

Public Document Pack

WIGTOWN DIVISIONAL LICENSING BOARD

Meeting of Friday 16th December, 2022
at 10.30 am. This will be a hybrid meeting.

Andrew Giusti (Convener) – Stranraer and the Rhins;
Ben Dashper – Stranraer and the Rhins;
Katie Hagmann – Mid Galloway and Wigtown West;
Chrissie Hill – Stranraer and the Rhins;
David Inglis – Mid Galloway and Wigtown West;
Jackie McCamon – Mid Galloway and Wigtown West;

VLAD VALIENTE
Clerk to the Licensing Board

Wigtown Divisional Licensing Board

Meeting of Friday 16th December, 2022
at 10.30 am. This will be a hybrid meeting

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**
2. **DECLARATIONS OF INTEREST**
3. **MINUTE OF PREVIOUS MEETING 5 OCTOBER 2022** 5 - 20
FOR APPROVAL.
4. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR OCCASIONAL LICENCES AND EXTENDED HOURS (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS** 21 - 22
5. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR MINOR VARIATIONS (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS** 23 - 26
6. **LICENSING (SCOTLAND) ACT 2005: APPLICATIONS FOR TRANSFER OF PREMISES LICENCE (GRANTED UNDER DELEGATED AUTHORITY) - REPORT BY THE CLERK TO THE BOARDS** 27 - 28
7. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 74 APPLICATION FOR A PERSONAL LICENCE: DAVID ROSS HENRY - REPORT BY THE CLERK TO THE BOARDS** 29 - 32
8. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 30 APPLICATION: MAJOR VARIATION - PREMISES: PAPA RABS LTD, 12A HANOVER SQUARE, STRANRAER, DG9 8AF PREMISES LICENCE HOLDER: PAPA RABS LIMITED, FARRIES, KIRK & MCVEAN, DUMFRIES ENTERPRISE PARK, DUMFRIES - REPORT BY THE CLERK TO THE BOARDS** 33 - 42
9. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A - CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES - PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS** 43 - 50
10. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): PREMISES LICENCE REVIEW (SECTION 36) - PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB - PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS** 51 - 62

11. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A - CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES - PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS** 63 - 70
12. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): PREMISES LICENCE REVIEW (SECTION 36) - PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB - PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS** 71 - 84
13. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 9B: ANNUAL FINANCIAL REPORT 2021/22 - REPORT BY THE CLERK TO THE BOARDS** 85 - 88
14. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 9A - ANNUAL FUNCTIONS REPORT 2021/22 - REPORT BY THE CLERK TO THE BOARDS** 89 - 100

Next Meeting Date: Friday, 24 March 2023

This page is intentionally left blank

WIGTOWN DIVISIONAL LICENSING BOARD

**Minute of Meeting of Wednesday 5 October 2022
at 10.30am by Remote Hearing**

MEMBERS PRESENT

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

APOLOGIES

Katie Hagmann	-	Mid Galloway and Wigtown West
---------------	---	-------------------------------

IN ATTENDANCE

Caroline Treanor	-	Solicitor
Mary Irving	-	Licensing Standards Officer
Sergeant Carolyne Crozier	-	Police Scotland

VLAD VALIENTE
Clerk to the Licensing Board

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

5 Members present via MS Teams with 1 apology submitted and the Chair approved Members' remote participation at the Hearing.

2. DECLARATIONS OF INTEREST

NONE declared.

3. MINUTE OF MEETING 20 JANUARY 2022

Decision

AGREED

4. MINUTE OF MEETING 22 JUNE 2022

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 14 June 2022 until 26 September 2022:

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 14

Occasional Licences : Applied for by a Voluntary Organisation

Total number issued 13

Extended Hours

Total number issued 0

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 powers.

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 powers.

8. LICENSING (SCOTLAND) ACT 2005: SURRENDER OF PREMISES LICENCE – REPORT BY THE CLERK TO THE BOARDS

Decision

NOTED that the application in **APPENDIX 3** was granted under delegated powers.

9. LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE - BRIDGE ARMS, STRANRAER – REPORT BY THE CLERK TO THE BOARDS

Decision

Having heard from the applicant and considered the reason given for erroneous display of the site notice, Members agreed that they would not require the site notice to be redisplayed and, having considered all material before them, **AGREED to GRANT** the application detailed at **APPENDIX 4**.

10. LICENSING (SCOTLAND) ACT 2005: APPLICATION FOR VARIATION OF PREMISES LICENCE – REGGIES BAR & FUNCTION SUITE, STRANRAER – REPORT BY THE CLERK TO THE BOARDS

Decision

Having heard from the applicant and considered the reason given for erroneous display of the site notice, Members agreed that they would not require the site notice to be redisplayed and, having considered all material before them, **AGREED to GRANT** the application detailed at **APPENDIX 5**.

PROCEDURE – Ben Dashper left during consideration of the following item – 4 Members present.

11. LICENSING (SCOTLAND) ACT 2005: REVIEW OF PERSONAL LICENCE – PAUL AGNEW – REPORT BY THE CLERK TO THE BOARDS

Decision

Having heard from Police Scotland and the Personal Licence Holder's agent and having considered all material before them, a vote was taken.

11.1 **MOTION** by **DAVID INGLIS** seconded by **JACKIE McCAMON** to endorse the personal licence.

11.2 **AMENDMENT** by **CHRISSIE HILL** seconded by **ANDREW GIUSTI** to take no further action.

There being an equality of votes, the Convener exercised his right to a casting vote, which fell in favour of the amendment.

APPENDIX 1

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

<u>Application No. 1 – 135W</u>	
Name & Address of Applicant or Agent	Dark Sky Park Limited t/a House O'Hill Hotel 1 Dashwood Square Newton Stewart DG8 6EQ
Name & Address of Premises	House O'Hill Hotel Bargrennan Newton Stewart DG8 6RN
Nature of variation	Change of Designated Premises Manager to Alison Flower.
Effective Date of Minor Variation	16 June 2022

<u>Application No. 2 – 143W</u>	
Name & Address of Applicant or Agent	Wigtownshire Rugby Football Club Clubhouse Ladies Walk Stranraer DG9 8BN
Name & Address of Premises	Wigtownshire Rugby Football Club Clubhouse Ladies Walk Stranraer DG9 8BN
Nature of variation	Change of Designated Premises Manager to Paul Phillips
Effective Date of Minor Variation	4 July 2022

<u>Application No. 3 – 146W</u>	
Name & Address of Applicant or Agent	H & C Lochrie t/a Harbour Inn 18 South Crescent Garlieston Newton Stewart DG8 8BQ
Name & Address of Premises	Harbour Inn 18 South Crescent Garlieston Newton Stewart DG8 8BQ
Nature of variation	Change of Designated Premises Manager to Francis Lochrie
Effective Date of Minor Variation	5 July 2022

<u>Application No. 4 – 132W</u>	
Name & Address of Applicant or Agent	Richard Graham 97 Main Street Glenluce Newton Stewart DG8 0PT
Name & Address of Premises	Crown Hotel 36 Main Street Glenluce Newton Stewart DG8 0PS
Nature of variation	Change of Designated Premises Manager to Richard Graham
Effective Date of Minor Variation	5 July 2022

<u>Application No. 5 – 205W</u>	
Name & Address of Applicant or Agent	Wigtown Festival Company 11 North Main Street Wigtown Newton Stewart DG8 9HN
Name & Address of Premises	Number 11 11 North Main Street Wigtown Newton Stewart DG8 9HN
Nature of variation	Change of Designated Premises Manager to Emma Robinson; Change of premises name from “Wigtown Festival Company Shop” to “Number 11”.
Effective Date of Minor Variation	8 July 2022

<u>Application No. 6 – 126W</u>	
Name & Address of Applicant or Agent	Wm Morrison Supermarkets Limited Per Gosschalks Solicitors Queens Gardens Hull HU1 3DZ
Name & Address of Premises	Morrisons London Road Stranraer DG9 8ES
Nature of variation	Change of Designated Premises Manager to James Roddie
Effective Date of Minor Variation	3 August 2022

<u>Application No. 7 – 57W</u>	
Name & Address of Applicant or Agent	Guelder Two Limited Per TLT Solicitors 41 West Campbell Street Glasgow G2 6SE
Name & Address of Premises	Northwest Castle Portrodie Stranraer DG9 8EH
Nature of variation	Change of Designated Premises Manager to Ian Donnachie
Effective Date of Minor Variation	11 August 2022

<u>Application No. 8 – 130W</u>	
Name & Address of Applicant or Agent	Guelder Four Limited Per TLT Solicitors 41 West Campbell Street Glasgow G2 6SE
Name & Address of Premises	Fernhill Hotel Heugh Road Portpatrick DG9 8TD
Nature of variation	Change of Designated Premises Manager to Christine Mayes
Effective Date of Minor Variation	11 August 2022

Agenda Item 3

PUBLIC

<u>Application No. 9 – 79W</u>	
Name & Address of Applicant or Agent	Stuart Fairclough Burrowhead Holiday Village Isle of Whithorn Newton Stewart DG8 8JB
Name & Address of Premises	The Headland Bar Burrowhead Holiday Village Isle of Whithorn Newton Stewart DG8 8JB
Nature of variation	Change of Designated Premises Manager to Teresa Brann
Effective Date of Minor Variation	31 August 2022

<u>Application No. 10 – 168W</u>	
Name & Address of Applicant or Agent	David Ryan 7 Burnside Court Stranraer DG9 7LF
Name & Address of Premises	The Railway Inn 36 Dalrymple Street Stranraer DG9 7EU
Nature of variation	Change of Designated Premises Manager to David Ryan and change of premises name to 'Reggies Bar & Function Suite'.
Effective Date of Minor Variation	2 September 2022

