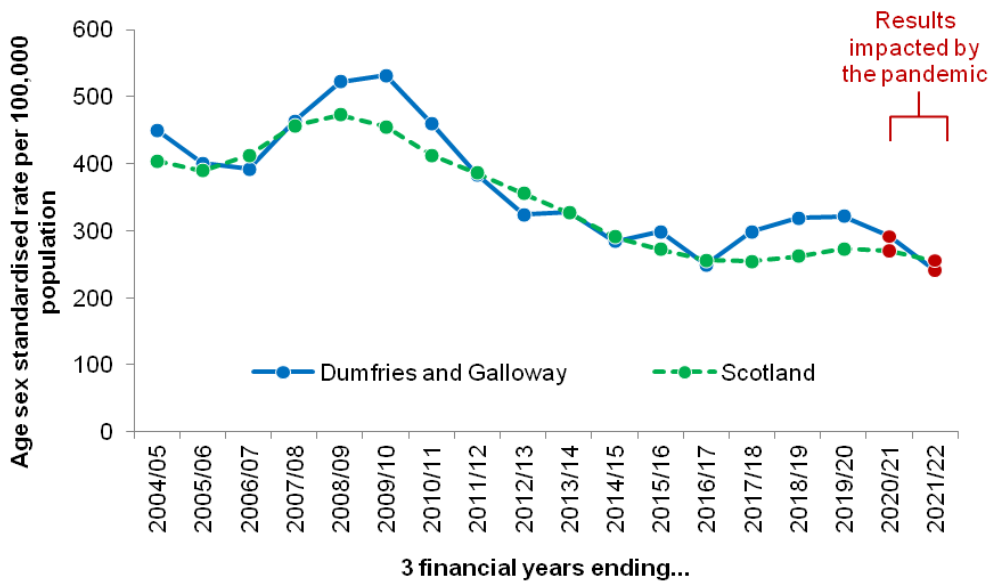
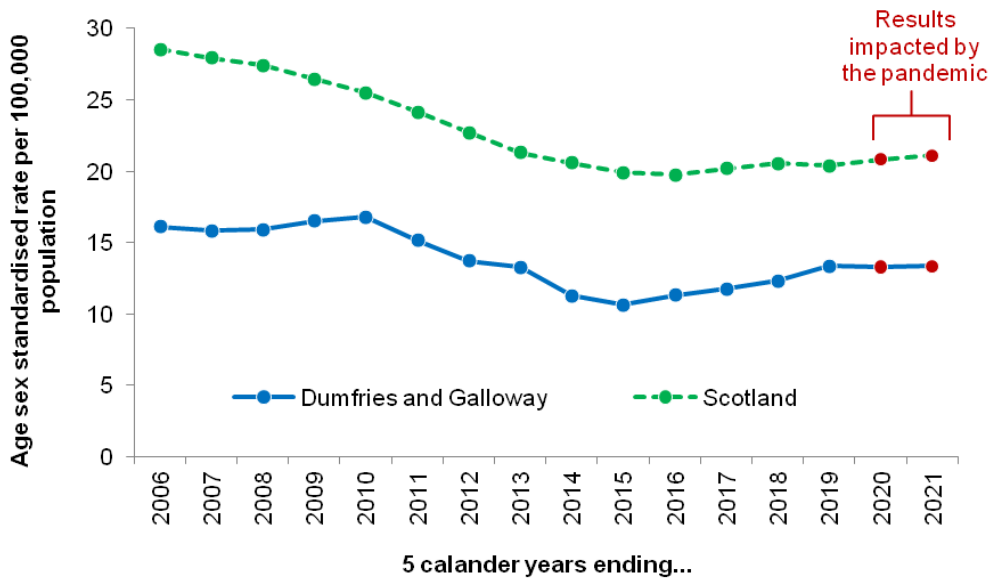


Figure 3: Age Sex Standardised Rate for Alcohol Specific Deaths, Dumfries and Galloway compared to Scotland, 2002-06 to 2017-20



### 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.

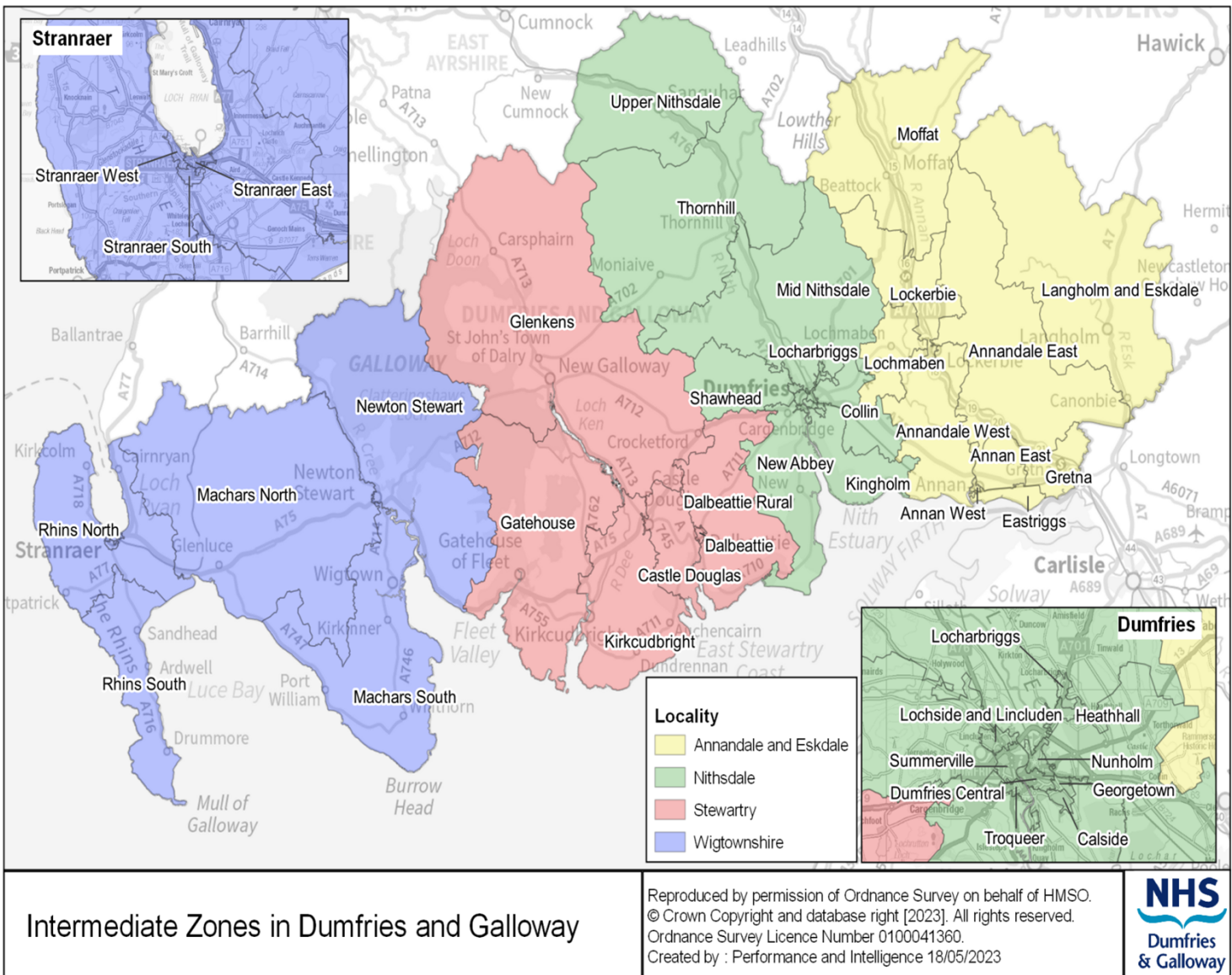
#### 3.1 Geographical Units

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.

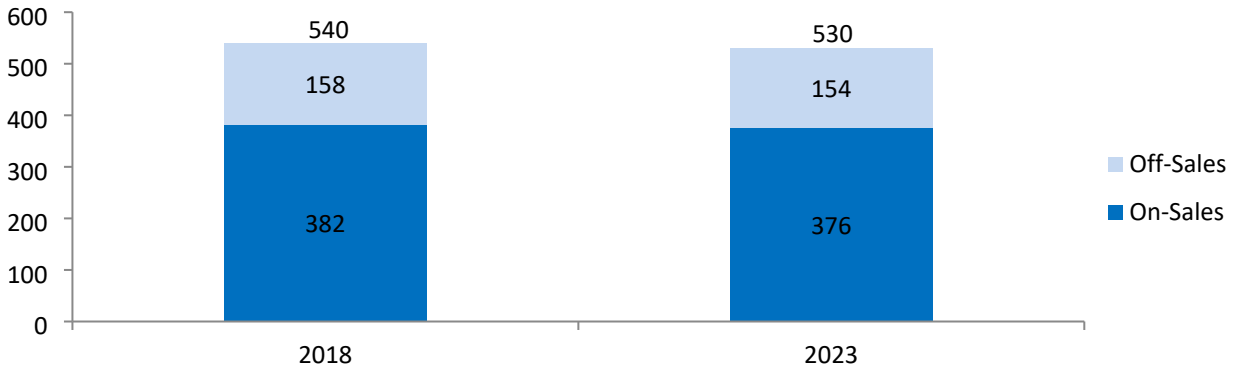
For ease of analysis and to enable direct comparison between IZs, Dumfries and Galloway and Scotland, the data in this report is provided as a rate at per 100,000 of the population.

## 4. Report Findings

### 4.1 Impact of Pandemic on Number of Outlets

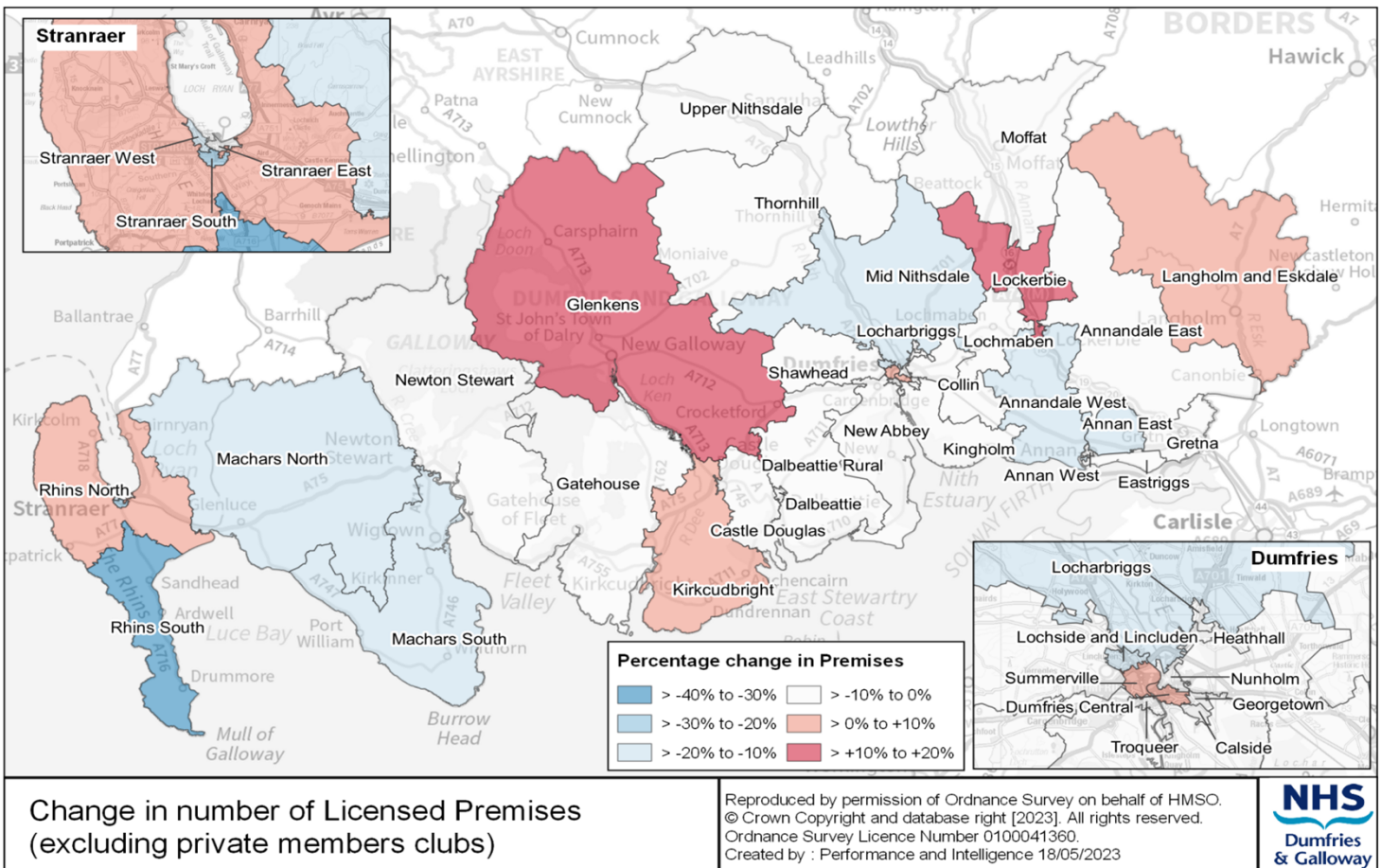
Figure 4 shows the total number of licensed premises in Dumfries and Galloway marginally decreased by 2% (a difference of 10 premises) from 540 in 2018 to 530 in 2023. The number of on sales premises also marginally decreased by 2% (a difference of 6 premises) from 382 to 376.