<u>Application No. 11 – 60W</u>	
Name & Address of Applicant or Agent	Fiona Wood Thornbank House Thornbank Road Stranraer DG9 0EY
Name & Address of Premises	Marine House Hotel 23 Agnew Crescent Stranraer DG9 7JZ
Nature of variation	Change of Designated Premises Manager to Emma McKeown
Effective Date of Minor Variation	13 September 2022

<u>Application No. 12 – 94W</u>	
Name & Address of Applicant or Agent	Paul Phillips 14 Main Street Portpatrick DG9 8JJ
Name & Address of Premises	Downshire Arms Hotel Main Street Portpatrick DG9 8JJ
Nature of variation	Change of Designated Premises Manager to Paul Phillips
Effective Date of Minor Variation	14 September 2022

<u>Application No. 13 – 126W</u>	
Name & Address of Applicant or Agent	Wm Morrison Supermarkets Limited Per Gosschalks Solicitors Queens Gardens Hull HU1 3DZ
Name & Address of Premises	Morrisons London Road Stranraer DG9 8ES
Nature of variation	Change of Designated Premises Manager to Thomas McCrae
Effective Date of Minor Variation	21 September 2022

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

<u>Application No 1. – Ref 132W – SECTION 33</u>	
Name & Address of Applicant or Agent	Eileen Cockburn 36 Main Street Glenluce DG8 0PS
Name & Address of Transferee or Agent	Richard Graham 97 Main Street Glenluce Newton Stewart DG8 0PT
Name & Address of Premises	Crown Hotel 36 Main Street Glenluce DG8 0PS
Effective Date of Transfer	4 April 2022

<u>Application No 2. – Ref 134W – SECTION 33</u>	
Name & Address of Applicant or Agent	Robert Hoad Point Breeze Hillhead Stranraer DG9 0AB
Name & Address of Transferee or Agent	Garrett Organic Ltd The Bridge Arms 22 Bridge Street Stranraer DG9 7JF
Name & Address of Premises	Bridge Arms 22 Bridge Street Stranraer DG9 8JF
Effective Date of Transfer	14 July 2022

<u>Application No 3. – Ref 42W – SECTION 33</u>	
Name & Address of Applicant or Agent	Gerald Hannah 45 Murray Place Minnigaff Newton Stewart DG8 6PA
Name & Address of Transferee or Agent	Robert Maxwell 4 Hodgkinson Terrace Newton Stewart DG8 6EY
Name & Address of Premises	Star Inn 11 Dashwood Square Newton Stewart DG8 6EQ
Effective Date of Transfer	23 August 2022

<u>Application No 4. – Ref 168W – SECTION 33</u>	
Name & Address of Applicant or Agent	Leslie Hannah 31 Glenwell Avenue Stranraer DG9 7BA
Name & Address of Transferee or Agent	David Ryan 7 Burnside Court Stranraer DG9 7LF
Name & Address of Premises	The Railway Inn 36 Dalrymple Street Stranraer DG9 7EU
Effective Date of Transfer	23 August 2022

<u>Application No 5. – Ref 209W – SECTION 33</u>	
Name & Address of Applicant or Agent	Port William Inshore Rescue Service The Boathouse Harbour Road Port William DG8 9QF
Name & Address of Transferee or Agent	The View (PIRSAC) Ltd Harbour Road Port William Newton Stewart DG8 9QF
Name & Address of Premises	The View Harbour Road Port William Newton Stewart DG8 9QF
Effective Date of Transfer	23 August 2022

<u>Application No 6. – Ref 79W – SECTION 34</u>	
Name & Address of Previous Premises Licence Holder	Stuart Fairclough Burrowhead Holiday Village Isle of Whithorn Newton Stewart DG8 8JB
Name & Address of Transferee or Agent	Lee Parks Estates Limited Saddlebrook Park Warden Bay Road Leysdown Sheerness Kent ME12 4LT
Name & Address of Premises	The Headland Bar Burrowhead Holiday Village Isle of Whithorn Newton Stewart DG8 8JB
Effective Date of Transfer	13 September 2022

APPENDIX 3

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

<u>Ref 077W</u>	
Name & Address of Licence Holder	David Abey & Stephanie Brown Wigtown House Hotel 19 Bank Street Wigtown DG8 9HR
Name & Address of Premises	Wigtown House Hotel 19 Bank Street Wigtown DG8 9HR
Date Licence Surrendered	21 July 2022

Application for Variation of Premises Licence

Applicant	Garrett Organic Ltd Bridge Arms 22 Bridge Street Stranraer DG9 7JF
Address of Premises	Bridge Arms 22 Bridge Street Stranraer DG9 8JF
Nature of Variation	<p><u>Operating Plan</u></p> <ul style="list-style-type: none"> • Add Gaming within core hours <p><u>Variation to any other information contained or referred to in the licence</u></p> <ul style="list-style-type: none"> • Amend the postcode to DG9 7JF
Last Date for Objections/Representations	Wednesday 31 August 2022

APPENDIX 5

Application for Variation of Premises Licence

Applicant	David Ryan 7 Burnside Court Stranraer DG9 7LF
Address of Premises	Reggies Bar & Function Suite 36 Dalrymple Street Stranraer DG9 7EU
Nature of Variation	<p><u>Operating Plan</u> (Q5a) Add bar meals within and outwith core hours</p> <p>(Q5) Premises may open before 11am for breakfast food</p> <p><u>Children and Young Persons</u></p> <p>(Q6) Change to children and young persons admittance:</p> <p>(Q6b) Terms - Children must be accompanied by an adult at all times. Young persons can be unaccompanied up to 10pm, thereafter accompanied by an adult.</p> <p>(Q6d) <u>Times</u> – Monday to Saturday from 11am to 10pm and Sunday from 12 noon to 10pm - unless attending an organised function or event when they can be present until terminal hour for the purposes of the function/event only</p>
Last Date for Objections/Representations	Monday 26 September 2022

This page is intentionally left blank

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

**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 27 September 2022 until 7 December 2022 the following Occasional Licences and Extended Hours were granted:

Occasional Licences : Applied for by a Personal Licence Holder

Total number issued 47

Occasional Licences : Applied for by a Premises Licence Holder

Total number issued 10

Occasional Licences : Applied for by a Voluntary Organisation

Total number issued 7

Extended Hours

Total number issued 3

Aideen Sloan
Senior Licensing Officer
Licensing

Ext: 67447

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

Date of Report: 8 December 2022

This page is intentionally left blank

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

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

<u>Application No. 1 – 35W</u>	
Name & Address of Applicant or Agent	Summermist Limited Per Bespoke Hotels 210 Cygnet court Centre Park Warrington WA1 1PP
Name & Address of Premises	Portpatrick Hotel Heugh Road Portpatrick Stranraer DG9 8TQ
Nature of variation	Change of Designated Premises Manager to Konrad Parulski
Effective Date of Minor Variation	29 September 2022

<u>Application No. 2 – 140W</u>	
Name & Address of Applicant or Agent	Stranraer FC Social Club 9-15 North Strand Street Stranraer DG9 7LD
Name & Address of Premises	Fitba Bar 9/15 North Strand Street Stranraer DG9 7LD
Nature of variation	Change of Designated Premises Manager to David McMillan
Effective Date of Minor Variation	14 October 2022

<u>Application No. 3 – 191W</u>	
Name & Address of Applicant or Agent	David McMillan Anchorlea Leswalt High Road Stranraer DG9 0AN
Name & Address of Premises	Stranraer Football Club Stair Park London Road Stranraer DG9 8BS
Nature of variation	Change of Designated Premises Manager to David McMillan
Effective Date of Minor Variation	24 November 2022

<u>Application No. 4 – 143W</u>	
Name & Address of Applicant or Agent	Wigtownshire Rugby Football Club Clubhouse Ladies Walk Stranraer DG9 8BN
Name & Address of Premises	Wigtownshire Rugby Football Club Clubhouse Ladies Walk Stranraer DG9 8BN
Nature of variation	Change of Designated Premises Manager to Paul Phillips
Effective Date of Minor Variation	30 November 2022

<u>Application No. 5 – 169W</u>	
Name & Address of Applicant or Agent	K & R McDowall 54 Dalrymple Street Stranraer DG9 7EU
Name & Address of Premises	K & R McDowall 54 Dalrymple Street Stranraer DG9 7EU
Nature of variation	Change of Premises name to 'K & R McDowall' and appointment of Robbie McDowall as Designated Premises Manager
Effective Date of Minor Variation	7 December 2022

<u>Application No. 6 – 39W</u>	
Name & Address of Applicant or Agent	William Purcell Drumlochart Holiday Park Ltd Armillan Castle Holiday Park Ltd Armillan Castle Holiday Park Girvan KA26 0HP
Name & Address of Premises	Aldouran Lounge Drumlochart Caravan Park Leswalt Stranraer DG9 0RN
Nature of variation	Appointment of Robert Stevenson as Designated Premises Manager
Effective Date of Minor Variation	8 December 2022

Aideen Sloan
Senior Licensing Officer
Licensing

Ext: 67447

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

Date of Report: 8 December 2022

This page is intentionally left blank

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

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

<u>Application No 1. – Ref 60W – SECTION 33</u>	
Name & Address of Applicant or Agent	Fiona Wood c/o Rankin & Aitken 4/6 South Strand Street Stranraer DG9 7JW
Name & Address of Transferee or Agent	Emma McKeown 25 Agnew Crescent Stranraer DG9 7JZ
Name & Address of Premises	Marine House Hotel 23 Agnew Crescent Stranraer DG9 7JZ
Effective Date of Transfer	7 October 2022

<u>Application No 2. – Ref 13W – SECTION 33</u>	
Name & Address of Applicant or Agent	Robert Wight 6 Eastwood Avenue Stranraer DG9 8DS
Name & Address of Transferee or Agent	Papa Rabs Limited Farries, Kirk & McVean Dumfries Enterprise Park Tinwald Downs Road Heathhall Dumfries DG1 3SJ
Name & Address of Premises	Papa Rabs Ltd 12A Hanover Square Stranraer DG9 7AF
Effective Date of Transfer	30 November 2022

Agenda Item 6

PUBLIC

<u>Application No 3. – Ref 192W – SECTION 33</u>	
Name & Address of Applicant or Agent	James McClurg 31 Church Street Stranraer DG9 7JG
Name & Address of Transferee or Agent	Zuohui Andy Xie 10C Leny Road Callander FK17 8BA
Name & Address of Premises	The Hanover Bar 17-19 Hanover Street Stranraer DG9 7SB
Effective Date of Transfer	30 November 2022

<u>Application No 4. – Ref 169W – SECTION 33</u>	
Name & Address of Applicant or Agent	Brown Brothers Retail Ltd 9 McCormack Gardens Stranraer DG9 7JB
Name & Address of Transferee or Agent	K & R McDowall 54 Dalrymple Street Stranraer DG9 7EU
Name & Address of Premises	Key Store 54 Dalrymple Street Stranraer DG9 7EU
Effective Date of Transfer	1 December 2022

Aideen Sloan
Senior Licensing Officer
Licensing

Ext: 67447

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

Date of Report: 8 December 2022

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

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 74
APPLICATION FOR A PERSONAL LICENCE
APPLICANT: DAVID ROSS HENRY**

1. Reason for Report

The Board received a personal licence application from David Ross Henry on 5 September 2022. As the Chief Constable has submitted a Notice (**Appendix**) under section 73(3)(b) of the Act confirming relevant offences this matter is to be determined by the Board at a Hearing.

2. Background

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

2.2 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;
- possess 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

3.1 A copy of the application was forwarded to both the Chief Constable and the Licensing Standards Officer for the Board's area.

3.2 Within the 21-day statutory timeline, the Chief Constable responded with a Notice in terms of section 73(3)(b) of the Act confirming relevant offences.

3.3 With regard to the Chief Constable's Notice, it will be noted that Police Scotland advise that they are not objecting to the current personal licence application as the convictions detailed in their Notice appended to this report were considered by the Board at its Hearing 22 June 2022. At this Hearing, Police Scotland recommended refusal of the transfer of a premises licence in respect of the Ruddicot Hotel, London Road, Stranraer to the Partnership of David and Sarah Henry on the basis of the same convictions in respect of David Henry only. However, following consideration of these same convictions, the Board granted transfer of the premises licence to the Partnership. The Board has therefore already considered the terms of these convictions in respect of a premises licence transfer application.

4. Determining the application

4.1 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 for refusal applies, REFUSE the application or

(b) if not so satisfied, GRANT the application.

4.2 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.

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

Date of Report: 8 December 2022

12 October 2022

Your Ref: DG/W/0779

Our Ref: CGC/COS/668503

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

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
DAVID ROSS HENRY, 29/08/1980
RUDDICOT HOTEL, LONDON ROAD, STRANRAER, DG9 8AJ.**

I refer to the above and your correspondence. In terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005, I have to advise you that the applicant has been convicted of the following relevant offences.

Date	Court	Crime/Offence	Disposal
21/03/2022	Stranraer Sheriff	Road Traffic Act 1988 Sect 5(1)(A)	Fine £225, disqualified 12 months, licence endorsed
02/02/2022	Stranraer Sheriff	Firearms Act 1968 Sect 1(2)	Fine £500, victim surcharge £20

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

Given that details of these convictions were heard by the Wigtown Licensing Board on 24 June 2022 when the applicant was granted a Premises Licence Police Scotland has no objection to this application.

Yours faithfully

Carol McGuire
Chief Superintendent

This page is intentionally left blank

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

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

APPLICATION: MAJOR VARIATION

PREMISES: PAPA RABS LTD, 12A HANOVER SQUARE, STRANRAER, DG9 8AF

**PREMISES LICENCE HOLDER: PAPA RABS LIMITED, FARRIES, KIRK & MCVEAN,
DUMFRIES ENTERPRISE PARK, DUMFRIES**

1. Reason for Report

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

2. Background

2.1 Members are asked to consider the application received on 14 November 2022 and detailed in **Appendix 1** to this report.

2.2 Whilst the application was submitted by the previous licence holder Robert Wight, a transfer of the premises licence was granted to the existing licence holder - Papa Rabs Limited - on 30 November 2022.

2.3 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).

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

2.5 Notice of the application was published on the Board's webpage from **Friday 18 November 2022** and, at the time of writing this report, currently remains on display.

2.6 Site notice display dates are **18 November to 10 December 2022** and, as this report is being written in the midst of this advertising period, no signed Confirmation of Site Notice confirming the above has yet been received confirming the above requirements at paragraph 2.4.

3. Objections and Representations

The last date for objections/representations is **Friday 9 December 2022** and, at the date of writing this report, no objections/representations have been received.

4. Responses

The following responses have been received:

- LSO report: no adverse comments (**Appendix 2**)
- Police Scotland: no adverse comment
- Environmental Health: no objections
- Planning: (**Appendix 3**)
- Building Standards: no adverse comments
- SFRS: no adverse comment

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 and take into account the following:

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

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

5.3 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
Council Offices
Municipal Chambers
Buccleuch Street
Dumfries

8 December 2022

This page is intentionally left blank

Wigtown Divisional Licensing Board
Application for Variation of Premises Licence

Applicant	Robert Wight 6 Eastwood Avenue Stranraer DG9 8DS
Address of Premises	Papa Rabs Ltd 12A Hanover Square Stranraer DG9 7AF
Nature of Variation	<p><u>Operating Plan</u> (Q5a) Add restaurant facilities within core hours (Q5f) Add takeaway/delivery of food/drinks (Q7) Add outdoor drinking area capacity – 40</p> <p><u>Layout Plan</u> Increase outdoor drinking area – capacity 40</p> <p><u>Variation to any other information</u> Alteration to description of premises to: “Premises situated in Hanover Square, Stranraer, which is in the town centre. It is on the ground floor of a terraced building. It is run as a restaurant/public house.”</p>
Last Date for Objections/Representations	Friday 9 December 2022

This page is intentionally left blank

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

**LICENSING (SCOTLAND) ACT 2005 :
APPLICATION FOR VARIATION OF PREMISES LICENCE
PREMISES: PAPA RABS, 12A HANOVER SQUARE, STRANRAER DG9 7AF
APPLICANT: ROBERT WIGHT, PAPA RABS LTD**

1. These premises are in a town centre location and operate as a restaurant at the rear of the premises and a public bar at the front of the premises.

1.1 The total indoor capacity for the premises is 230 persons.

1.2 On-sale operating hours are-

- Monday to Wednesday 11am to 12 midnight
- Thursday 11am to 1am
- Friday & Saturday 11am to 2am
- Sunday 12noon to 12midnight

1.3 Mr Wight has been operating the premises since 2017.

2. The main reason behind this application relates to an increased outdoor area at the front of the premises as well as a small capacity area at the rear of the premises. I have included photographs for information.

2.1 Both areas are situated on the adjoining pavements.

2.2 The applicant had to expand operation of the outdoor areas during the pandemic and wishes to make these permanent features.

3. At the same time, the opportunity was taken to make minor changes to the operating plan.

3.1 These changes reflect the current operation of the premises.

4. The application was advertised on the Board's website page from Friday 18 November 2022. Simultaneously a notice must be displayed at the premises.

4.1 The Notice was checked on 21 November 2022 at which time it was correctly displayed.

5. I have no adverse comments to make.

Julia Farroll
Licensing Standards Officer

21 November 2022



Front of premises



Back of premises

Internal Memo

Planning and Environment – Planning and Building Standards

21st November 2022

To: Senior Licensing Officer (Development), Chief Executive Service, Municipal Chambers, Dumfries Your ref: WIGTOWN 13W

Drop Point: **261**

From: Jessica Taylor, Minor Team Leader, Kirkbank House, English Street, Dumfries Our ref: LC2208

**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING (SCOTLAND) ACT 2005, SECTION 29
APPLICATION FOR VARIATION OTHER THAN MINOR VARIATION
APPLICANT: ROBERT WIGHT
PREMISE: PAPA RABS LTD, 12A HANOVER SQUARE, STRANRAER**

I refer to your recent consultation in relation to the above.

It's noted from the proposed layout plan attached to your consultation that the applicant is seeking to include 2 outdoor seating/drinking areas within the operating plan, with the area adjacent to the east elevation of the building comprising an area of public footpath and the area adjacent to the west elevation of the building comprising an area of public car park.

As you will be aware, in March 2020 Councils were encouraged by Scottish Government to temporarily relax planning controls where doing so would help businesses and services to diversify and continue to operate within communities during the pandemic, by choosing not to take enforcement action and to allow for temporary breaches of planning control that were considered to be reasonable in response to the challenges presented by living through the pandemic. The provision of unauthorised outdoor seating/drinking areas is an example of the type of breaches in relation to which planning enforcement was temporarily relaxed.