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

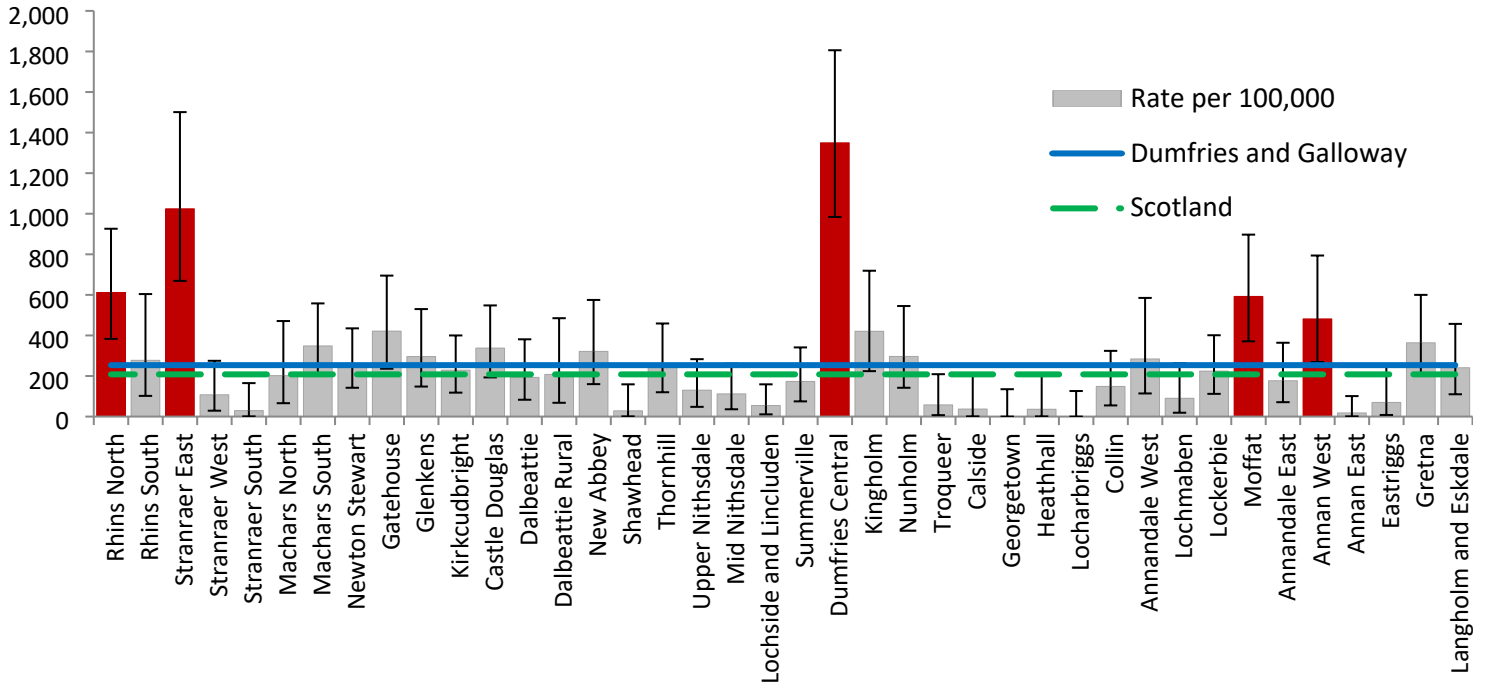


Figure 6: Rate of Off Sales Premises per 100,000 Population by IZ, March 2023

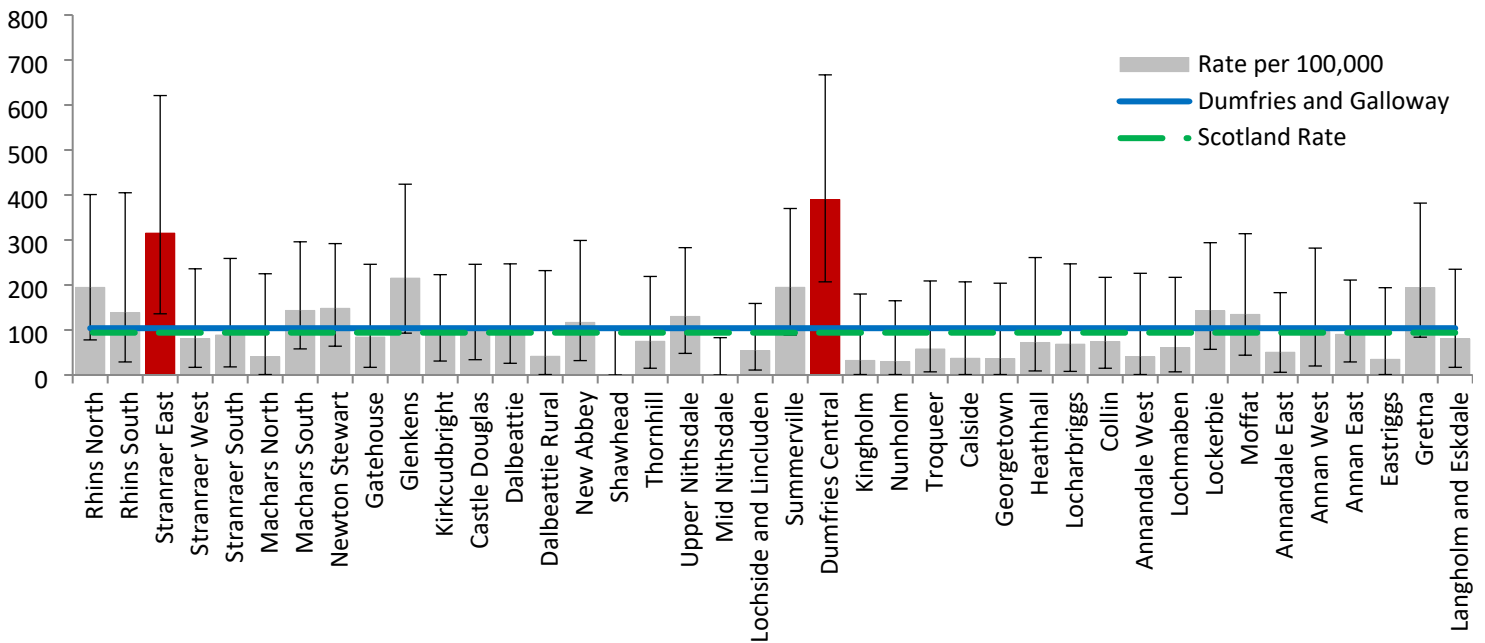


Figure 7: Rate of On Sales Capacity per 100,000 Population by IZ, March 2023

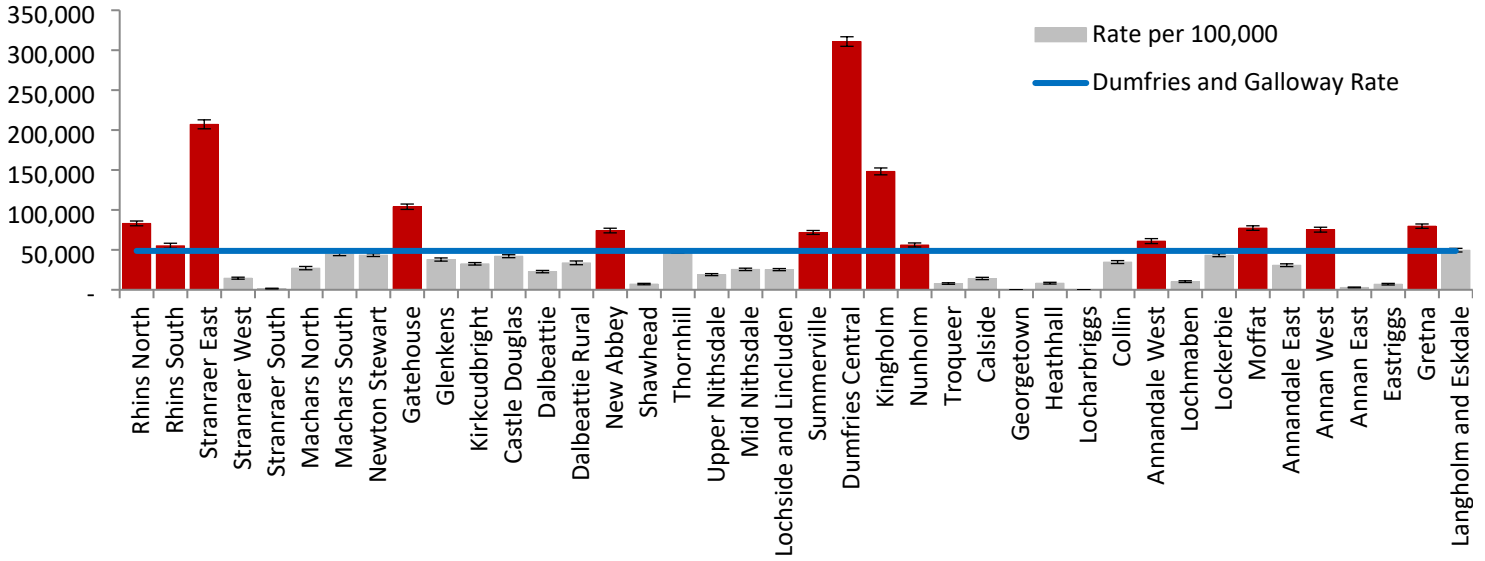
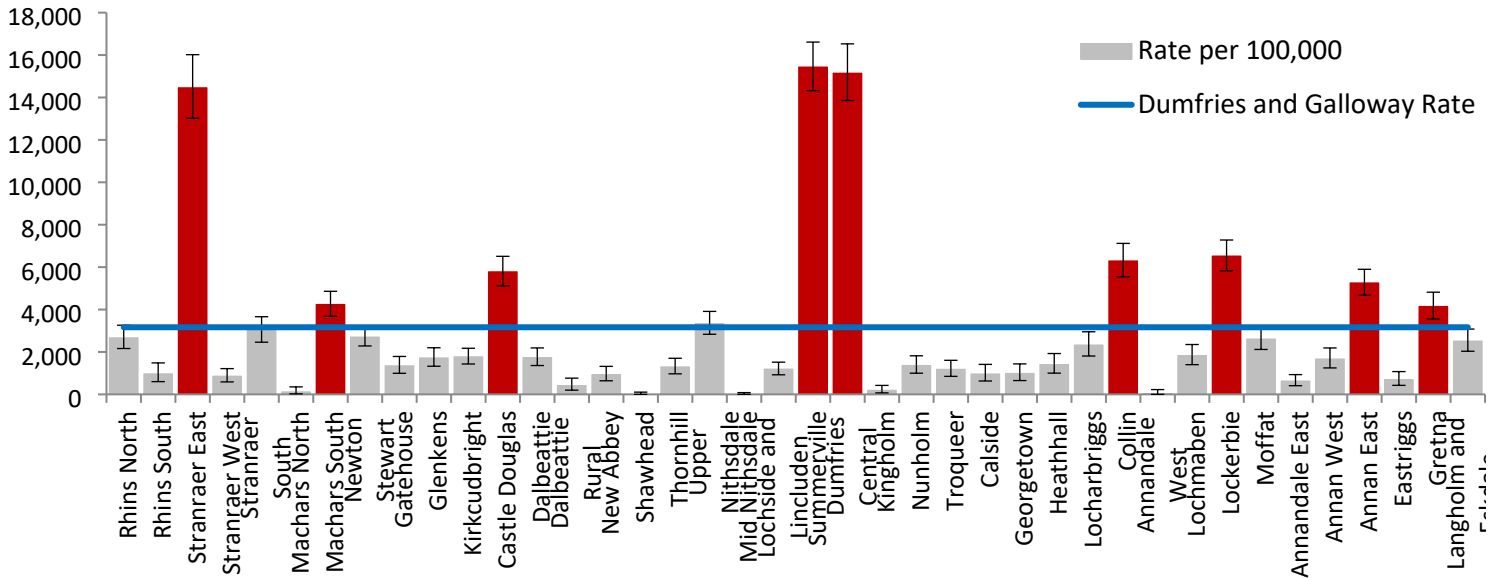