The Scottish Government has, however, always been clear that the relaxation of planning controls against such breaches was a temporary measure while coronavirus restrictions were in place, and that the relaxation guidance would be withdrawn when the time was considered right. The relaxation guidance was withdrawn by Scottish Government with effect from 1 October 2022.

Therefore, whilst Class 15 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, as amended permits "the use of land (other than a building or land within the curtilage of a building) for any purpose, except as a caravan site,

and the erection or placing of moveable structures on the land for the purpose of that use”, Class 15 requires that such use is not carried out on more than 28 days in total in any calendar year,.

Therefore, if the applicant wishes to use the outdoor seating/drinking areas shown on the proposed layout plan, or place temporary structures thereon, on more than 28 days in any calendar year, Planning Permission would be required. Given that the application site is situated within the Stranraer Conservation Area and that both areas are within the public road boundary, the applicant is **strongly** advised to seek pre-application advice on the perceived suitability of such a proposal prior to submitting an application for Planning Permission. Further advice on making a pre-application enquiry is available via the following link: [Planning advice and enquiries - Dumfries and Galloway Council \(dumgal.gov.uk\)](http://dumgal.gov.uk).

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

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE**

1. Reason for Report

To advise an update on the outcome of a decision taken by the Board at its 20 January 2022 Hearing to defer consideration of a personal licence review following a request to Police Scotland that they (i) provide witness statements and evidence to substantiate their review request and (ii) also advise the outcome of a pending court case at that time.

2. Background

2.1 On 18 November 2021 the Chief Constable submitted a section 84A review request in respect of John McIntyre's personal licence (**Appendix 1**).

2.2 In response to this request, the Board held a review Hearing on 20 January 2022. At this Hearing, the Board agreed to defer consideration of the matter pending the outcome of the Section 114 alleged offence detailed in the police letter at that time. It also requested the Chief Constable to provide witness statements and evidence to substantiate alleged incidents detailed in their letter.

2.3 In response to this request, the Chief Constable submitted an update on 23 September 2022 (**Appendix 2**).

3. Determination

3.1 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:

3.2 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).

3.3 It is also open to the Board to take no action in which case Mr McIntyre will continue to retain his personal licence.

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

4. Recommendations

4.1 Members are asked to consider whether they wish to revoke, suspend, endorse the licence or take no action; and

4.2 Note that if a determination is made that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of the 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
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

8 December 2022

18 November 2021

Your Ref: DG/W/0709

Our Ref: JM/COS

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe
Carol McGuire
Chief Superintendent

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: ROBERT JOHN MCINTYRE
8 HANOVER STREET, STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Robert John McIntyre, 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
- Preventing Public Nuisance

History of Personal Licence Holder:

Robert McIntyre, is the owner of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

Mr McIntyre again applied for and was granted a Personal Licensed on 12 July 2021 which was opposed by Police Scotland. At this time he also became the Designated Premises Manager and premises License holder.

OFFICIAL

The following incidents have raised concern regarding his suitability to be a personal licence holder:

Monday 12 October 2021

At 0051 hours Police were made aware of a disturbance at the door of The Pub, 3 Hanover Street, Stranraer by the CCTV operator. On their arrival Police noted a number of persons standing outside the front of the premises in a drunken state however nothing was ongoing.

On identifying a member of bar staff they were asked about any incidents of disorder and had stated that he had no knowledge of any altercation or incident at the premises or the identity of any persons responsible.

It was also noted at this time (about 0100 hours) that a female clearly under the influence was working behind the bar and was holding a paper towel to her jaw. She was seen by officers to hand a glass of alcohol to an unidentified male and take cash from him in return. She was asked how she sustained the injury and she stated that she had cut it on glass however could provide no further explanation due to her intoxication. At this time there were still a number of patrons within the premises consuming alcohol.

Staff were asked what time the premises was licensed to at which time they stated it was 0100 hours. The premises was only licensed until 0030 hours. It was also noted that the Designated Premises Manager, Robert McIntyre, was sitting at the bar, clearly under the influence of alcohol.

Mr McIntyre has immediately become abusive towards Police Officers present swearing at them and challenging their authority whilst actively encouraging patrons to remain drinking within the premises. He voluntarily became involved in the incident questioning police presence and their actions. Mr McIntyre followed officers outside and stated "You cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Enquiries were thereafter carried out the following day by officers who attended and spoke with Robert McIntyre who was hostile and unhelpful with their enquiries. Mr McIntyre refused to provide any statement however did verbally state that he was unaware of any altercation or disturbance out with or within the premises. He also indicated that he would not be supportive of any exclusion order of any persons involved and that it was a male member of staff who had been responsible for the running of The Pub at the time of the incident, even though he had actively become involved with the police when they arrived. Neither of the staff members present at that time were personal licence holders so the authorisation for the sale of alcohol was through the Premises manager, Mr McIntyre, who although he states was not managing the pub at that time was clearly present throughout and voluntarily intervened during police presence.

OFFICIAL

When asked by officers to produce till receipts Mr McIntyre stated "I don't keep any till receipts". Officers have then asked to review CCTV from within the premises however Mr McIntyre stated that it was not working.

Mr McIntyre was spoken to by Sergeant Boyce in relation to his failure to comply with the licensing objectives and conditions of his licence. Mr McIntyre was offered support and guidance from Police Scotland however stated that he 'was not interested'.

Following a review of the circumstances of this incident Robert McIntyre was cautioned and charged on 23 October 2021 with:

Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Sunday 17 October 2021

At 0545 hours, Police were informed that there were a number of persons still within The Pub, Hanover Street, Stranraer consuming alcohol and drugs.

Police attended and observed a number of persons standing at the bar within drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door of the premises all persons within appeared to be alarmed and attempted to hide. After a short period of time the door of the premises was answered by a female member of staff who allowed officers entry to the premises. On entry a number of persons were observed trying to leave the premises by the side door and following a search of the premises another male was found hiding within.

Statements were obtained from witnesses who confirmed that they had bought alcohol after the terminal hour of 0030 hours.

The member of staff was advised by officers and advised of the licensing conditions however was very hostile and uncooperative. This was the same female that had been present during the previous incident. This female was not a personal licence holder and Mr McIntyre later provided records which suggested that he as DPM had provided her with the appropriate training on the 12 October 2021.

Robert McIntyre attended at the premises about 0600 hours, on 17 October 2021, following the activation of the premises alarm which was triggered on persons leaving via the rear door. On his attendance Mr McIntyre was again uncooperative with officers on being asked who was in charge of the premises he stated

"You know who it was, she was here when you went in".

Between 19 and 23 October 2021 numerous attempts were made to trace Mr McIntyre and speak with him in relation to the incident. This included personal

OFFICIAL

attendance at his home address, telephone calls and calling cards being left but no response was received.

Mr McIntyre was eventually traced by Police on 24 October 2021 and was again hostile towards officers and refused to provide a statement in relation to the incident that had happened on 17 October 2021. He was asked to provide CCTV from within the premises at which time he again stated there is no CCTV at the premises.

In summary there have been two incidents within a short period of time at this licensed premises. In the first incident Mr McIntyre was present and was again extremely obstructive, actively encouraging persons within the premises to continue consuming alcohol out with the licensed hours. He provided that he was not managing the premises at that time but he has voluntarily intervened and involved himself in the situation challenging police. In the second incident although Mr McIntyre was not initially present he was again uncooperative and did not engage with or assist officers from Police Scotland in their enquiries.

On both occasions following these two incidents Mr McIntyre has been requested to provide CCTV from the premises to Police. On one occasion he stated that the CCTV was not working however on being asked again following the second incident he stated that the premises does not have CCTV.

Mr McIntyre was offered help and guidance from Police following the first incident to make sure that he was adhering to the licensing objectives and to prevent any further incidents. He stated to Police that 'he was not interested'.

It is clear that since obtaining his Personal Licence in July 2021 that Mr McIntyre is continuing with a course of conduct that has previously seen him having to go before and be sanctioned by Wigtownshire Licensing Board.

In terms of Section 83(5)(a) and (b) of the Licensing (Scotland) Act 2005 and having regard to preventing crime and disorder and preventing public nuisance objectives Police Scotland recommend that the Licensing Board take appropriate action towards Mr McIntyre's Personal License status.

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

Signed:

Carol McGuire
Chief Superintendent

23 September 2022

Your Ref: DG/W/0709

Our Ref: CC/COS



**POLICE
SCOTLAND**

Keeping people safe

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Carol McGuire
Chief Superintendent

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: ROBERT JOHN MCINTYRE, 8 HANOVER STREET,
STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

With reference the above subject The Board requested that they be advised of the outcome of Mr McIntyre's pending case, Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Police Scotland can now confirm that the case has been marked No Proceedings by the Procurator Fiscal.

Yours faithfully

Carol McGuire
Chief Superintendent

This page is intentionally left blank

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

LICENSING (SCOTLAND) ACT 2005 (THE ACT)

PREMISES LICENCE REVIEW (SECTION 36)

PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB

PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE

1. Reason for Report

1.1 To advise an update on the outcome of a decision taken by the Board at its 20 January 2022 Hearing to defer consideration of a premises licence review following a request to Police Scotland that they provide evidence to substantiate their review request and also advise the outcome of a pending court case at that time.

2. Background

2.1 On 1 December 2021, the Chief Constable submitted a request for review of a premises licence in respect of the above named premises (**Appendix 1**).

2.2 In response to this request, the Board held a review Hearing on 20 January 2022. At this Hearing, the Board agreed to defer consideration of the matter pending the outcome of the Section 114 alleged offence detailed in the police letter at that time. It also requested the Chief Constable to provide evidence to substantiate alleged incidents detailed in their letter.

2.3 In response to this request, the Chief Constable submitted an update on 23 September 2022 (**Appendix 2**).

3. Determination

3.1 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:

3.2. Grounds for Review

The Board must be satisfied that a ground of review is established and the grounds for review are:

- that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence;
- that one or more of the conditions to which the Premises Licence is subject has been breached; or
- any other ground relevant to one or more of the Licensing Objectives (those Objectives being):
 - (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.

3.3. Board's Powers on Review

At a Review Hearing, if the Board is satisfied that a ground for review has been established (whether or not on the basis of any circumstances alleged in the Premises Licence Review Application) the Board may take any of the following steps as are considered necessary or appropriate for the purposes of any of the Licensing Objectives.

3.4 The steps that the Board may take are to:-

- issue a written warning to the licence holder;
- make a variation of the licence (the Board can provide that the variation applies for a certain time period only);
- suspend the licence for such period as the Board may determine
- revoke the licence.

3.5 The above steps take immediate effect.

3.6 It is also open to the Board to take no action even if a ground for review is established.

3.7 Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence then the Board must revoke the licence.

3.8 This revocation takes effect after a 28 day period beginning with the day on which the Board makes the decision unless, during that 28 day period:

- the premises licence holder makes an application to transfer the licence and the Board grants that transfer; or
- a variation application is made which seeks to vary the licence and the Board considers that the variation, if granted, would remove the ground on which the licence was revoked.

3.9 If the Board receives either of the above applications and grants that application, then the Board must recall its revocation.

3.10 The Board also retains the power to extend the 28 day period pending determination of either a transfer or variation application.

4. Recommendations

4.1 Members are asked to consider

- (i) whether a ground of review exists; and
- (ii) if a ground of review is established, which discretionary steps (if any) it wishes to take as per paragraphs 3. 4 and 3.6 above;

4.2 If no ground of review is established, then no order can be made.

4.3 If a ground of review is established, then an order may or may not be made.

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

8 December 2022

This page is intentionally left blank

1 December 2021

Your Ref:

Our Ref: 20942

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



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

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER,
DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE, 17/10/1975**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the Wigtownshire Licensing Board for a review of the premises licence in respect of the premises known as The Pub, 3 Hanover Street, Stranraer, DG9 7SB.

This application for review is made in terms of the grounds set out at Section 36(3) (a) relevant to the conditions of the premises licence and Section 36(3)(b) any other ground relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely:

- Preventing Crime and Disorder
- Preventing Public Nuisance

In support of this application, and in terms of Section 36(5A), the following information is provided for your consideration:

The premises core "on sales" hours are Monday to Wednesday 1100 hours until 0030 hours, Thursday to Saturday 1100 hours until 0100 hours and Sunday 1200 hours until 0030 hours (trading days thereof).

The Premises Licence in respect of the above premises is held by Robert John McIntyre, 8 Hanover Street, Stranraer. Mr McIntyre is also the Designated Premises Manager. He holds a Personal Licence, granted by Wigtownshire Licensing Board on 2 June 2021, which is due to expire on 1 June 2031. His licence number is DG/W/0709.

Background

Robert McIntyre, is the owner of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

Between 2015 and 2020 the official premise management, in terms of the Premises License Holder and Designated Premises Manager changed on three occasions. It was clear that throughout this time Mr McIntyre retained an active role in the running of the premises and had the ability to influence and overrule the holders of these posts with regards the running of the business.

After revocation it was apparent that Mr McIntyre continued to influence the management of The Pub and his conduct continued to present concerns regards his suitability as a fit and proper person to hold a personal license.

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 which was opposed by Police Scotland. At this time he also became the Designated Premises Manager and premises License holder.

Information in support of application

The premises licence for the pub was issued by Wigtown Divisional Licensing Board under the terms and conditions of the Licensing (Scotland) Act 2005 on the 1st of September 2009. Premises licence number 0127W refers. Outlined within the Premises licence are the licensed hours for On Sales.

Section 2(1) of the mandatory conditions of the license clearly states that alcohol is to be sold on the premises only in accordance with the operating plan contained within the license.

Section 2(1) of the Premises Licence– Licensed hours for ON SALES

Monday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return.

At this time it was after 0100 hours, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He has proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, he instead acted in the completely opposite manner negatively affecting the situation, actively encouraging patrons to remain drinking within the premises.

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'.

Sunday 17 October 2021

About 0545 hours, on Sunday 17 October 2021, Police Scotland were made aware of a number of persons still within The Pub, 3 Hanover Street, Stranraer consuming alcohol.

Officers attended and observed a number of persons standing at the bar within the premises drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door all persons within appeared to be alarmed and attempted to hide.

After a short period of time the door of the premises was answered by a female who identified herself as a member of staff and allowed officers entry into the premises.

Whilst speaking with the member of staff a number of persons were observed trying to leave by the side door. Details of these persons were obtained and following a search of the premises another male was found hiding within. The member of staff was spoken to by officers and advised of the premises licence conditions however she was very hostile and uncooperative towards them.

Statements have then been obtained from a number of patrons who were traced leaving the premises on the arrival of Police.

The witnesses speak to being within The Pub and consuming alcohol after 0030 hours along with other patrons. They paid for these alcoholic drinks by both cash and apple pay, with the last known transaction provided as being about 0259 hours.

The Licence Holder Robert McIntyre was not present on this occasion however attended at the premises at 0600 hours, following the activation of the premises alarm which was triggered on persons leaving via the fire exit. On his attendance Mr McIntyre was again uncooperative with officers although confirmed that the female member of staff had been in charge of the premises at the material time.

The female member of staff was the same on both dates. According to the training records provided by Mr McIntyre, relative to the female member of staff, she was trained by him on Sunday 11 October, the date of the first incident.

Sunday 21 November 2021

Around 0145 hours, Police noted that the lights were still on within The Pub, the door open and people standing outside as though they had just left the premises.

Due to officers being aware that the premises did not hold a licence to trade after 0100 hours they attended and observed a female working behind the bar with two other males still within consuming what was believed to be alcohol.

The female working behind the bar informed Officers that she was a member of staff and was tidying up however could not provide any reasonable explanation for the other two males still being within the premises.

One of the males was identified as another member of staff who had been present during the incident reported on Monday 12 October 2021. He was clearly under the influence of alcohol and stated "I don't need to leave, I'm having a staff meeting".

The other male refused to leave the premises and stated "I'll finish my drink first". This male had to be removed from the premises and received a recorded Police warning for failing to quit a licensed premises.

The behaviour of these staff members has yet again fallen below what is reasonably expected of them. In this Mr McIntyre, as the Premises Licence holder, must bear a level of responsibility.

The male member of staff was later traced on Sunday 28 November 2021 and again displayed a poor attitude towards Police stating that he had not been working within the premises on the night of 21 November however had been within consuming alcohol.

Numerous attempts have been made to trace both the female member of staff on duty that evening and Mr McIntyre in relation to this incident. Enquiries are still ongoing as all efforts to date have been negative.

Summary

During a period of 7 weeks there has been three incidents where the premises were found to be serving alcohol out with the licensing hour conditions of their licence. During the first incident Mr McIntyre was present and again proved to be extremely obstructive by actively encouraging persons within the premises to continue consuming alcohol out with the licensed hours. In the second incident although Mr McIntyre was not present or overtly hostile he has not engaged or assisted officers from Police Scotland in their enquiries.

The two staff members involved in the first two incidents did not appear to be aware of the licensing hours of the premises and it is suggested that they require further training in order to fully understand the licensing objectives and their responsibilities in respect of the management and control of the premises. The training provided to these two members of staff by the DPM, Mr McIntyre, has clearly been insufficient or incorrect.

The female member of staff was fully aware of Police involvement at the premises following the incident on 12th October 2021 and had only received her training from Mr McIntyre that day. The same female member of staff was left in charge of the premises by the DPM, Mr McIntyre, on the 17th October 2021 at which time the conditions of the premises licence in relation to core hours were again breached, by a substantial period of time.

The male member of staff was also fully aware of Police involvement at the premises following the incident on 12th October 2021 and was again within the premises on the 21st of November when the conditions of the premises licence in relation to the core hours was again breached, by a substantial period of time.

It is suggested that no internal action has been taken to ensure that the premises abided by the conditions of their licence in respect of licensing hours after the first incident, and they refused any assistance from the police.

I am of the view that the premises licence holder Robert McIntyre, who is the holder of a Personal Licence, has acted in a manner which is inconsistent with the conditions of the premises licence by failing to ensure that the conditions of his premises licence were adhered to, on not one but two occasions in a short period of time. Mr McIntyre was clearly aware of his responsibilities due to discussions with the police after the first incident. He was clear that he did not want any police assistance but unfortunately it would appear that no action has been taken to ensure that the premises was managed appropriately and that the failure to adhere to the conditions was rectified.

I request that the Licensing Board considers the aforementioned grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

A letter has also been submitted for your attention under terms of Section 84A of the Act, in respect of the Personal License held by Robert McIntyre.

Yours faithfully

Carol McGuire
Chief Superintendent

APPENDIX 2

23 September 2022

Your Ref: 0127W

Our Ref: CC/COS



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

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

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE, 17/10/1975**

With reference to the above subject, the Board requested that they be advised of the outcome of Mr McIntyre's pending case, Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Police Scotland can now confirm that the case has been marked No Proceedings by the Procurator Fiscal.