Figure 8: Rate of Off Sales Capacity per 100,000 Population by IZ, March 2023



### 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

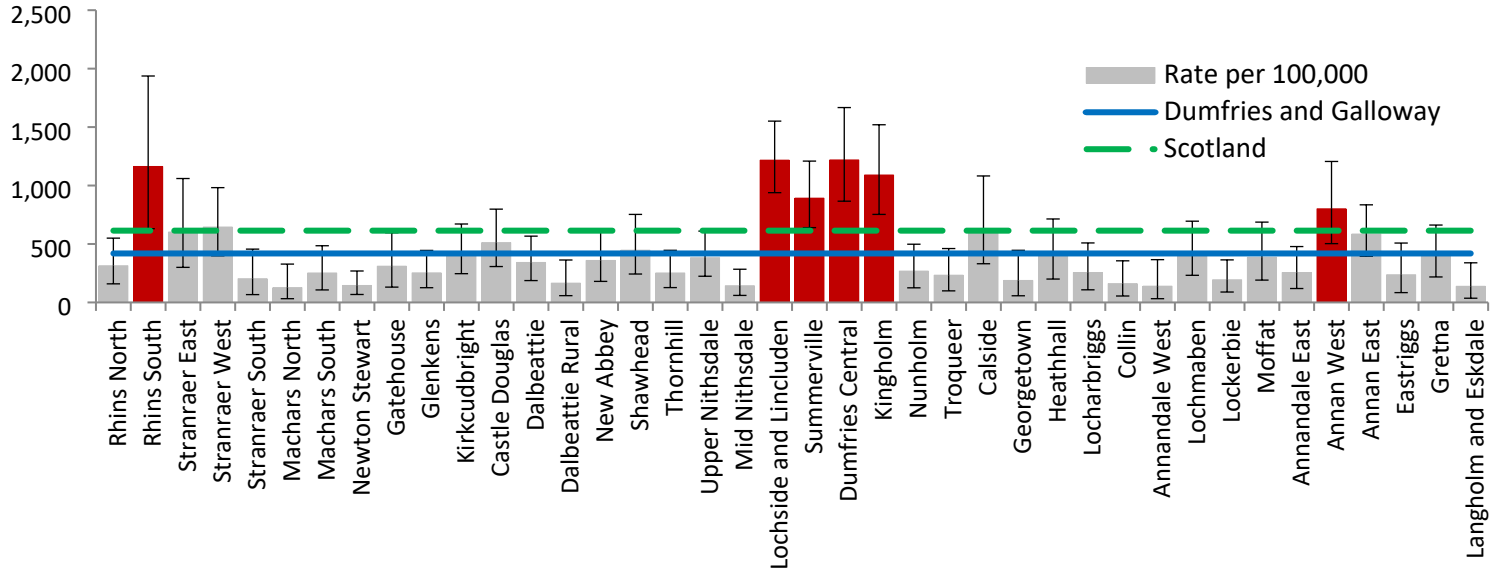


Figure 10: Rate of Alcohol-Related Accident and Emergency Attendances per 100,000 Population by IZ, 2021-22

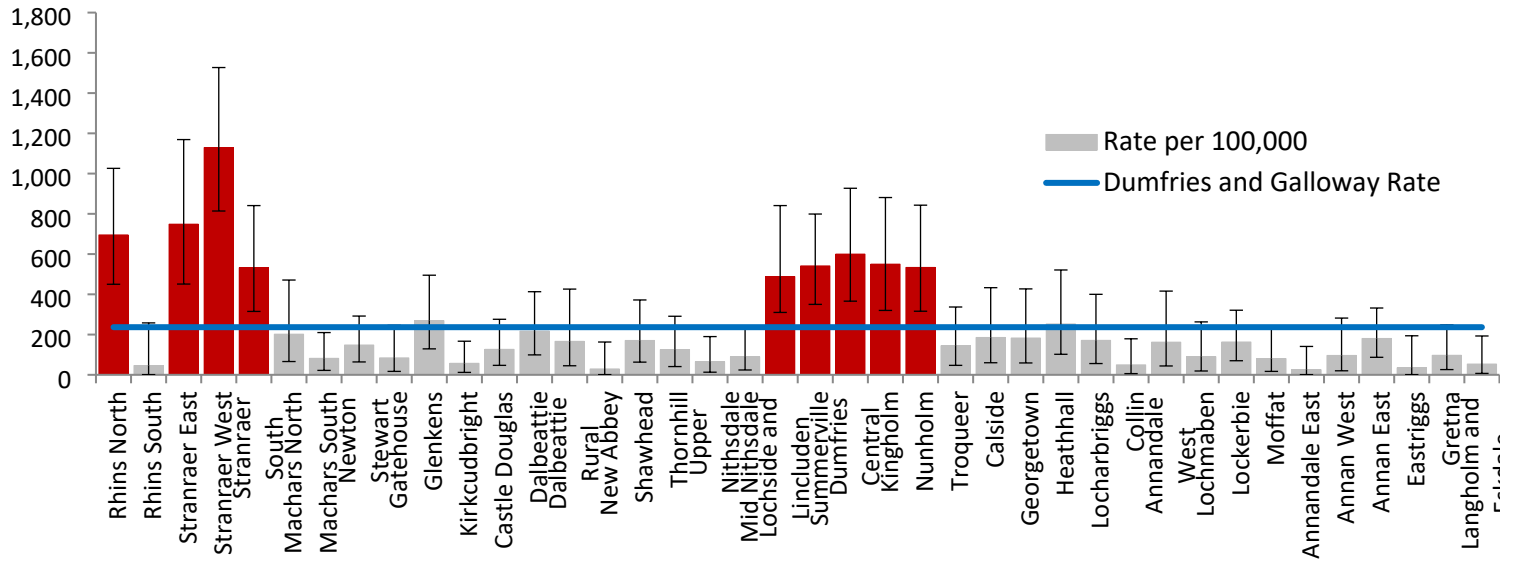


Figure 11: Rate of Alcohol Specific Deaths per 100,000 Population by IZ, 2012-22

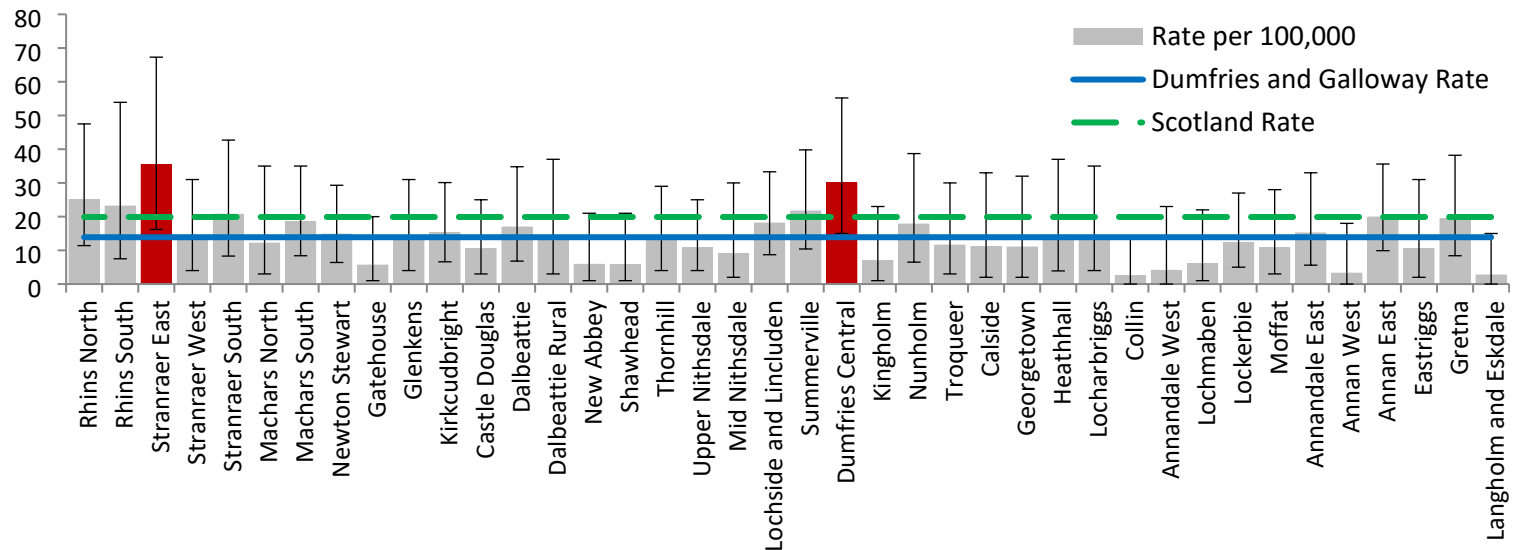
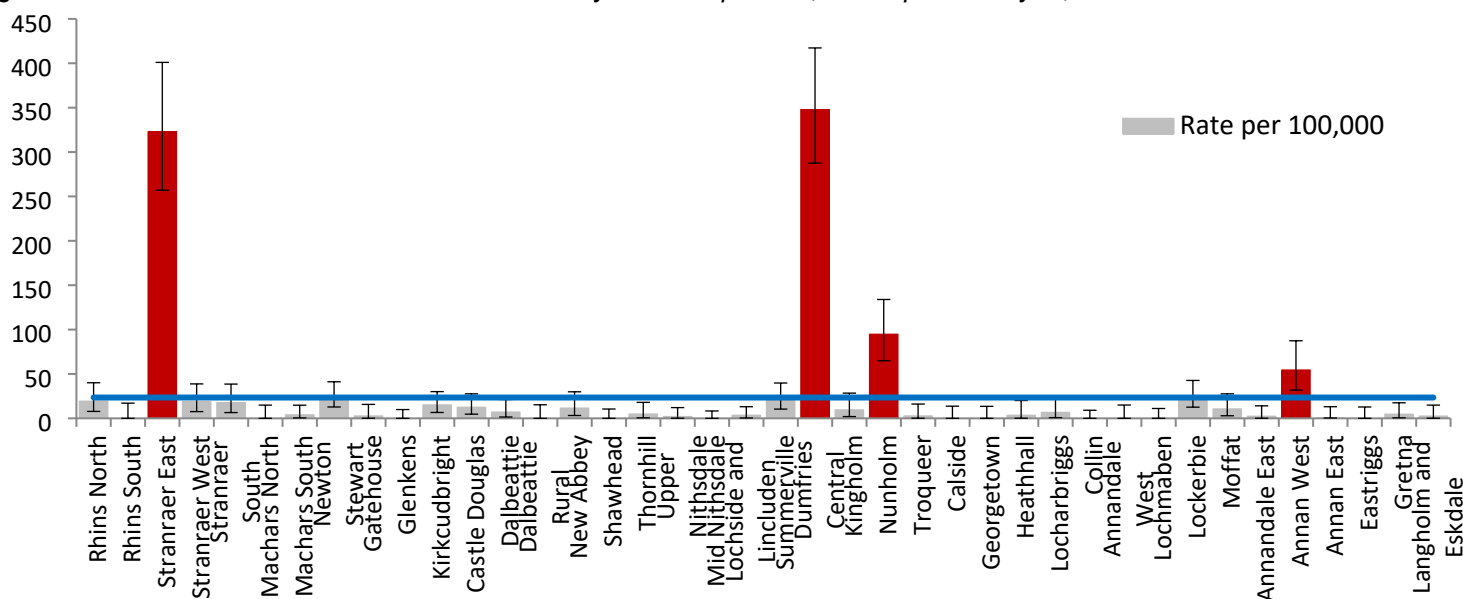


Figure 12: Rate of Drunkenness and Other Disorderly Conduct per 100,000 Population by IZ, 2012-21



## 4.4 Results by Locality

### 4.4.1 Annandale and Eskdale

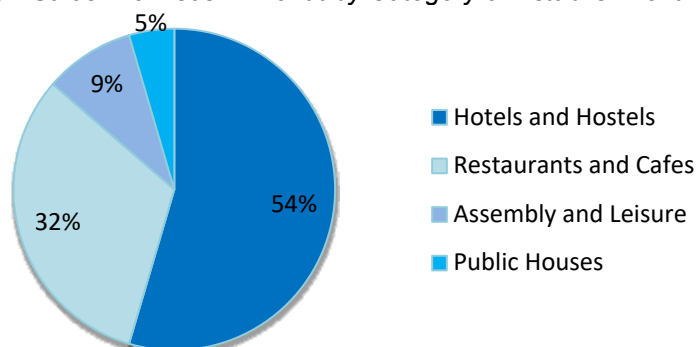
#### Annan West

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.

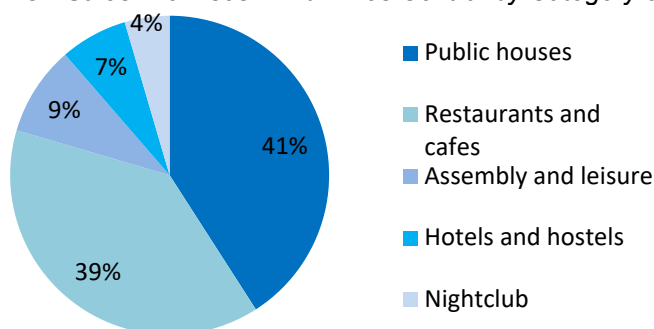
#### 4.4.2 Nithsdale

##### 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.

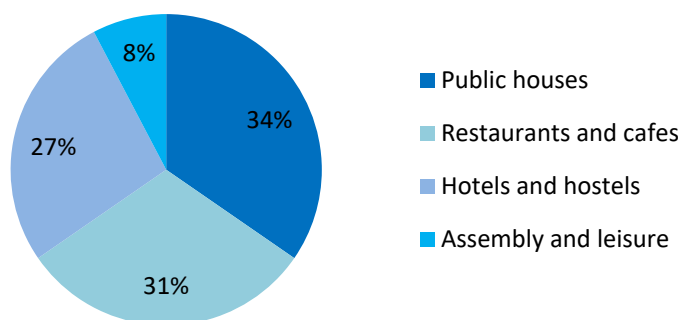
#### 4.4.4 Wigtownshire

##### 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.

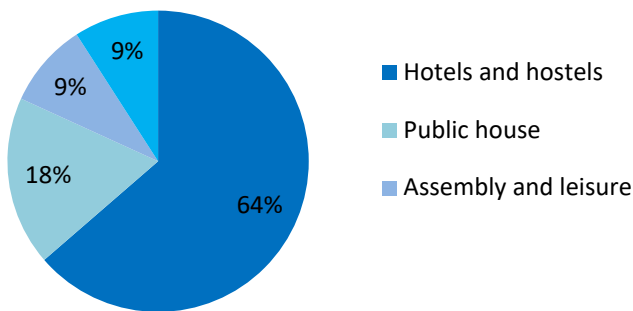
The 2018 Alcohol Licensing Overprovision Report by the health board found Stranraer East to be overprovided in the number of licences. Since 2018, there has only been a small decrease of 3% (a difference of 1 premise) in the number of premises licensed to sell alcohol. The evidence in this report suggests 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.