Yours faithfully

Carol McGuire
Chief Superintendent

This page is intentionally left blank

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

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE**

1. Reason for Report

1.1 On 21 November 2022, the Chief Constable, in terms of his power under section 84A the Act, submitted to the Board a report (**Appendix**) alleging that Robert McIntyre, the holder of a personal licence, has acted in a manner which is inconsistent with the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Protecting and Improving Public Health

1.2 When the Board receives a section 84A report it must hold a Hearing.

2. Background

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

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

3. Determination

3.1 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:

3.2 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).

3.3 It is also open to the Board to take no action in which case Mr McIntyre will continue to retain his personal licence.

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

4. Recommendations

4.1 Members are asked to consider whether they wish to revoke, suspend, endorse the licence or take no action; and

4.2 Note that if a determination is made that the licence holder is not a fit and proper person to be the holder of the 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
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

8 December 2022

APPENDIX

21 November 2022

Your Ref: DG/W/0709

Our Ref: CGC/COS

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

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: ROBERT JOHN MCINTYRE
8 HANOVER STREET, STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Robert John McIntyre 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
- Protecting and Improving Public Health

History of Personal Licence Holder:

Robert McIntyre, is the Premises Licence Holder and Designated Premises Manager of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 following an objection by Police Scotland. At this time he also became the Designated Premises Manager and Premise License holder for The Pub, Hanover Street, Stranraer.

A request for a Personal Licence Review was sent to Wigtownshire Licensing Board on 19 November 2021 due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. The matter was deferred by Wigtownshire Licensing Board on 20 January 2022 pending the outcome of Mr McIntyre's court case. On 23 September 2022 a further letter was sent to the Licensing Board confirming that the case had been marked No Proceedings. To date no response has been received by Police Scotland in relation to that letter.

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

Tuesday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return. This staff member was intoxicated herself and had a minor facial injury which she stated was caused when she fell over in a drunken state.

Given it was after 0100 hours at that time, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, instead acting in the complete opposite manner negatively affecting the situation, and actively encouraging patrons to continue drinking within the premises.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'. This contravenes the objectives of Preventing Crime and Disorder and Securing Public Safety.

Sunday 21 November 2021

At 0145 hours officers passed licensed premises The Pub, Hanover Street, Stranraer and noted the doors to still be open and lights on. Upon entering the premises officers found two persons within consuming alcohol. One of those present was Mr McIntyre. Upon being instructed to leave both refused to do so with Mr McIntyre stating "I'm having a meeting". Both were noted to be intoxicated and were ejected from the premises by Police Officers.

Monday 22 November 2021

At 0130 hours officers passed licensed premises, The Pub, Hanover Street, Stranraer and noted the lights to be on but door closed. They observed three persons within, two were behind the bar and one sitting at the bar. They knocked on the door and were allowed entry. Two persons were members of staff and the third was the cousin of one the staff. Police were told that a taxi had been called for the cousin when they closed at 0030 hours however it had still not arrived and they did not want her to leave on her own. Police contacted the taxi company who said they had received no such phone call. One of the members of staff accused Police of targeting the premises.

Thursday 1 September 2022

Between 0100 hours and 0530 hours several unknown persons were seen entering and exiting The Pub, Hanover Street, Stranraer. Persons were captured on Stranraer Town Centre CCTV.

Monday 12 September 2022

Officers attended at 0200 hours due to CCTV observing persons entering after licensed hours. Officers could hear music and people using the pool table. On looking through the window unknown persons could be seen ducking behind the bar area. No alcohol could be seen from the officers' position. There was no answer at the door.

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Wednesday 14 September 2022.**

At 0038 hours Police attended the premises, gaining entry a few minutes later. On entering four people were found inside, one identified himself as the assistant manager. They were playing pool with drinks on the table. Initially people refused to provide their details but eventually did so. The assistant manager was spoken with and advised that due to the premises terminal hour being 0030 hours people needed to leave. He stated that he was sick of people staying drinking and was advised regarding his responsibilities. Mr McIntyre attended at the premises at 0046 hours after being alerted to the Police presence. The matter was explained to Mr McIntyre. From the response and reaction received, it was the opinion of attending officers that if they had not entered the premises persons would have continued consuming alcohol within.

Friday 7 October 2022

At 2250 hours Police Scotland executed a Misuse of Drugs Act warrant at several addresses in Stranraer including The Pub, Hanover Street and Mr McIntyre's home address of 8 Hanover Street, Stranraer. On executing the warrant at The Pub Mr McIntyre was found to be on the premises with a member of bar staff and both were present whilst a search was carried out. A systematic search was carried out and within the kitchen of the premises officers found white powder laid out on the worktop along with a bank card in the name of Robert McIntyre. A self-seal bag of white powder was also found on a shelf within the kitchen. On this occasion, the member of staff was assessed as not being involved in any drug activity within the premises. This staff member formally denied any connection to the drugs seized by Police and was found to have had no access to them.

During the search, No active drugs policy was visible within the premises.

Presumptive tests carried out by two suitably trained officers at a later date showed the powder on the kitchen worktop and the powder on the kitchen shelf as cocaine.

On Thursday 27 October 2022 Mr McIntyre was arrested and charged with Section 5(2) of the Misuse of Drugs Act 1971, Possession of a Class A Drug, Cocaine.

CCTV enquiries were carried out by Police and relevant observations made from same. However, it was not retained as it was not evidential and the privacy of those recorded on it is necessary and proportionate.

In conclusion, it is clear that since obtaining his personal licence in July 2021 Mr McIntyre is continuing with a course of conduct that has previously seen him go before and be sanctioned by the Wigtownshire Licensing Board. There is a continued concern that Mr McIntyre appears to be either unwilling or unable to uphold the licensing objectives.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Dumfries and Galloway Local Policing Plan 2020-2023 is based on public opinion, our people and our partners views and a strategic assessment. As such the supply of and harm caused by controlled drugs has been identified as one of Police Scotland's six operational priorities which is reciprocated in divisional priorities. This misuse of controlled drugs and the problematic use of alcohol can affect all communities and influence the quality of life across the region.

In light of the above, it is considered that the actions of Mr McIntyre do not support the licensing objectives of preventing crime and disorder, securing public safety and protecting and improving public health.

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

Signed:

Carol McGuire
Chief Superintendent

This page is intentionally left blank

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

LICENSING (SCOTLAND) ACT 2005 (THE ACT)

PREMISES LICENCE REVIEW (SECTION 36)

PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB

PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE

1. Reason for Report

As the Board has received a premises licence review application and the Convener has determined that the application should not be rejected, the Board must hold a Hearing.

2. Background

2.1 The Board received a letter dated 21 November 2022 from the Chief Constable requesting review of the above named premises (**Appendix 1**).

2.2 Where the Board receives an application for a Premises Licence Review it must hold a Review Hearing within 42 days of the date of the application, unless the Board rejects the application as being vexatious or frivolous or does not disclose any matter relevant to any ground for review.

2.3 The Convener has determined that the application should not be rejected.

2.4 The statutory LSO report that the Board is legally obliged to take into account is detailed at **Appendix 2**.

3. Determination

3.1 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:

3.2. Grounds for Review

Any person may apply to the Board for review of a premises licence on any grounds for review and those grounds are:

- that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence;
- that one or more of the conditions to which the Premises Licence is subject has been breached; or
- any other ground relevant to one or more of the Licensing Objectives (those Objectives being):
 - (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.

3.3. Board's Powers on Review

At a Review Hearing, if the Board is satisfied that a ground for review has been established (whether or not on the basis of any circumstances alleged in the Premises Licence Review Application) the Board may take any of the following steps as are considered necessary or appropriate for the purposes of any of the Licensing Objectives.

3.4 The steps that the Board may take are to:-

- issue a written warning to the licence holder;
- make a variation of the licence (the Board can provide that the variation applies for a certain time period only);
- suspend the licence for such period as the Board may determine
- revoke the licence.

3.5 The above steps take immediate effect.

3.6 It is also open to the Board to take no action even if a ground for review is established.

3.7 Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence then the Board must revoke the licence.

3.8 This revocation takes effect after a 28 day period beginning with the day on which the Board makes the decision unless, during that 28 day period:

- the premises licence holder makes an application to transfer the licence and the Board grants that transfer; or
- a variation application is made which seeks to vary the licence and the Board considers that the variation, if granted, would remove the ground on which the licence was revoked.

3.9 If the Board receives either of the above applications and grants that application, then the Board must recall its revocation.

3.10 The Board also retains the power to extend the 28 day period pending determination of either a transfer or variation application.

4. Recommendations

4.1 Members are asked to consider

- (i) whether a ground for review exists; and
- (ii) if a ground for review is established, which discretionary steps (if any) it wishes to take as per paragraphs 3. 4 and 3.6 above;

4.2 If no ground for review is established then no order can be made.

Vlad Valiente
Clerk to the Licensing Boards

Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

8 December 2022

This page is intentionally left blank

OFFICIAL SENSITIVE: POLICE AND PARTNERS**APPENDIX 1**

21 November 2022

Your Ref: 20942

Our Ref: CGC/COS/20942

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

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

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36(1)
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the Wigtownshire Licensing Board for a review of the premises licence in respect of the premises known as THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.

The grounds for review relate to the licensing objectives of

- Preventing Crime and Disorder
- Securing Public Safety
- Preventing Public Nuisance
- Protecting and Improving Public Health
- Protecting Children and young Persons from Harm

As part of his application for review, the Chief Constable would refer to the following facts:

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Premises:**

The Pub is a licensed premises in an off town centre location within Stranraer. The premises core "on sales" hours are Monday to Wednesday 1100 hours until 0030 hours, Thursday to Saturday 1100 hours until 0100 hours and Sunday 1200 hours until 0030 hours (trading days thereof). In line with similar premises within Stranraer town centre the terms under which Young Persons are permitted entry is during core hours unaccompanied. As a result activity within The Pub as documented below, has a direct influence on Young Persons and is therefore in contradiction on the objective of Protecting Children and Young Persons from Harm.