**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 9 August 2023 until 25 October 2023 the following Occasional Licences and Extended Hours were granted:

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

Total number issued        74

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

Total number issued        25

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

Total number issued        25

**Extended Hours**

Total number issued        2

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Dumfries

Date of Report: 8 November 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.2/051N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Phillip Robertson Hadston House Brasswell Dumfries DG1 3JY
<b>Name &amp; Address of Premises</b>	Spread Eagle 5-6 Galloway Street Dumfries DG2 7TL
<b>Nature of variation</b>	Change of Designated Premises Manager to Phillip Robertson
<b>Effective Date of Minor Variation</b>	22 August 2023

<b><u>Application No. 2 – Ref L.6/018N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Co-operative Group Food Limited 1 Angel Square Manchester M60 0AG
<b>Name &amp; Address of Premises</b>	Co-op 125 Drumlanrig Street Thornhill DG3 5LS
<b>Nature of variation</b>	Change to Layout Plan – reconfiguration of premises and decrease in capacity from 27.92m <sup>2</sup> to 26.105m <sup>2</sup>
<b>Effective Date of Minor Variation</b>	25 August 2023

<b><u>Application No. 3 – 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 Dylan Russell
<b>Effective Date of Minor Variation</b>	25 August 2023

<b><u>Application No. 4 – Ref L.6/020N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Phoenix Wolf Property Limited High Polquheys Farm New Cumnock East Ayrshire KA18 4NX
<b>Name &amp; Address of Premises</b>	One Stop 31-33 High Street Sanquhar DG4 6DG
<b>Nature of variation</b>	Change of Designated Premises Manager to Katie Weir and change of premises name to 'The Store at Sanquhar'
<b>Effective Date of Minor Variation</b>	6 September 2023

<b><u>Application No. 5 – Ref L.2/021N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Phillip Robertson Hadston House Brasswell Dumfries DG1 3JY
<b>Name &amp; Address of Premises</b>	The Globe Inn 21 Market Square Dumfries DG2 7AB
<b>Nature of variation</b>	Change of Designated Premises Manager to Ellis McCulloch
<b>Effective Date of Minor Variation</b>	19 September 2023

<b><u>Application No. 6 – Ref L.4/012N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Natalie Smith 68 Lochfield Road Dumfries DG2 9BG
<b>Name &amp; Address of Premises</b>	Moat Brae 101 George Street Dumfries DG1 1EA
<b>Nature of variation</b>	Change of Designated Premises Manager to Carol Brotherston
<b>Effective Date of Minor Variation</b>	13 October 2023

<b><u>Application No. 7 – Ref L.6/051N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Scottish Midland Co-operative Society Ltd Hillwood House 2 Harvest Drive Newbridge EH28 8QJ
<b>Name &amp; Address of Premises</b>	Scotmid 202/204 Lochside Road Dumfries DG2 0EB
<b>Nature of variation</b>	Change of Designated Premises Manager to Mandy Brockie
<b>Effective Date of Minor Variation</b>	26 October 2023

<b><u>Application No. 8 – Ref L.6/015N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Tesco Stores Ltd Tesco House Kestrel Way Shire Park Welwyn Garden City Herts AL7 1TW
<b>Name &amp; Address of Premises</b>	Tesco Superstore Peel Centre Lockerbie Road Dumfries DG1 3PF
<b>Nature of variation</b>	Change of Designated Premises Manager to Nicole Hanley
<b>Effective Date of Minor Variation</b>	27 October 2023

<b><u>Application No. 9 – Ref L.6/111N</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Shell UK Oil Products Limited Shell Centre London SE1 7NA
<b>Name &amp; Address of Premises</b>	Shell Collin Annan Road Dumfries DG1 3SE
<b>Nature of variation</b>	Change of Designated Premises Manager to Matthew Charles Caldwell
<b>Effective Date of Minor Variation</b>	2 November 2023

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Date of Report: 8 November 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.2/051N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Helen Dickson 92 Osborne Drive St Teresas Lochside Dumfries DG2 0EP
<b>Name &amp; Address of Transferee or Agent</b>	Phillip Robertson Hadston House Brasswell Dumfries DG1 3JY
<b>Name &amp; Address of Premises</b>	Spread Eagle 5-6 Galloway Street Dumfries DG2 7TL
<b>Effective Date of Transfer</b>	22 August 2023

<b><u>Application No 2. – Ref L.2/021N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Thomas Nisbet 137 Dalswinton Avenue Dumfries DG2 9NP
<b>Name &amp; Address of Transferee or Agent</b>	Phillip Robertson Hadston House Brasswell Dumfries DG1 3JY
<b>Name &amp; Address of Premises</b>	The Globe Inn 21 Market Inn Dumfries DG2 7AB
<b>Effective Date of Transfer</b>	19 September 2023

<b><u>Application No 3. – Ref L.4/012N – SECTION 33</u></b>	
<b>Name &amp; Address of Applicant or Agent</b>	Natalie Smith 68 Lochfield Road Dumfries DG2 9BG
<b>Name &amp; Address of Transferee or Agent</b>	Graham Edwards 31 Gailoch Crescent Dumfries DG1 4DW
<b>Name &amp; Address of Premises</b>	Moat Brae 101 George Street Dumfries DG1 1EA
<b>Effective Date of Transfer</b>	26 October 2023

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Date of Report: 8 November 2023

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

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

**APPLICATION: MAJOR VARIATION**

**PREMISES: ROBERT THE BRUCE, 81/83 BUCCLEUCH STREET, DUMFRIES**

**PREMISES LICENCE HOLDER: JS WETHERSPOON (SCOT) LIMITED**

**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 9 August 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
- Neighbours: 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 29 September to Saturday 21 October 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 20 October 2023**.

3.2 Two objections have been received as follows:

3.3 Objection 1 – Richard Osborne (**Appendix 2**)

3.4 Objection 2 – Graeme Robertson (**Appendix 3**)

**4. Responses**

- LSO report: no adverse comments (**Appendix 4**)
- Police Scotland: Representation requesting conditions (**Appendix 5**)
- Planning: no planning issues
- Environmental Health: no objections
- 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

8 November 2023

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

<b>Applicant/Agent</b>	JD Wetherspoon (Scot) Limited c/o Brunton Miller Solicitors 22 Herbert Street Glasgow G20 6NB
<b>Address of Premises</b>	Robert the Bruce 81/83 Buccleuch Street Dumfries DG1 2AB
<b>Nature of Variation</b>	<p><b><u>Operating Plan</u></b></p> <p>Capacity of premises – increase to total on-sales to 615</p> <p>Capacity breakdown Internal Areas – 520 External Areas – 75 persons (rear external area); 20 persons (Castle Street external area)</p> <p>Off Sales 9.96m<sup>2</sup> (no change)</p> <p><b><u>Layout Plan</u></b></p> <p>The application seeks to amend the plan attached to the premises licence to include external customer seating areas at the rear of the premises and on Castle Street as per plan number PN1204-13-AM01 Rev B.</p>
<b>Last Date for Objections/Representations</b>	<b>Friday 20 October 2023</b>

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**Appendix 2**

Dear Sir / Madam

I write to register my objection to the above application for variation of premises licence at Robert the Bruce, 81/83 Buccleuch Street, Dumfries.

Negative impact on residential privacy.....

I am a resident at XXXXXX.

The rear of my property would directly overlook this proposed extension of the existing smoking area.

Subsequently, patrons using the extended area would be capable of seeing directly into my kitchen & bedroom, negatively impacting my privacy.

Similarly, other occupied residential properties in the vicinity will also be impacted with reduced privacy.

I would question why my & other residents privacy should be allowed to be compromised by this application?

Negative impact by way of noise....

My bedroom is at the rear of my property & whilst I am already inconvenienced by the noise from the existing outside area, this will be further exacerbated due to the increased number of people permitted to use the area if this application is permitted.

This will have another negative impact on the quality of my living arrangements.

The amount of noise that comes from the existing outside area can be very loud, often late at night, including after 11pm, even after midnight.

I have never had experience of Wetherspoon's management or staff successfully asking customers to tone down the noise level.

By allowing an extension of the licence for the existing area this will almost certainly increase the number of people using the area & thereby the level of noise & as stated this will again have a negative impact on me.

Wetherspoon's previous failure to properly "manage" their clients using the existing outside area. Sometimes the foul language that I hear from the existing beer garden is intolerable, but in my experience the Management at Wetherspoon's do very little to curtail this.

When something is said to those using the bad language it appears that the level of abuse directed towards the residential buildings increases.

My previous experience of raising matters such as the levels of noise with Wetherspoon's Management leads me to believe that very little would be done to minimise the impact of noise on the local residents.

Over the past 20 years that I have lived here there have been numerous instances of Wetherspoon's customers leaving the existing beer garden by the emergency exit & smoking and/or urinating in areas of the mews access road.

In the entire time I have been a resident in Castle Street I have rarely, if ever, seen anyone from Wetherspoon's Management or staff instruct a customer to remain within their licensed area.

Despite a meeting with a Council Licencing Department Representative & Wetherspoon's Area Manager & Site Manager back on 28 August 2023, at which it was advised that an alarm would be fitted to the outside area exit door that would alert bar staff to the door being opened, I still observe customers leaving the area by this exit door to either make phone calls or urinate.

It has reached the stage where my understanding is that matters of customers urinating in the mews lane may be reported to the police.

A change to the current priority of residential property in the immediately effected vicinity.....

There are currently more occupied residential properties in close proximity to the proposed development, than occupied business properties.

In my opinion these residential properties should be the priority & the application should be rejected due to the potential negative impact on them.

The impact on the surrounding area....

I am very concerned that Wetherspoon's having an extended beer garden would not be in keeping with the existing surroundings.

These are listed buildings & in my opinion this proposal does not fit in with the aesthetics of the existing buildings.

Negative impact on Health & Safety....

I am concerned that by allowing customers to eat in an extended outside area there will be an increase in seagulls & vermin being attracted.

Seagulls already are a major issue in the area as they nest on the roofs locally.

With food remnants this would only exacerbate the problems the seagulls cause.

Negative impact on the security of my property.....

As near neighbours to the existing smoking area, my property includes a garage at the rear of my courtyard.

My experience is that as previously mentioned, Wetherspoon's customers are able to leave the existing area & wander around the mews access road.

We frequently have beer, cider bottles etc left on our front steps or thrown down into our front basement & smashed, which in all likelihood originate from Wetherspoon's & I am concerned that this would be replicated at the rear of the property as well.

My concern is, that in my experience, there is very little, if any, stewarding or management of customers by the Wetherspoon's staff within the outside areas & I fail to see how this will be improved by extending the area concerned.

I am concerned that there will be an increase of people in the mews access road & this would potentially impact negatively on the security of my property.

Issues with access, parking.....

The mews road at the rear of my property is a common access road for the properties along this section of Castle Street.

As previously detailed I have a garage at the rear of my courtyard.

The doors of my garage open by swinging outwards into the mews road.

If a vehicle parks opposite my garage doors I am unable to take my car out or drive it in.

This is a situation that often involves contacting the police to have cars moved.

Currently Wetherspoon's have numerous maintenance company vehicles visiting each week, these usually park in the area proposed for the extended beer garden.

Where will these vehicles be parked if the application is approved?

My concern is that the "easiest" place to park will be opposite my garage & I will be inconvenienced into constantly chasing people to move their vehicles to allow me garage access.

In Summary

For the many reasons above that would have a very negative impact on the quality of my & other residents living arrangements I request that the application is rejected.

In observation, the application states the underperformance of the existing beer garden area, the two existing beer gardens at the front & rear of the premises are rarely full for very long, so perhaps the level of performance has nothing to do with the size of the area but for other reasons, therefore I question the requirement to expand them.



I have had conversations previously with members of Wetherspoon's Area Management & they whilst appear to have concerns on the impact their proposals would have on the residents in the immediate vicinity, their actions would suggest otherwise & the sole concern appears to be the financial benefits to the business.

If this matter proceeds to the Licencing Committee I request that I am given the opportunity to speak at any relevant meeting that considers this application

regards

Richard Osborne

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Graeme Robertson

**OBJECTION**

[REDACTED]  
To: licensing@dumgal.gov.uk

Dear Sir / Madam.

I am writing to register my **objection** to application: **Reference no. L.2/064N; Submitted by: JD Wetherspoon (Scot); Location: Robert The Bruce 81 - 85 Buccleuch Street Dumfries DG1 2AB**

My opposition is based on that in granting a license for the purpose described for the location the basic 'objectives' as prescribed by the Licensing (Scotland) Act will not be either controlled or delivered with full diligence and that the right to privacy and the quality of life of both my neighbours and my family will be impacted severely.

- The rear area proposed for repurposing was originally a small drying yard and sits within the Dumfries Conservation Area. Due to its size and position within an enclosed location it should not be considered as suitable for the purpose proposed and that the granting of a license would be in contradiction to the 'Regeneration' plans currently being promoted which will see the town centre once again becoming a positive place to live. The properties immediately adjoining the location and within the vicinity are predominantly residential; issues have been recently discussed with the Wetherspoons management team and the Licensing Department.
- The application requests a planned capacity of seventy-five persons which due to the limited space available is unacceptable especially with the level of noise that this would generate (images of the area are included and see 'previous experience' summary below).
- There will be a direct 'line of sight' from and to the area from surrounding properties which directly impacts the privacy of myself and neighbours.
- At no time during both the planning and licensing application process has any representative of Wetherspoons PLC attempted to contact any of the neighbouring home or business owners to discuss the application and its impact on both their homelife or business.

I must be very clear that;

- We are fully aware that we purchased a property next to a licensed premises which had a small smoking area and accepted that fully as it was already in place.
- I still have no objection to the rear smoking area as is currently in operation nor to the external seating area to the front of the premises on Castle Street
- Any expansion of the rear area will have an impact on the immediate area especially when many customers are gathered, and I would strongly recommend that a site visit is actioned by the board members to understand both how compact the area is and its proximity to homes.
- From what I have witnessed from an operational perspective I have doubts that the area would be correctly managed in accordance with licensing regulations.

**PREVIOUS USE OF THE AREA AS TEMPORARY 'BEER GARDEN' EXTENSION:**

We do have previous experience of the proposal in operation as the management created a temporary extension 'beer garden' using the same area prior to the granting of a license for external seating to the Castle Street side of the building (the temporary area was removed as unlicensed).

- The invasion of privacy which was experienced during the time of the temporary extension to the rear area was unacceptable. The disruption to our home and privacy during this period

from increased noise and almost daily use of loud and inappropriate language clearly audible from the area was also unacceptable; noise disruption was an issue from morning until late in the evening.

- There was no stewarding presence to control the customers and with access and egress not monitored customers regularly arrived and left via the rear lane. As no monitoring was in place there was also no guarantee that underage drinking was not occurring as young people were observed in the area with what was assumed would be their family. Customers were urinating in the Meuse Lane and our rear passageways rather than use the establishments toilets, this also included defecation (although not witnessed the evidence was clearly visible).
- Food was left uncleared and as a result gulls and rodents were frequently observed in the area (this did not happen prior to this period)
- We regularly were on the receiving end of comments or shouts if we passed a window or looked out which were at times offensive (we gave up reporting these to the management as any occurrences were always denied by the customers when approached by the staff).
- There was a very distinct increase in the level of cigarette (and other substances) smoke which infiltrated our home which impacted on our right to clean air (the shelter in the current smoking area deflects most fumes, however this was not the case when the open area was in use)
- In summary, during the period of the previous temporary extension the dynamic of the rear area changed very dramatically and it became very difficult to live normally as you were so aware that you could be clearly seen by customers especially if you put lights on. With the increased noise and smell of cigarette smoke our windows were kept closed especially in warm days when the area became busy, it was very depressing and stressful.

#### **CURRENT PROPOSAL**

My objections, including the points above which have already been encountered are the following.

- As before, the increased level of noise from potentially seventy-five persons in such an enclosed area will be unacceptable; even five or six customers can create loud noise.
- The unavoidable intrusion into our privacy as our living areas will be clearly visible from the area and our right to clean air.
- I, as also do my neighbours, have concerns over how waste will be removed from the rear area. Access to the Meuse Lane is limited by a height restriction on George Street and this will mean that bottle and other bins will have to be manually transferred to George Street for disposal. I must ask, have the noise levels of doing this in such a confined space been considered especially as this is an early morning process? Have the homeowners on George Street been advised as the noise of waste related activity will affect them almost daily?
- Rodent and Gull controls; the current storage of bins is often poor with waste and items falling onto the ground.

#### **ONGOING ISSUES / OBSERVATIONS**

At a meeting with the management team of Robert The Bruce in August 2023, which was facilitated by the Licensing Department, issues were discussed re serious disruption that was being experienced by residents due to several incidents relating to the smoking area which had and were continuing to occur. This included anti-social behaviours which had become intolerable, direct threats to property from customers, cannabis smoke, noise levels and persistent urination within the Meuse Lane and some action has since been taken. A member of staff did come in briefly one day following a complaint and in their words was 'amazed' at the sound level that was coming over the wall from two customers.

**Appendix**

The attached images give detail of the sight lines from and to [REDACTED]

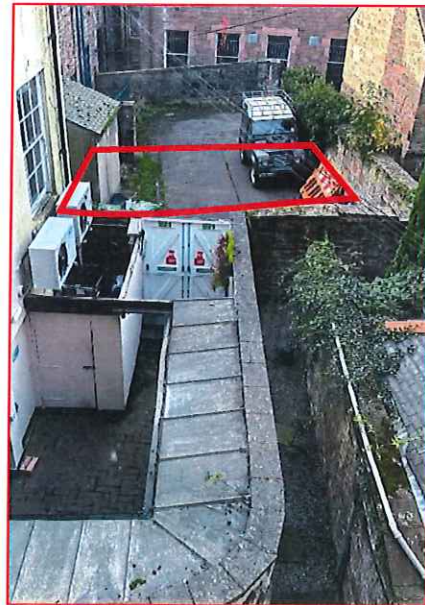
Images 1 & 2 show the view from [REDACTED] top and first floor bedroom towards the proposed area which is highlighted in 'red'.

Images 3 & 4 show view from living area and kitchen with line of sight highlighted in red; the partition wall where fire doors are currently located will be removed.

1: View from Top floor Bedroom



2: View from first floor bedroom



3: View from living area



4: View from kitchen window





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

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**LICENSING (SCOTLAND) ACT 2005:  
APPLICATION FOR VARIATION OF PREMISES LICENCE, PREMISES:  
ROBERT THE BRUCE, 81/83 BUCCLEUCH STREET, DUMFRIES, DG1  
2AB**

1. This application has been submitted by JD Wetherspoon (Scot) Limited, c/o Brunton Miller Solicitors, 22 Herbert Street, Glasgow, G20 6NB. The application seeks a variation to the current operating and layout plan for Robert the Bruce, 81/83 Buccleuch Street, Dumfries, DG1 2AB.
2. The business is already established as a licensed premises contained in a corner site in the Town Centre of Dumfries. They were formerly old Church premises which have been refurbished over two levels. They have operated since their inception as a Public House, a Premises Licence having been issued by Nithsdale Divisional Licensing Board.

The location is primarily commercial, however, there are residential premises adjoining and in close proximity in Castle Street and Buccleuch Street. Neighbour notifications were made to 7 properties.

The premises currently has licensed hours for on sales

- 10am to 1am, Monday to Saturday, and
- 11am to 1am on a Sunday.

The premises are licensed for off sales between 10am and 10pm daily.

3. The current licence relates to the indoor area over two floor levels and a small outdoor smoking area to the rear of the premises. Current capacity is 520 persons.

An outdoor drinking area to the side of the premises has been in operation without issue since October 2020 licensed by 71 Occasional Licences to date. This area accommodates 20 persons.

4. This application seeks an increase to the capacity to 615 persons comprising: ground and upper floor capacity of 520; beer garden/seating area capacity at external (rear) 75, and Castle Street (side) 20. A further request is for amendment to the layout plan to include the abovementioned numbers.

5. Should the application be approved, the rear area in question will have extensive construction makeover that will improve the look and feel of the beer garden/seating area. There will be no music or entertainment in the outside areas and these areas will close at 10pm.
6. The Licensing Department received complaints from two neighbouring residents during this summer. These complaints were in relation to the outdoor smoking area at the rear of the premises and were generally regarding noise nuisance and anti-social behaviour of customers.

A meeting between the licence holder's representatives and neighbours was arranged by the LSO on 28 August 2023. It was evident that the Area Manager and DPM for the premises took the complaints seriously and engaged positively with Licensing Standard Officers.

No further complaints have been received.

7. The licence holder's representatives are attempting to mitigate any further complaints by carrying out the following: ensure signage regarding noise and respecting neighbours are in place, CCTV cover for the new layout area and staff training awareness and due diligence is undertaken regarding the outdoor area. There will be a greater flow of staff in the new rear area due to the increased footprint, therefore requiring enhanced checks. Two staff already have body cameras and all have radios for quick communication to each other.
8. The application was advertised on the Board's website page from **Friday 29 September 2023**, simultaneously a request was made for the premises to display a notice at the premises. The notice was checked on Wednesday 4<sup>th</sup> October 2023 and was found to be on display appropriately at both the entrance to the premises and within the premises at various appropriate locations.
9. The application has been submitted in keeping with Nithsdale Divisional Licensing Board policy. There are no adverse comments to be made in respect of this application.

Stuart Davidson  
Housing and Licensing Standards Officer  
2023



13<sup>th</sup> October 2023

Your Ref: L.2/064N

Our Ref: AR/HJR/758895

Democratic Services Manager  
Nithsdale Divisional Licensing  
Chief Executive Service  
Kirkbank House  
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  
APPLICATION FOR THE VARIATION OF A PREMISES LICENCE  
PREMISES: ROBERT THE BRUCE, 81-83 BUCCLEUCH STREET, DUMFRIES, DG1 2AB  
PREMISES LICENCE HOLDER:  
J.D. WETHERSPOON (SCOTLAND) LIMITED, C/O BRUNTON MILLER,  
22 HERBERT STREET, GLASGOW G6 6NB**

I refer to the above application for the variation of a premises licence under terms of Section 29(5) of the Licensing (Scotland) Act 2005.

The variation requested consists of:

**Operating Plan**

Capacity of premises – increase to total on-sales to 615

Capacity breakdown

Internal Areas – 520

External Areas –

75 persons (rear external area); 20 persons (Castle Street external area)

**Layout Plan**

The application seeks to amend the plan attached to the premises licence to include external customer seating areas at the rear of the premises and on Castle Street as per plan number PN1204-13-AM01 Rev B.

In terms of Section 29(5) of the Act this request can be considered a variation.

## OFFICIAL SENSITIVE: POLICE AND PARTNERS

In terms of Section 22(1)(b)(ii) and (iii) of the same Act, whilst there are no Police objections to this application, I make the following representation and recommend that it be granted subject to following conditions:

1. A terminal hour for the outside area of 2200 hours
2. No amplified music in the outside area
3. CCTV covering the external areas to be operable and made available to Police upon request for any lawful purpose
4. Sufficient staffing to be on duty to monitor the external areas

The premises is located within an area that is a mix of residential and commercial properties. The area that is currently permitted by the Premises Licence has a capacity of 520 persons. The plan that the applicant has provided with the application mentions that the occupant capacity would be increased to 615 persons with the addition of two external areas to the side and rear of the premises to facilitate 95 persons, 20 persons at the side and 75 persons at the rear of the premises. There is a concern that the addition of the outdoor seating areas and consequent increase in capacity has the potential to negatively impact the local area by increasing noise levels and anti-social behaviour. Whilst it is understood that the premises is operating under Occasional Licences for the outdoor area to the side of the building and currently permits outdoor drinking with food catering until 2100 hours Sunday to Thursday and 2200 hours Friday and Saturday, this is only for 20 persons. Whilst there are no specific objections to this application, it is the belief of Police Scotland that the requested conditions as detailed above would assist in mitigating the anticipated concerns, are proportionate and fall within the Licensing Objectives, Preventing Public Nuisance and Preventing Crime and Disorder.

In terms of Section 22(1)(b)(ii) and (iii) of the Licensing (Scotland) Act 2005, I am of the opinion that consideration should be given to modifying the variation in its current form as detailed above, to mitigate the concerns surrounding potential risk of increased public nuisance as far as is reasonably possible

Yours faithfully

John Cairns  
T/Chief Superintendent

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

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT)  
SECTION 44: NOTIFICATION OF CONVICTIONS  
PREMISES LICENCE HOLDER: WM MORRISONS SUPERMARKETS LIMITED  
PREMISES: MORRISONS, BROOMS ROAD, DUMFRIES**

**1. Background**

1.1 On 13 April 2023, the Licensing Board received a letter by email from Gosschalks LLP advising that their client, Wm Morrison Supermarkets Limited, has been convicted of relevant offences (**Appendix 1**).

1.2 In terms of section 44(2) the Act, the Licensing Board then gave notice of these convictions to the Chief Constable via email on 21 April 2023.

1.3 Within 21 days of receipt of this notice, the Chief Constable must respond by giving the Licensing Board a notice confirming or otherwise the existence of the convictions.

1.4 On 3 May 2023, the Chief Constable responded advising that they could not confirm the convictions as they were 'still showing as pending'.

1.5 On 11 October 2023, the Chief Constable further responded with a section 44(4)(b) notice (**Appendix 2**) which does not contain a recommendation under subsection 5 that the premises licence should be varied, suspended or revoked.