Police Scotland have previously requested a review of the premises licence in 2015 as well as 2021. On each occasion the actions of Premises Licence Holder Mr McIntyre have been a contributory factor.

History of Premises Licence Holder:

Robert McIntyre, is the Premises Licence Holder and Designated Premises Manager of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. At that time a Premises Licence Review was requested but later dropped when the premises licence was transferred to another party.

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 following an objection by Police Scotland. At this time he also became the Designated Premises Manager and Premise License holder for The Pub, Hanover Street, Stranraer.

A request for a Personal Licence Review and Premises Licence review was sent to Wigtownshire Licensing Board on 19 November 2021 due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. The matter was deferred by Wigtownshire Licensing Board on 20 January 2022 pending the outcome Mr McIntyre's court case. On 23 September 2022 a further letter was sent to the Licensing Board confirming that the case had been marked No Proceedings.

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

Tuesday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return. This staff member was intoxicated herself and had a minor facial injury which she stated was caused when she fell over in a drunken state.

Given it was after 0100 hours at that time, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, instead acting in the complete opposite manner negatively affecting the situation, and actively encouraging patrons to continue drinking within the premises.

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'. This contravenes the objectives of Preventing Crime and Disorder and Securing Public Safety.

Sunday 17 October 2021

About 0545 hours, on Sunday 17 October 2021, Police Scotland were made aware of a number of persons still within The Pub, 3 Hanover Street, Stranraer consuming alcohol.

Officers attended and observed a number of persons standing at the bar within the premises drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door all persons within appeared to be alarmed and attempted to hide.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

After a short time the door of the premises was answered by a female who identified herself as a member of staff and allowed officers entry into the premises.

Whilst speaking with this member of staff a number of persons were observed trying to leave by the side door. Details of these persons were obtained and following a search of the premises another male was found hiding within. The member of staff was spoken to by officers and advised of the premise's licence conditions however she was very hostile and uncooperative towards them.

Statements were obtained from a number of patrons who were traced leaving the premises on the arrival of Police. These witnesses speak to being within The Pub and consuming alcohol after 0030 hours along with other patrons. They paid for these alcoholic drinks by both cash and apple pay, with the last known transaction provided as being about 0259 hours.

The Licence Holder Robert McIntyre was not present on this occasion however attended at the premises at 0600 hours, following the activation of the premises alarm which was triggered on persons leaving via the fire exit. On his attendance Mr McIntyre was again uncooperative with officers although confirmed that the female member of staff had been in charge of the premises at the material time.

The female member of staff was the same on both dates. She does not have a personal licence. However, according to the training records provided by Mr McIntyre, relative to the female member of staff, she was trained by him on Monday 11 October 2021.

Sunday 21 November 2021

At 0145 hours officers passed licensed premises The Pub, Hanover Street, Stranraer and noted the doors to still be open and lights on. Upon entering the premises officers found two persons within consuming alcohol. One of those present was Mr McIntyre. Upon being instructed to leave both refused to do so with Mr McIntyre stating "I'm having a meeting". Both were noted to be intoxicated and were ejected from the premises by Police Officers.

Both the above noted incidents show a disregard to the objectives of Securing Public Safety and Improving Public Health, whereby alcohol is freely available for consumption outwith policy hours. It also highlights a disregard for legal process. It does not promote the objective of Preventing Crime and Disorder by acting in a manner that flouts licensing objectives and policy.

Monday 22 November 2021

At 0130 hours officers passed licensed premises, The Pub, Hanover Street, Stranraer and noted the lights to be on but door closed. They observed three persons within, two were behind the bar and one sitting at the bar. They knocked on the door and were allowed entry. Two persons were members of staff and the third was the cousin of one the staff. Police were told that a taxi had been called for

OFFICIAL SENSITIVE: POLICE AND PARTNERS

the cousin when they closed at 0030 hours however it had still not arrived and they did not want her to leave on her own. Police contacted the taxi company who said they had received no such phone call. One of the members of staff accused Police of targeting the premises.

The objective of Securing Public Safety is ignored, alleging a taxi had been called to convey persons under the influence of alcohol home when in fact no taxi had been called. This could have resulted in an intoxicated person being left to their own devices to make their way home after allowing them to stay on the premises drinking after policy hours.

Thursday 1 September 2022

Between 0100 hours and 0530 hours several unknown persons were seen entering and exiting The Pub, Hanover Street, Stranraer. Persons were captured on Stranraer Town Centre CCTV.

Monday 12 September 2022

Officers attended at 0200 hours due to CCTV again observing persons entering after licensed hours. Officers could hear music and people using the pool table. On looking through the window unknown persons could be seen ducking behind the bar area. No alcohol could be seen from the officers' position. There was no answer at the door.

Wednesday 14 September 2022.

At 0038 hours Police attended the premises, gaining entry a few minutes later. On entering four people were found inside, one identified himself as the assistant manager. They were playing pool with drinks on the table. Initially people refused to provide their details but eventually did so. The assistant manager was spoken with and advised that due to the premises terminal hour being 0030 hours people needed to leave. He stated that he was sick of people staying drinking and was advised regarding his responsibilities. Mr McIntyre attended at the premises at 0046 hours after being alerted to the Police presence. The matter was explained to Mr McIntyre. It was the opinion of attending officers that if they had not entered the premises persons would have continued consuming alcohol within.

Again, the actions and behaviour of both Mr McIntyre and his staff are inconsistent with the licensing objectives of preventing crime and disorder and securing public safety. Encouraging and allowing the continued consumption of alcohol after policy hours, extending the available time of drinking is incompatible with protecting and improving public health.

Friday 7 October 2022

At 2250 hours Police Scotland executed a Misuse of Drugs Act warrant at several addresses in Stranraer including The Pub, Hanover Street and Mr McIntyre's home address of 8 Hanover Street, Stranraer. On executing the warrant at The Pub Mr

OFFICIAL SENSITIVE: POLICE AND PARTNERS

McIntyre was found to be on the premises with a member of bar staff and both were present whilst a search was carried out. A systematic search was carried out and within the kitchen of the premises officers found white powder laid out on the worktop along with a bank card in the name of Robert McIntyre. A self-seal bag of white powder was also found on a shelf within the kitchen. On this occasion, the member of staff was assessed as not being involved in any drug activity, and formally denied any connection to the drugs seized by Police. The staff member had no access to the drugs found by Police.

During the search, No active drugs Police was visible within the premises.

Presumptive tests carried out by two suitably trained officers at a later date showed the powder on the kitchen worktop and the powder on the kitchen shelf as cocaine.

On Thursday 27 October 2022 Mr McIntyre was arrested and charged with Section 5(2) of the Misuse of Drugs Act 1971, Possession of a Class A Drug, Cocaine. This demonstrates a disregard of the objectives of Protecting and Improving Health, Securing Public Safety and Protecting Children and Young Persons from Harm.

It is clear that since obtaining his personal licence in July 2021 Mr McIntyre is continuing with a course of conduct that has previously seen him before and be sanctioned by the Wigtownshire Licensing Board. It would appear that the licensed premises is actively used for criminal behaviour and there is a continued concern that Mr McIntyre appears to be either unwilling or unable to uphold the licensing objectives.

CCTV enquiries were carried out by Police and relevant observations made from same. However, it was not retained as it was not evidential and the privacy of those recorded on it is necessary and proportionate.

Dumfries and Galloway Local Policing Plan 2020-2023 is based on public opinion, our people and our partners views and a strategic assessment. As such the supply of and harm caused by controlled drugs has been identified as one of Police Scotland's six operational priorities which is reciprocated in divisional priorities. This misuse of controlled drugs and the problematic use of alcohol can affect all communities and influence the quality of life across the region.

I request that the Licensing Board considers the aforementioned grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

Yours faithfully

Carol McGuire
Chief Superintendent

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

LICENSING (SCOTLAND) ACT 2005**PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER DG9 7SB****LICENCE HOLDER : ROBERT J. McINTYRE****1. Background**

1.1 Mr McIntyre has held the licence for these premises from November 2007 to February 2016 and then again from 2 June 2021 to present.

1.2 The Pub is described in the Premises Licence as a pub/diner including off sales in an off town centre location

1.3 The on-sale operating hours for the premises are

- Monday to Wednesday 11am to 12.30am
- Thursday to Saturday 11am to 1am
- Sunday 12 noon to 12.30am.
- Off-sale hours are 11am to 10pm Monday to Sunday.

1.4 The occupant capacity of the premises is 115 persons.

1.5 The layout of the premises is such that the bar and seating area is on one level, with a smaller raised seating area. It does not have an outdoor drinking area.

2. Previous Reviews

2.1 Including this one, four Premises Licence Review applications have been lodged in relation to these premises while under the control of Mr McIntyre.

2.2 29 July 2011 - Review application received from a Licensing Standards Officer. The grounds for review were based on (1) breach of mandatory condition 6, failing to produce staff training records and (2) licence holder failing to assist and being abusive towards a Licensing Standards Officer.

2.2.1 A Review Hearing took place on 9 September 2011 at which time the grounds for Review were established.

2.2.2 The Board agreed that it was necessary or appropriate to take further steps for the purposes of the licensing objectives. Accordingly, a written warning was issued to the licence holder regarding his future conduct.