**2. Options for the Board**

2.1 If the Board receives from the Chief Constable a section 44 (4)(b) notice which does not include a recommendation under subsection (5) then the Board must:

- (a) make a premises licence review proposal in respect of the premises licence, or
- (b) decide to take no further action in relation to the convictions.

2.2 Given that the Board has discretion in whether or not it wishes to make a premises licence review proposal in this instance, the Board may wish to consider the following when making a determination:

- The offences do not relate to a local premises – they relate to premises in England;
- There have been no adverse issues to date emanating from Morrisons, Dumfries that have been notified to the Board via the LSO, Police or otherwise;
- The nature of the offences do not relate to the sale of alcohol;
- There is no breach of the conditions attached to the licence; and
- There is no suggestion that the licence holder is not a fit and proper person to be the holder of a premises licence.

### **3. Recommendations**

That the Board either:

- (i) Makes a premises licence review proposal or
- (ii) Decides to take no action.

Vlad Valiente  
Clerk to the Licensing Boards  
Dumfries and Galloway Council  
Kirkbank House  
English Street  
Dumfries DG1 2HS

8 November 2023

**The Clerk to the Licensing Board**  
 DUMFRIES AND GALLOWAY COUNCIL  
 Municipal Chambers  
 Buccleuch Street  
 Dumfries  
 DG1 2AD

**Please ask for:** Richard Taylor  
**Direct Tel:** 01482 590216  
**Email:** rjt@gosschalks.co.uk  
**Our ref:** RJT / CME / 109500.14714  
 #GS5120003  
**Your ref:**  
**Date:** 13 April 2023

Dear Sir/Madam,

**Re: Licensing (Scotland) Act 2005 – Section 43, Notice of Conviction**  
**Morrison's, London Road, Stranraer, Dumfries and Galloway, DG9 8ES**  
**Morrison's, Brooms Road, Dumfries, Dumfries and Galloway, DG1 2SH**

We act for Wm Morrison Supermarkets Limited and would be grateful if you would accept this letter as a notice under Section 43 Licensing (Scotland) Act 2005 that our client has been convicted of four offences contrary to the Health and Safety at Work Act 1974.

The offences were as follows:-

1. Failure to ensure, so far as was reasonably practicable, the health, safety and welfare of employees, contrary to sections 2(1), 2(2)(a) and 33(1)(a) of the Health and Safety at Work etc. Act 1974.
2. Failure to carry out a suitable and sufficient assessment of the risks to the health and safety of employees, contrary to section 33(1)(c) of the Health and Safety at Work etc. Act 1974 and regulation 3(1)(a) of the Management of Health and Safety at Work Regulations 1999.
3. Failure to review any assessment of the risks to the health and safety of employees, contrary to section 33(1)(c) of the Health and Safety at Work etc. Act 1974 and regulation 3(3)(a) of the Management of Health and Safety at Work Regulations 1999.
4. Failure to comply with a request made by an inspector contrary to section 33(1)(e) of the Health and Safety at Work etc. Act 1974

Our client was convicted following a trial in February 2023 and sentenced at Gloucester Crown Court on 17<sup>th</sup> March 2023. The investigation and charges followed a tragic accident at our client's Tewkesbury store in 2014 which resulted in the death of an epileptic employee who fell down the stairs at that store. The charges relate to specific circumstances at the Tewkesbury store.

The company was fined £3.5m.

We hope that these convictions will simply be noted by the Board and that you do not require the premises licence to be sent to you. If you require the premises licence, then please advise us and we will forward it immediately.

If the Board requires any attendance, then we would be grateful if you could advise us of the date and we will arrange for our clients to be represented before the Board in order that it may answer any questions that the Board members may have.

We look forward to hearing from you.

Yours faithfully,



**GOSSCHALKS LLP**

**OFFICIAL SENSITIVE: POLICE AND PARTNERS****Appendix 2**

11 October 2023

Your Ref: L.6/064N

Our Ref:

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



**POLICE  
SCOTLAND**

Keeping people safe

John Cairns

T/Chief Superintendent

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

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE HOLDER DUTY TO NOTIFY LICENSING BOARD OF  
CONVICTIONS  
MORRISONS, BROOMS ROAD, DUMFRIES, DG1 2SH  
WM MORRISON SUPERMARKETS LIMITED (HEAD OFFICE)**

I refer to the above and your correspondence. In terms of Section 44(4)(b) of the Licensing (Scotland) Act 2005, I have to advise you that the licence holder has been convicted of the following relevant offence(s).

<b>Date</b>	<b>Court</b>	<b>Crime/Offence</b>	<b>Disposal</b>
19/04/2023	Gloucester Crown	<ol style="list-style-type: none"> <li>1. Employer Breaching General Duty to Employee</li> <li>2. Contravening Health &amp; Safety Regulation</li> <li>3. Contravening Health &amp; Safety Regulation</li> <li>4. Contravene a Requirement Imposed by Inspector under S 20 of this act</li> </ol>	<ol style="list-style-type: none"> <li>1. Fine 3.5m, victim surcharge and costs</li> <li>2. Guilty, no separate penalty</li> <li>3. Guilty, no separate penalty</li> </ol>

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**

			4. Guilty, no separate penalty
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Police Scotland make no recommendation in respect of this notice of conviction.

Yours faithfully

John Cairns  
T/Chief Superintendent



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

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 74  
APPLICATION FOR A PERSONAL LICENCE  
APPLICANT: MARK IRVING**

**1. Reason for Report**

As the Board has received an application for a Personal Licence and the Chief Constable has submitted a Notice stating a relevant offence and recommending that the application be refused, the Board must, in law, hold a Hearing.

**2. Background**

2.1 Mark Irving submitted an application for a Personal Licence on 17 July 2023.

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

2.3 The pre-licence conditions that must be met in law before an application can be granted have been met. Namely, that the applicant:

- is aged 18 or over;
- possesses a licensing qualification;
- does not already hold a Personal Licence; and
- has not held a Personal Licence that has previously been revoked within the last five years (other than it being revoked for failure to produce to the Board evidence of renewed Personal Licence Holder training)

**3. Police Response**

In terms of Section 73(1) of the Act, a copy of the application was forwarded to the Chief Constable and, within the 21-day statutory timeline, the Chief Constable responded with a Notice in terms of section 73(3)(b) of the Act notifying a relevant offence and recommending refusal of the application in terms of section 73(4) (**Appendix**).

**4. Determining the application**

4.1 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:

4.2 In terms of Section 74(6) of the Act, the Board must, after having regard to the Chief Constable's Notice:

- (a) if satisfied that a ground of refusal applies, REFUSE the application or
- (b) if not so satisfied, GRANT the application.

4.3 The grounds for refusal are:

- (a) That, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a Personal Licence;

- (b) That it is otherwise necessary to refuse the application for the purposes of any of the 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).

**5. Recommendation**

Members are asked to either GRANT or REFUSE the application.

Vlad Valiente  
Clerk to the Licensing Boards  
Municipal Chambers  
Buccleuch Street  
Dumfries  
DG1 2AD

Date of Report: 8 November 2023

**OFFICIAL SENSITIVE: POLICE AND PARTNERS****Appendix**7<sup>th</sup> August 2023

Your Ref: DG/N/1144

Our Ref: AR/HJR/742048

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**  
**APPLICATION FOR THE GRANT OF A PERSONAL LICENCE DG/N/1144**  
**APPLICANT: MARK IRVING, 16/05/1984**  
**ADDRESS: 100 CRIFFEL ROAD, LINCLUDEN, DUMFRIES, DG2 0PN**

I refer to the above application.

In terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005 (the 2005 Act) I give notice that, based upon the information provided and as far as the Chief Constable is aware, the applicant has been convicted of the following relevant offence.

Date	Court	Crime/Offence	Disposal
02.08.2022	Dumfries Sheriff & Jury	Assault to Injury Assault x2	Community Payback Order of 210 hours unpaid work within 12 months

The circumstances of these offences are:

At around 2230 hours, 14<sup>th</sup> June 2021 the applicant Mr Mark Irving entered a takeaway premises on English Street, Dumfries and ordered a number of items to the value of £10. Whilst paying for the items, another male customer (victim) made a comment similar to "that's a bargain" in response to which Mr Irving grabbed him to the face and punched him to the mouth causing a laceration to his lip. The male victim attempted to protect himself whilst Mr Irving punched him a further two times to the face (non injury). The males were separated before the applicant left with his food, and Police were then contacted.

At 2250 hours, same date, Police traced a male matching the description of the suspect, who was later identified as Mr Irving. He approached the passenger window of the Police vehicle and immediately became agitated and refused to comply with Officers requests to stand back for social distancing purposes, failed to comply with questions asked and then challenged officers to fight. Mr Irving was warned about his conduct, however failed to desist and proceeded

**OFFICIAL SENSITIVE: POLICE AND PARTNERS**

to resist arrest, by tensing his arms and refusing to be handcuffed. Further assistance had to be sought from other officers to restrain him.

As Mr Irving was being searched prior to being placed in the Police vehicle, he spat in the face of an officer which made contact with their face mask. Whilst being placed in the Police vehicle he continued spitting at officers, necessitating the application of a spit hood for officer safety.

He was thereafter conveyed to Loreburn Street Police Office where his conduct continued. Whilst being escorted from the Police vehicle, Mr Irving head-butted a Police Officer to the leg (non injury) and whilst at the Charge Bar he was abusive to Officers shouting, swearing and making homophobic remarks towards them. He continued to be unco-operative and had to be taken to an observation cell and placed in an anti-ligature suit after refusing to answer the majority of the health and welfare questions.

The conduct of Mr Irving spitting at an Officer's face during the Co-vid19 pandemic showed an utter disregard for the safety of others, and he showed no remorse for his behaviour.

I am unable to confirm the existence of any foreign offence in respect of the applicant.

In terms of Section 73(5) of the 2005 Act the Chief Constable provides the following information in relation to the applicant which is relevant to the Board's consideration of the application:-

Due to the behaviour of Mark Irving as outlined above, the Chief Constable considers that it is necessary for the purposes of the preventing crime and disorder/securing public safety licensing objective(s), that the application be refused. The Chief Constable accordingly makes a recommendation to that effect in terms of section 73(4) of the 2005 Act.

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.

<b>4. Recommendations</b>
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4.1 Members are asked to consider whether they wish to:
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- |   |
|---|
| <ul style="list-style-type: none"><li>• revoke</li><li>• suspend</li><li>• endorse the licence or</li><li>• take no action; and</li></ul> |
|---|

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

8 November 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  
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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: SECTION 12A  
CHIEF CONSTABLE'S ANNUAL REPORT 2022/2023**

**1. Reasons for Report**

1.1 In terms of section 12A Licensing (Scotland) Act 2005 (2005 Act), the Chief Constable must, as soon as reasonably practicable after the end of each financial year, send a report to the Board setting out the matters specified in paragraph 2 below.

1.2 The Chief Constable's report to the Board for the period 1 April 2022 to 31 March 2023 is to be found at the **Appendix**.

**2. Content of Chief Constable's annual report**

The report must set out:

- a) Chief Constable's views about matters relating to policing in connection with the operation of the 2005 Act in the Board's area during the period of 1 April 2022 to 31 March 2023 *and*
- b) any steps the Chief Constable
  - has taken during that year (2022/2023),
  - intends to take in the following yearto prevent the sale or supply of alcohol to children or young people in that area

**3. Discussion of the report**

3.1 If the Board so requests, the Chief Constable or his representative must also attend the Board's meeting to discuss the report.

3.2 A request has been made to the Police to attend the Hearing in the event that Members may wish the report to be discussed.

**4. Recommendation**

Members are asked to receive the Chief Constable's Report for 2022-2023 for the Nithsdale Divisional Board and to note its terms.

Vlad Valiente  
Clerk to the Licensing Boards  
Municipal Chambers  
Buccleuch Street  
Dumfries  
DG1 2AD

8 November 2023

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# Nithsdale Licensing Report 2022-2023



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**Foreword**

It gives me great pleasure to provide the Annual Licensing Report for 2022/23, in accordance with Section 12(A) Licensing (Scotland) Act 2005.

Police Scotland has continued to achieve success by focussing on prevention, early intervention and enforcement. This has been made far more effective with the continued support of the many active partnerships that exist within the 32 Local Authorities across Scotland.

This collaborative working is vital to ensuring a fair and consistent approach to licensing while focussing on preventing alcohol fuelled violence, disorder and antisocial behaviour.

In the year ahead our approach will remain focused on prevention and collaboration to ensure efficient and effective service delivery. I will continue to encourage officers and staff to utilise the range of options available to improve licensing standards, reduce violence and to positively influence behaviour and attitudes across Scotland.

I would like to take this opportunity to thank our local partnerships and acknowledge their contribution in continuing to drive improvements with the Licensed Trade, and for the communities we all serve.

**Sir Iain Livingstone QPM**

Chief Constable

Police Service of Scotland

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**Police Scotland Licensing Overview –**

The Violence Prevention and Licensing Co-ordination Unit (VPLCU) sits within Partnerships Prevention & Community Wellbeing based at Dalmarnock Police Station, Glasgow.

The VPLCU upholds the two tier structure for licensing which supports both national and local priorities through service delivery. They have overall responsibility for determining and delivering national licensing strategy and policy, by providing advice, guidance and support to divisional licensing teams as well as undertaking other specialist functions.

The Violence Prevention and Licensing Co-ordination Unit is a specialist department which consists of a small team of officers, based in Glasgow. The officers within the unit work with divisional licensing teams and partner agencies to help shape policy and strategy around the police licensing function. They provide practical and tactical advice to police licensing practitioners, operational officers, supervisors and policing commanders.

The VPLCU seek to ensure that legislation governing the sale and supply of alcohol is applied consistently across the country and all opportunities are taken to stop the illegal or irresponsible sale, supply or consumption of alcohol with the intention of preventing and reducing crime and disorder.

During 2022/2023, from a licensing perspective, our particular focus was on the following;

- Scrutiny of the serious incidents of violence, disorder and antisocial behaviour linked to licensed premises.
- Governance and ongoing development of the National ICT Licensing System, known as “Inn Keeper”, to increase the efficiency and effectiveness of liquor and civic licensing administration and management. Police Scotland are currently working on upgrade to the National ICT system to ensure compliance with GDPR legislation.

Each of the 13 Local Policing Divisions have a licensing team responsible for the day to day management of licensing administration, complying with statutory requirements as well as addressing any issues that may arise within licensed premises in their local area.

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## **NITHSDALE LICENSING BOARD**

The Nithsdale Licensing Board area is policed by Dumfries and Galloway Division.

The Local Police Commander is Chief Superintendent Carol McGuire, who has the responsibility for all day-to-day policing functions across the region.

The Local Area Commander for the Nithsdale board area is Chief Inspector Robin Ferguson who is assisted by Community Policing Inspector Duncan Cameron.

Local Police Officers for Nithsdale are located at police stations in Dumfries, Sanquhar and Thornhill.

All licensing matters within the Nithsdale area are processed by Police Scotland via the Divisional Licensing Unit which is overseen by Chief Inspector Stephen Bell and managed on a day to day basis by Sergeant Amy Ritchie.

Within the Nithsdale board area there are 189 premise licenses and 559 personal licence holders.

Nithsdale Area is the most densely populated area in Dumfries and Galloway with a mix of both rural and urban areas with the night time economy primarily being focused within Dumfries which is the largest centre of population. Three premises operate within Dumfries which open until 0300 hours at weekends and one premise is operating until 0400 hours on a trial basis. Nearly all of the local towns and villages within the area support licensed premises whether they be a public house or licensed retail unit. Consequently there is easy access to alcohol within all communities.

The number of visitors to the area increases during the popular holiday season of March to October as a result of a number of holiday complexes in the wider Nithsdale area. This can see an increase of instances at and around licensed premises at these locations.

### **Local Policing Priorities**

Following our public consultation process, the policing priorities for Dumfries and Galloway Division 2020 - 2023, within our Local Policing Plan are;

1. Violent Crime, Disorder and Anti-Social Behaviour
2. Acquisitive Crime
3. Substance Misuse
4. Road Safety and Road Crime
5. Protecting Vulnerable People at Risk of Harm

### **OPERATION OF THE LICENSING (SCOTLAND) ACT 2005**

Police Scotland within Dumfries and Galloway Division work towards upholding the 5 licensing objectives set out in the Licensing Scotland Act 2005 and the 2018-2023 statement of licensing provisions issued by Dumfries and Galloway Licensing Boards.

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The 5 objectives are:

1. Preventing Crime and Disorder
2. Securing Public Safety
3. Preventing Public Nuisance
4. Protecting and Improving Public Health
5. Protecting Children and Young Persons from Harm

All licensing enquiries within the Nithsdale board area are submitted to Police Scotland via the Divisional Licensing Unit, Cornwall Mount, Dumfries led by Sergeant Gregg Armstrong. A standard methodical process ensures each application is run through numerous police systems and the findings assessed. Where further enquiry is deemed appropriate a local community officer is appointed to make contact with the applicant to establish further details. All information is returned to the divisional licensing unit for final assessment and formal response.

To ensure thorough overview of all licensing matters, the Divisional Licensing Unit work closely with operational response and community officers. This allows the early identification of any issues with licensed premises or license holders which in turn permits a co-ordinated response to any interventions requirements.

In circumstances where an application presents concern or a premise or license holder becomes problematic in a sense that their licensing status should be reviewed, the divisional licensing unit will make a representation or objection to the licensing board.

Dumfries and Galloway Division have three officers stationed at Dumfries and Galloway Royal Infirmary, the posts being part funded by the NHS. These officers regularly engage with persons attending accident and emergency during peak night time economy hours where many attendees have consumed alcohol. This link is vital to ensure that NHS staff can work in a safe environment and any trends or concerns linked to alcohol consumption can be identified early.

Dumfries and Galloway Division also has a substance misuse co-ordinator, who is part funded by the Dumfries and Galloway Alcohol and Drugs Partnership (ADP). The officer works with partner agencies and health professionals to identify areas of concern. They also focus on a number of joint campaigns aimed at raising awareness of drug and alcohol misuse within our licensed premises.

Throughout the year, officers have attended at licenced premises with a view of identifying drug misuse and offering licensees a visual identification of areas within their premises which may present an opportunity for patrons to consume drugs. The use of 'cocaine wipes' which readily identifies cocaine residue has led to a number of preventative measures being put in place by licensees in order to combat the misuse of controlled drugs within their premises.

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### **IT'LL COST YOU – PROXY PURCHASE INITIATIVE**

In the summer of 2023 Police Scotland launched the 'It'll cost you' proxy purchasing campaign. The initiative is a collaboration between Police Scotland, Local Authorities and alcohol producers and retailers and aims to raise awareness of the damaging effects and criminal nature of buying alcohol for any person under 18 years of age.

Adults who buy alcohol and supply it to any person under 18 years of age may face a fine of up to £5,000 and in some circumstances could also face a prison sentence of up to three months.

Locally in Dumfries and Galloway we supported this campaign through our social media accounts, community policing interactions with licensees and an engagement and education events.

The collaborative approach aims to reduce the harm caused by the sale or purchase of alcohol to anyone under the age of 18 including health, wellbeing and the number of youth-related offences that occur, particularly during school holidays and weekends. It reflects the joint commitment of all agencies involved to keep young people safe from harm and contributes towards the Licensing Objectives.

### **YOUR SAFETY MATTERS CAMPAIGN**

The Police Scotland 'Your Safety Matters' campaign highlights the Chief Constables commitment to reduce the impact of violence and to improve the safety of our officers and staff. Across the country officers regularly find themselves being assaulted or abused by individuals, where it is evident alcohol consumption has contributed towards this unacceptable behaviour.

Within Dumfries and Galloway, this pledge was developed further by Chief Inspector Stephen Bell and our partners from Dumfries and Galloway emergency and front line services including, NHS Dumfries and Galloway, Scottish Ambulance Service, Scottish Fire and Rescue Service, Scottish Prison Service, Dumfries and Galloway Council. It highlights that nobody should be subjects to such behaviour as 'part of their job'. March 2022 saw the launch of enhanced training and staff awareness sessions alongside a poster campaign, pop up event, a radio campaign and social media messaging across the region.

This pledge and multiagency collaboration is vital moving forward to support our staff and the wider community of emergency and front line responders and raise public awareness.

### **ANTI - SPIKING INITIATIVE**

Spiking is regularly reported via national news broadcasters and locally in Dumfries and Galloway there are robust investigative processes in place in the event of a suspected spiking report being received.



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Focussing on prevention and awareness, community policing officers have an established relationship with the Spike Aware UK Charity. Representative of the Charity attended the Youth Beatz festival in 2022 to raise awareness and demonstrate some of the tools that can be used to protect a drink within a licensed premise. Local premises also actively advertise these methods via posters and security personnel.

### **GAMBLING RELATED HARM PROJECT**

In Scotland, there are around 30,000 problem gamblers with a further 180,000 individuals classified as being at-risk of problem gambling (Scottish Health Survey).

Gambling can impact an individual in many ways including debt, bankruptcy, loss of employment, family breakdown, crime, homelessness, physical and mental health issues and tragically, suicide. Police Scotland is currently carrying out a gambling related harm pilot in relation to measuring the impact of gambling and the harm it can cause for an individual and the wider community.

As part of this, a data collection pilot is being carried out within Dumfries & Galloway and Renfrewshire & Inverclyde. The purpose of the pilot is to obtain up to date and accurate data, test areas of police business for demand and process and finally to identify and test types of awareness and supporting material

Part of this work includes a proactive awareness phase and the use of self-help guides for individuals. Police have worked with the local authority licensing officers and delivered a number of these guides to licensed premises and interacted with licensees to gauge their understanding of gambling at fix machines within their premises.

### **PROBLEM SOLVING**

Incidents involving licensed premises and people linked with the licensing trade are monitored through the Police Scotland Inn Keeper database. This system is used to identify problem areas, repeat callers and crime trends in terms of violence and anti-social behaviour that can be directly linked to licensed premises or a location nearby.

Inn Keeper is a national system that records and retains information relating to licensed premises and personal licence holders. It is a reporting tool for operational officers to record licensed premises visits and incidents and raise any concerns that arise from such visits and interactions with the premises. Information from this system can be used to highlight issues to licensed premises to allow them to introduce preventative measures.

Dumfries and Galloway Division works closely with the Local Authority Licensing Team, to share information on licensed premises in the Board area. This includes concerns about poor management, disorder and compliance and enables a joint approach from both partners to share and address any licensing concerns.

This allows for problems to be identified early and remedial work to be undertaken with licensees prior to a request to the board to review a license. The Police uses a staged process with options available to assist in a problem solving approach that are flexible, ranging from

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Communication – The lowest end of the scale which involves engaging with and advising licensees.

Monitoring – Tasked inspections and increased scrutiny of premises for a specific period of time.

Intervention – Increased interaction with premises and staff, with formal dialogue and the use of agreed ‘Licensing Intervention Plans’.

Problematic – This is the final stage and involves requesting a license review in response to more serious matters.

The proactive use of the above measures ensures that we are supporting licensees and reducing the requirement to present reviews to the board.

**SUMMARY RELEVANT TO THE NITHSDALE BOARD AREA**

With us well into the recovery from the Coronavirus pandemic the previous operating restrictions under the Coronavirus regulations has now ceased.

The below figures represent all incidents that can be linked to licensed premises. The latest yearly figures show an encouraging trend that there has been a reduction in total number of incidents on going back to normal operating practices. The total crimes for 2022/2023 have also been broken down into crime type.

	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
Crimes specifically linked to licensed premises	96	6	4	7

<b>Dumfries Town</b>	<b>2019/20</b>	<b>2020/21</b>	<b>2021/22</b>	<b>2022/23</b>
Crimes specifically linked to licensed premises	82	32	114	101

<b>Crime type breakdown</b>	<b>Number</b>
Assault	33
Assault (drugging)	5
Breach of Bail/Fail to Provide etc	4
Licensing Offences	9
Police Assault	4
Possession of Drugs	9
Racially Aggravated Conduct	1
Resist/Obstruct etc	5
Sect 38	30
Serious Assault	1
Sexual Offences	3

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Weapons	4
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The majority of offences that can be linked with alcohol consumption and licensed premises are assaults and abusive behaviour. At peak times, policing resources are directed to carry out high visibility patrols to deter people from committing offences and to monitor patrons as they leave the area to go home. Police staffing at such times is increased with shift alterations and a longer shift crossover to ensure operational officers are available and visible.

Any drunkenness or disorder offences/incidents are dealt with robustly by operational officers at the time and thereafter reviewed by the licensing team. Local officers are routinely tasked with making visits to licensed premises, not only for visibility and reassurance purposes but also to ensure that Licensing Legislation is being complied with. Each visit, whether or not any offences or issues are identified, are recorded on the Inn Keeper system. All entries are reviewed by the Divisional Licensing Unit, and where necessary additional tasks or activities are allocated to deal with any inconsistent practices. Officers also attend licensed premises in the afternoon to ensure their visibility is present through the day.

All applications for Premises and Personal Licences received by the Licensing Board are examined by staff from the Divisional Licensing Unit and where relevant, objections and representations are made to the board. We endeavour to bring all relevant information to the board to allow for a full overview of the applications which can then be taken into cognisance during decision making.

In the last reporting year 2022/2023 it was necessary to bring one personal licence holder to the Board for review with the Board agreeing to take no action. It was not necessary to bring any premises licenses to the Board for review. There were no intervention plans put in place for any premises in this board area.

The above detailed statistics however, do appear reflective across all boards within Dumfries and Galloway raising no cause for concern.

## **PREVENTING THE SALE OR SUPPLY OF ALCOHOL TO CHILDREN OR YOUNG PEOPLE**

Alcohol misuse amongst children and young persons can also result in behavioural issues and offending; such as violence and antisocial behaviour, as well as increasing vulnerability and susceptibility to exploitation.

Identifying young people that consume alcohol, or those on the periphery of offending through alcohol, or otherwise, will allow intervention and diversionary activities to be progressed. These complement ongoing enforcement activity within our communities.

Dumfries and Galloway Division have Youth Engagement Officers assigned to each Secondary School and Community Officers who liaise with primary schools across the region. These officers regularly provide talks to Children and Young Persons at school

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and in other environments. A benefit of this close link between children and these officers is that they are known and can be easily identified as being under age to consume alcohol.