2.3 14 August 2015 – Review application received from the Chief Constable. The grounds for review were (a) Preventing Crime and Disorder, (c) Preventing Public Nuisance and (d) Protecting and Improving Public Health.

2.3.1 A Review Hearing took place on 7 October 2015 at which time the grounds for review were established, however, the Board decided to adjourn the Hearing for a period of 6 months to allow changes at the premises to be fully implemented.

2.3.2 At the adjourned Hearing on 16 February 2015, the Board were notified that the Premises Licence had been transferred on 5 February 2016 and Mr McIntyre was no longer Premises Licence Holder. The consequence of the transfer brought the Review proceedings to an end.

2.4 1 December 2021 – Review application received from the Chief Constable. The grounds for review were (a) Preventing Crime and Disorder and (c) Preventing Public Nuisance.

2.4.1 A Review Hearing took place on 20 January 2022 at which time the Board decided to defer consideration of the Review, pending the outcome of court proceedings.

2.4.2 The deferred Review Hearing will take place on 16 December 2022.

3. Premises Visits

3.1 A visit was made on 11 January 2022 to check statutory signage, staff training records and compliance with layout plan.

3.1.1 Signage – all statutory signage was displayed as required.

3.1.2 Staff training – training records were examined. These were written training records based on the City & Guilds staff training workbook.

- Four staff had been trained by the previous licence holder in 2019 and two staff members had been trained by the licence holder in June and October 2021.
- Mr McIntyre advised that all staff were booked on Scottish Personal Licence Holder courses.

3.1.3 A refusals book is kept on the premises and contained entries.

3.2 A joint visit with Police was made on 9 February 2022 to discuss results of the recent cocaine detection exercise carried out by Police Scotland in various town centre premises.

3.2.1 At that time an update was given on progress of the staff Personal Licence training courses. One staff member had been dismissed and another 2 were working through the course.

3.3 A visit on 7 December 2022 was undertaken at which time all statutory signage was displayed.

3.3.1 The staff member who was on duty holds a Personal Licence and Mr McIntyre advised the only other staff member has completed the Scottish Personal Licence Holder qualification and is applying for his Personal Licence.

3.3.2 Mr McIntyre confirmed that he normally closes up at the end of trading. Last orders are called 15 minutes before end of licensed hours, with all drinks being cleared 30 minutes later, at the end of drinking-up time.

3.3.3 Mr McIntyre confirmed that all staff are aware of the licensed hours in the Operating Plan.

4. Recommendation

That the Board have regard to the information provided in reaching its decision on the Premises Licence Review.

Julia Farroll
Licensing Standards Officer
07 December 2022

This page is intentionally left blank

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

**LICENSING (SCOTLAND) ACT 2005 (THE ACT)
SECTION 9B: ANNUAL FINANCIAL REPORT 2021/22**

1. Reasons for the report

To seek the Board's approval of Dumfries and Galloway Licensing Boards' annual financial report for the year 2021/22.

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 2021/22 would normally be published no later than 30 June 2022.

2.3 However, due to temporary Coronavirus legislation, the end date by which the report must be prepared and published has been extended from 30 June 2022 to 31 December 2022 for the purpose of the 2021/22 report.

2.4 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.

2.5 The report for the year 2021/22 is detailed at the **Appendix**.

3. Recommendation

That the Board approves the draft Financial Report for 2021/22 attached at the Appendix, for publication in accordance with section 9B of the Act.

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

8 December 2022

This page is intentionally left blank

APPENDIX

**Licensing (Scotland) Act 2005
Dumfries and Galloway Licensing Boards Financial Report
Financial Year: 2021/22**

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. This means that the Board's report for financial year 2021/22 would normally be published no later than 30 June 2022. However, Schedule 5 of the Coronavirus (Scotland) Act 2020 inserted an additional clause into the 2005 Act, providing the Board with a further 6 months if they were unable to publish their annual report by the end of June, due to reasons relating to Coronavirus.

The financial 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 2022. 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:

Income¹:

Premises Licence	£5,900
Provisional Premises Licence	£800
Annual Fees	£177,578
Transfers	£2,100
Minor Variations	£3,017
Major Variations	£4,080
Extended Hours	£360
Occasional Licence	£16,280
Personal Licence	£10,000
Sundry Income ♦	£680
Total	£220,795

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

Direct Staff Costs²:

Licensing Standards Officers	£96,245
Licensing Board Members	£1,362

Management	£31,456
Legal Services	£29,445
Administrative Support	£88,894 (£34,614 funding received from Covid monies)
Total	£212,788

Other Direct Costs³:

Training and Development	£1,305
Stationery	£121
Supplies and Services	£14,882
Transport/Travel	£12
Total:	£16,320

Indirect Costs⁴:

ICT	£7,512
Accommodation	£8,027
Financial Services	£2,728
Total:	£18,268

Total Expenditure	£247,376
--------------------------	-----------------

Net Income	-£26,581
-------------------	-----------------

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.

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

**LICENSING (SCOTLAND) ACT 2005 (THE ACT)
SECTION 9A: ANNUAL FUNCTIONS REPORT 2021/22**

1. Reasons for the report

To seek the Board's approval of Dumfries and Galloway Licensing Boards' annual functions report for the year 2021/22.

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 2021/22 would normally be published no later than 30 June 2022.

2.3 However, due to temporary Coronavirus legislation, the end date by which the report must be prepared and published has been extended from 30 June 2022 to 31 December 2022 for the purpose of the 2021/22 report.

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 2021/22 is detailed at the **Appendix**.

3. Recommendation

That the Board approves the draft Functions Report for 2021/22 attached at the Appendix, for publication in accordance with section 9A of the Act.

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

8 December 2022

This page is intentionally left blank

INDEX

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

APPENDICES

Appendix - List of Applications for Premises Licences

1. Introduction – Dumfries and Galloway Licensing Boards

General

1.1 Dumfries and Galloway is a mainly rural area in South West Scotland. It covers approximately 2470 square miles with a population of around 148,790. The main settlements are Dumfries (including Heathhall/Locharbriggs) around 37,100 residents; Stranraer (approximately 10,600 residents) and Annan (approximately 8250 residents). All other settlements have populations under 5000. The region of Dumfries and Galloway is divided into four geographical areas (former District Council areas) as follows: Annandale and Eskdale, Nithsdale, Stewartry and Wigtonshire.

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

- Annandale & Eskdale
- Nithsdale
- Stewartry
- Wigton

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

1.4 As at 31 March 2022, there were 604 (611 - 2020/21) licensed premises in Dumfries and Galloway. Within each Licensing Board Division, the breakdown is:

Board	2021/22	2020/21
Nithsdale	191	192
Wigton	149	151
Annandale & Eskdale	154	157
Stewartry	110	111

Types of applications under the 2005 Act:

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

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

2. The Licensing Objectives

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

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

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

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

3. Annual Functions Report

3.1 Section 9A of the Licensing (Scotland) Act 2005 requires Dumfries and Galloway Licensing Boards to publish an Annual Functions Report within 3 months of the end of the relevant financial year. This means that the Board's report for financial year 2021/22 would normally be published no later than 30 June 2022. However, Schedule 5 of the Coronavirus (Scotland) Act 2020 inserted an additional clause into the 2005 Act, providing the Board with a further 6 months if they were unable to publish their annual report by the end of June, due to reasons relating to Coronavirus.

3.2 Dumfries and Galloway's Divisional Licensing Boards must therefore prepare and publish an Annual Functions Report by 31 December 2022 for the financial year 2021-2022 (being 1 April 2021 to 31 March 2022).

3.3 An Annual Functions Report must include the following:

- a statement explaining how each Board has had regard to the licensing objectives;
- a statement explaining how each Board has had regard to the Statement of Licensing Policy and any Supplementary Policy Statement (including the Board's statement with regard to its duty to assess overprovision);
- a summary of the decisions made by (or on behalf of) the Board during the financial year;
- information about the number of licences held under the 2005 Act in each Board's area (including the number of occasional licences issued in each year); and
- such other information about the exercise of each Board's functions as each Board considers appropriate.

3.4 In the year from 1 April 2021 to 31 March 2022, the Licensing Boards met as follows:

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

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

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

4. Summary of decisions made by the Boards

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

4.2 The premises licences granted by the Boards in 2021/22 are detailed within the **Appendix**.

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

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

4.5 In the course of the year, the Licensing Board granted 178 (2020/21 – 108) personal licences. 169 were revoked (2020/21 – none).

5. Reviews

Premises Licence Reviews

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

Personal Licence Reviews

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

6. Licensing Policy Statement

The Board's reviewed Licensing Policy Statement came into effect on 4 November 2018 and will exist for a maximum of 5 years. The Board may agree to prepare and publish Supplementary Statements within that period. The Policy Statement can be found at <https://www.dumgal.gov.uk/article/15196/Divisional-Licensing-Boards>

7. Licensing Standards Officers

7.1 Dumfries and Galloway Licensing Boards have 5 "HMO, Landlord Registration and Licensing Standards Officers" (LSOs):

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

7.2 The LSOs' general roles are:

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

7.3 Following easing of Covid restrictions early 2022, LSOs recommenced routine licensed premises visits.

7.3.1 Common findings Included:

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

7.4 The LSOs continued to deal with enquiries and complaints throughout the year with the majority being resolved without having to proceed formally to the Licensing Boards. Issues which repeatedly arise are:

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

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

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

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

8. Statement on how the Boards exercise their functions

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

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

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

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

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

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

9. Conclusion

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

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

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

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

Appendix

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

Wigtown

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

Annandale & Eskdale

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

Stewartry

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

Nithsdale

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

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

This page is intentionally left blank