Our Youth Engagement Officers also work closely with Dumfries and Galloway Youth Workers through the year. During school holidays these teams work together to tackle youth disorder which can often be linked to the misuse of alcohol. Diversionary activities are set up by the youth work teams and joint patrols of identified hot spot areas are conducted with a view to engaging with youths and encourage positive behaviours in a community setting.

Dumfries and Galloway Division works closely with partner agencies to protect children from harm. Should a child or young person be found in possession of alcohol or identified as being at risk from alcohol consumption then a concern form is submitted and shared with partner agencies. This allows for a multi-agency approach to be commenced at an early stage and ensures that a whole systems approach to address the needs of the young person is undertaken.

In support of the 'Protection of Children from Harm' licensing objective, applications for premises licences and variations to premises licences go under close scrutiny and may result in a submission to the board in respect of an objection or more commonly representation, especially in relation to the times and terms in which children and young people can be on such premises.

### **TACKLING SERIOUS AND ORGANISED CRIME**

Dumfries and Galloway Division are satisfied that at this time there is not a serious issue with serious and organised crime groups operating within the licensed trade in the area. We are aware of the impact serious and organised crime groups have on our communities and we will continue to evaluate any intelligence which may show this to be the case and act accordingly.

Crime and intelligence systems are continually monitored to analyse any emerging trends. Any identified hot spots are brought to the attention of the divisional licensing unit who report directly to the service delivery Chief Inspector. The division have a robust daily review process which feeds in to tasking and co-ordinating procedures to ensure appropriate oversight and action on any developing issues. The local area commander maintains oversight of resource deployment in terms of response policing and enhanced community policing opportunities.

Should certain premises be identified as becoming problematic the divisional licensing Sergeant will liaise with the local Community Policing Inspector and ensure that the premises are monitored accordingly.

As a division our focus is to reduce the availability of drugs within our communities and combat acquisitive crime that may be linked to serious and organised crime groups. The Detective Chief Inspector has responsibility for oversight of all divisional activity linked to serious and organised crime groups and provides a link to national

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divisions. This ensures we are sighted on developing trends or groups who may look to infiltrate our local area with a view to targeting local communities.

The Substance Misuse Officer and Community Policing team also offer training to staff members in relation to identifying signs of drugs misuse.

If required we provide specific premise based crime reduction and security surveys to assist licensees and designated premise managers to achieve their own responsibilities.

**PROPOSED ACTIVITY FOR THE YEAR AHEAD**

Dumfries and Galloway Division will continue a tasked and proactive approach to Alcohol Licensing.

We will continue to identify emerging issues and problematic areas and work in conjunction with licensed premises and licence holders to ensure that we can implement early intervention tactics to address areas of concern. This is something that is beneficial for all parties and is an important method to meet the licensing objectives.

We will continue close engagement with Partner Agencies to address any Licensing concerns at an early stage, to ensure that the licensing standards are maintained and any breaches are notified to the relevant boards. We will work in partnership with Licensing Standards to monitor results in this area.

We will ensure the continued use of social media to deliver key messages regarding the dangers of alcohol.

We will provide assistance and guidance to large organised events such as the Oyster Festival and local gala events to ensure licensing objectives are adhered to.

Additionally, work will continue around identifying and reducing drug misuse in and around licensed premises with increased tasking and proactive work and working with licensees to introduce ways to reduce use.

We would like to thank you for your continued support and stress the importance of this collaborative problem solving approach. This ensures that police, license holders and licensed premises staff have a better understanding of their responsibilities. We look forward to furthering this partnership over the coming year.

To conclude we would like to thank you for your continued support during what has been a challenging year for all. We have all had to adapt to a new way of working and ever changing circumstances which has been embraced by all.

We look forward to a safe and healthy 2023/2024.

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

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT)  
SECTION 9A: ANNUAL FUNCTIONS REPORT 2022/23**

**1. Reasons for the report**

This report seeks the Board's approval of Dumfries and Galloway Licensing Boards' annual functions report for the year 2022/23.

**2. Background**

2.1 In terms of section 9A of the Act, the Boards must prepare and publish an annual functions report not later than 3 months after the end of each financial year.

2.2 This means that the Board's report for the financial year 2022/23 should be published no later than 30 June 2023.

2.4 The functions report must include the following:

A statement explaining how the Boards have had regard to:

- the licensing objectives, and
- their licensing policy statement and any supplementary licensing policy statement (including the Boards' statement under section 7(1) (duty to assess overprovision)), in the exercise of their functions under the Act during the financial year,
- a summary of the decisions made by (or on behalf of) the Boards during the financial year;
- information about the number of licences held under the Act in the Boards' areas (including information about the number of occasional licences issued during the year) and
- any other information about the exercise of the Boards' functions as the Boards consider appropriate.

2.5 The report for the year 2022/23 is detailed at the **Appendix**.

**3. Recommendation**

That the Board approves the draft Functions Report for 2022/23 attached at the Appendix, for publication in accordance with section 9A of the Act.

Vlad Valiente  
Clerk to the Licensing Boards  
Kirkbank House  
English Street  
Dumfries DG1 2HS

8 November 2023

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# Dumfries and Galloway Licensing Boards' Annual Functions Report

Licensing (Scotland) Act 2005, Section 9A

01/04/2022 – 31/03/2023



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## **APPENDICES**

**Appendix** - List of Applications for a Premises Licence

## 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 Wigtownshire.

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

- Annandale & Eskdale
- Nithsdale
- Stewartry
- Wigtown

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

1.4 As at 31 March 2023, there were 602 (604 - 2021/22) licensed premises in Dumfries and Galloway. Within each Licensing Board Division, the breakdown is:

<b>Board</b>	<b>2022/23</b>	<b>2021/22</b>
Nithsdale	190	191
Wigtown	148	149
Annandale & Eskdale	154	154
Stewartry	110	110

### Types of applications under the 2005 Act:

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

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

## 2. The Licensing Objectives

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

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

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

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

## 3. Annual 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.

3.2 Dumfries and Galloway's Divisional Licensing Boards must therefore prepare and publish an Annual Functions Report by 30 June 2023 for the financial year 2022-2023 (being 1 April 2022 to 31 March 2023).

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 2022 to 31 March 2023, the Licensing Boards met as follows:

<b>Board</b>	<b>2022/23</b>	<b>2021/22</b>
Nithsdale:	4 times	5 times

Annandale & Eskdale:	3 times	6 times
Stewartry:	2 times	2 times
Wigtown:	5 times	8 times
Conjoined meeting of all 4 Boards	Once	2 times

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 2022/23 are detailed within the **Appendix**.

4.3 During the course of the year, 2,012 occasional licences and 61 extended hours applications were granted. For comparison purposes, during 2021/22 1,546 occasional licences and 30 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 192 (2021/22 – 178) personal licences. 192 were revoked (2021/22 – 169).

#### 5. Reviews

##### Premises Licence Reviews

5.1 In the 2022-23 period, 1 application for review of a premises licence was considered by the Board. A decision was made to vary the current premises licence and attach a condition in pursuance of the preventing crime and disorder licensing objective (2021/22 two).

### Personal Licence Reviews

5.2 In the 2022-23 period, 3 reviews of a Personal Licence took place. In one case, the licence was suspended for 6 months and in the other two cases no further action was taken (2021/22 two).

## **6. Licensing Policy Statement**

6.1 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>

6.2 The current Licensing Policy Statement is being reviewed and the updated statement will be published by 4 November 2023, after consideration by the Licensing Boards.

## **7. Licensing Standards Officers**

7.1 Dumfries and Galloway Licensing Boards have 6 "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
- Robert Rome, Carruthers House, English Street, Dumfries
- Emma Connelly, Carruthers House, English Street, Dumfries
- Suzanne Lafferty, Carruthers House, English 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 LSOs continue to carry out routine compliance check visits to licensed premises.

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
- Changes to layout plans without variation applications having been submitted

7.5 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 – 2022-2023**

**Wigtown – n/a****Annandale & Eskdale**

Annan News 84 High Street Annan DG12 6DW	Off sales
Pavilion at Kinmount House Annan DG12 5RH	Provisional On and Off sales
Gretna Service Station M74 North Bound Gretna DG16 5HQ	Provisional Off sales

**Stewartry**

Auchencairn Community Store Heughan House Main Street Auchencairn Castle Douglas DG7 1QU	On and Off sales
Gather Laggan Gatehouse of Fleet Castle Douglas DG7 2ES	On and Off sales
Harris & Co 111 King Street Castle Douglas DG7 1LZ	On and Off sales



**Nithsdale**

Marmaris Takeaway 20 Whitesands Dumfries DG1 2RR	Off sales
St Michael's Services 9 St Michael Street Dumfries DG1 2QD	Provisional Off sales

<b>2021/22 for comparison</b>	<b>New Premises Licences granted</b>
<b>Wigtown</b>	2 On and Off Sales 1 Off Sales
<b>Annandale &amp; Eskdale</b>	1 On and Off Sales 1 Provisional On and Off Sales 3 Off Sales 1 On Sales
<b>Stewartry</b>	1 On and Off Sales 1 Off Sales
<b>Nithsdale</b>	2 On and Off Sales 1 Provisional On Sales

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

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**LICENSING (SCOTLAND) ACT 2005 (THE ACT)  
SECTION 9B: ANNUAL FINANCIAL REPORT 2022/23**

**1. Reasons for the report**

To seek the Board's approval of Dumfries and Galloway Licensing Boards' annual financial report for the year 2022/33.

**2. Background**

2.1 In terms of section 9B of the Act, the Boards must prepare and publish an annual financial report not later than 3 months after the end of each financial year.

2.2 This means that the Board's report for the financial year 2022/23 will be published no later than 30 June 2023.

2.3 The financial report must include the following:

a) a statement of—

- the amount of relevant income received by the Licensing Boards during the financial year, and
- the amount of relevant expenditure incurred in respect of the Boards' areas during the year, and

(b) an explanation of how the amounts in the statement were calculated.

2.4 The report for the year 2022/23 is detailed at the **Appendix**.

2.5 Members will note that the report shows a deficit of £7,782. A full review of Licensing fees will be carried out prior to publication of the next Financial Report for 2023/24.

**3. Recommendation**

That the Board approves the draft Financial Report for 2022/23 attached at the Appendix, for publication in accordance with section 9B of the Act.

Vlad Valiente  
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8 November 2023

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## APPENDIX

**Licensing (Scotland) Act 2005  
Dumfries and Galloway Licensing Boards Financial Report  
Financial Year: 2022/23**

Section 9B of the Licensing (Scotland) Act 2005 requires Dumfries and Galloway Licensing Boards to publish an annual financial report within 3 months of the end of the relevant financial year. The report must detail income received and expenditure incurred in connection with the exercise of the Board's functions under the 2005 Act.

This report has been prepared using financial data taken for year ending 31 March 2023. Dumfries and Galloway Council's accounting system for licensing expenditure is not set up to separately record expenditure in connection with the Board's functions under the 2005 Act so as to distinguish it from all other direct or indirect expenditure in connection with the Board's and the Council's licensing functions under the legislation.

In order to provide a figure for total expenditure, the figures in this report also include a number of allocations and estimates. The report accordingly relies on best estimates and should not be read as a precise statement of income and expenditure relative to the exercise of the Board's functions under the Licensing (Scotland) Act 2005.

The financial statement is as follows:

**Income<sup>1</sup>:**

Premises Licence	£6,100
Provisional Premises Licence	£1,800
Annual Fees	£188,662
Transfers	£2,580
Minor Variations	£4,124
Major Variations	£8,330
Extended Hours	£660
Occasional Licence	£19,210
Personal Licence	£9,600
Sundry Income ♦	£5,465
<b>Total</b>	<b>£246,531</b>

♦ including fees for replacement licences, applications subsequently withdrawn, miscodings etc

**Direct Staff Costs<sup>2</sup>:**

Licensing Standards Officers	£106,563
Licensing Board Members	£946
Management	£31,371
Legal Services	£26,625
Administrative Support	£52,876
<b>Total</b>	<b>£218,381</b>

\*\* (total cost of administrative support was £92,265 but £39,389 was allocated to Licensing from Covid monies and the use of reserves)

**Other Direct Costs<sup>3</sup>:**

Training and Development	£424
Stationery	£368
Supplies and Services	£15,837
Transport/Travel	£151
<b>Total:</b>	<b>£16,780</b>

**Indirect Costs<sup>4</sup>:**

ICT	£7,887
Accommodation	£8,402
Financial Services	£2,863
<b>Total:</b>	<b>£19,152</b>

<b>Total Expenditure</b>	<b>£254,313</b>
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<b>Net Income</b>	<b>-£7,782</b>
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**Notes:**

1. Denotes income from the categories detailed for applications and annual fees received under the Licensing (Scotland) Act 2005
2. Denotes salary, superannuation, national insurance and pension costs associated with the Clerk and other Legal Services staff, Licensing Standards Officers and other staff responsible for administrative support under paragraph 8 of Schedule 1 to the Licensing (Scotland) Act 2005, together with an estimate of costs associated with Board Members' time dedicated to Board work.
3. Denotes the identified direct budgetary costs associated with the exercise of the Licensing Board function under each category provided.
4. Denotes the portion of central administrative costs allocated to the Licensing Board budget for each category provided.