

## **DIVISIONAL LICENSING BOARDS CONJOINED**

Conjoined Meeting of Thursday 19 January 2023  
at 10.30am – Hybrid Meeting (Teams and Council HQ, English Street, Dumfries)

### **Members**

#### **ANNANDALE AND ESKDALE DIVISIONAL LICENSING BOARD**

<b>Ian Carruthers (Convener)</b>	-	Annandale South
<b>Karen Carruthers</b>	-	Annandale East and Eskdale
<b>Archie Dryburgh</b>	-	Annandale East and Eskdale
<b>George Jamieson</b>	-	Annandale South
<b>Gail Macgregor</b>	-	Annandale North
<b>Stephen Thompson</b>	-	Annandale North

#### **NITHSDALE DIVISIONAL LICENSING BOARD**

<b>Tony Beretti</b>	-	Mid and upper Nithsdale
<b>John Campbell</b>	-	Nith
<b>Linda Dorward</b>	-	Lochar
<b>Ivor Hyslop (Convener)</b>	-	Lochar
<b>Emma Jordan</b>	-	North West Dumfries
<b>Tracey Little</b>	-	Lochar

#### **STEWARTRY DIVISIONAL LICENSING BOARD**

<b>Tony Beretti</b>	-	Mid and upper Nithsdale
<b>Dougie Campbell</b>	-	Dee and Glenkens
<b>Iain Howie</b>	-	Castle Douglas and Crocketford
<b>Kim Lowe (Convener)</b>	-	Abbey
<b>Andy McFarlane</b>	-	Dee and Glenkens

#### **WIGTOWN DIVISIONAL LICENSING BOARD**

<b>Ben Dashper</b>	-	Stranraer and the Rhins
<b>Andrew Giusti (Convener)</b>	-	Stranraer and the Rhins
<b>Katie Hagman</b>	-	Mid Galloway and Wigtown West
<b>Chrissie Hill</b>	-	Stranraer and the Rhins
<b>David Inglis</b>	-	Mid Galloway and Wigtown West
<b>Jackie McCamon</b>	-	Mid Galloway and Wigtown West

**VLAD VALIENTE**  
Clerk to the Licensing Board

## **Divisional Licensing Boards Conjoined**

Conjoined Meeting of Thursday 19 January 2023  
at 10.30am – Hybrid Meeting (Teams and Council HQ, English Street, Dumfries)

1. **APPOINTMENT OF CONVENER FOR THIS MEETING**
2. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**
3. **DECLARATIONS OF INTEREST**
4. **LICENSING (SCOTLAND) ACT 2005 (2005 ACT): SECTIONS 6 AND 7 - RENEWAL OF STATEMENT OF LICENSING POLICY AND DUTY TO ASSESS OVERPROVISION** 1 - 6

Next Meeting Date: Date Not Specified

**DUMFRIES AND GALLOWAY LICENSING BOARDS**

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**LICENSING (SCOTLAND) ACT 2005 (2005 Act): SECTIONS 6 AND 7  
RENEWAL OF STATEMENT OF LICENSING POLICY AND DUTY TO  
ASSESS OVERPROVISION****1. Reason for report**

To advise the Boards of their legal obligations and the process involved in respect of renewal of their Statement of Licensing Policy including Overprovision Statement (Policy Statement) and to also seek approval to undertake consultations as part of that process.

**2. Background**

2.1 The Boards' current Policy Statement was finalised and published November 2018 and requires to be renewed and published no later than 18 months after the last Scottish Local Government election. The current Policy statement can be found at [https://www.dumgal.gov.uk/media/17458/Statement-of-Licensing-Policy/pdf/LPS - FINAL - \\_Published 17.12.19.pdf?m=637122790566570000](https://www.dumgal.gov.uk/media/17458/Statement-of-Licensing-Policy/pdf/LPS_-_FINAL_-_Published_17.12.19.pdf?m=637122790566570000)

2.2 As the last Local Government election was 5 May 2022, the date by which the Boards must legally publish a new Policy Statement is **4 November 2023**.

2.3 In preparing the Policy Statement, the Boards must ensure that the policy stated in the Statement seeks to promote the licensing objectives as follows:

- Preventing crime and disorder;
- Securing public safety;
- Preventing public nuisance;
- Protecting and improving public health and
- Protecting children and young persons from harm.

2.4 If a Board so requests, then, in terms of section 6(5) 2005 Act, the Chief Constable, local Health Board or the Council must provide to the Board such statistical or other information as the Board may reasonably require for the purpose of preparing the Statement of Licensing Policy. All four Divisional Boards may wish to bear in mind this statutory power

**Duty to Consult**

2.5 In preparing the Policy Statement, the Boards must consult with:

- The Boards' Local Licensing Forum;
- If the membership of the Forum is not representative of the interests of all of the following persons:
  - premises licence holders
  - personal licence holders
  - the chief constable,
  - persons having functions relating to health, education or social work,
  - young people,
  - persons resident within the Forum's area.

- Then consult with such person or persons as appear to the Board to be representative of those interests of which the membership is not representative,
- The relevant Health Board and
- Such other persons as the Boards think appropriate.

Suggested Consultees are detailed at **Appendix 1** for all four Boards' approval.

#### 2.6 Proposed First Consultation: 31 January to 28 February 2023

It is suggested that an initial, informal four week consultation take place with statutory consultees. The objective of this consultation is to advise that a consultation is underway, give general background to it and also seek general views on the contents of the current Policy Statement. It is intended that the delivery mode for this consultation will be various Social media fora, the Council website, the issuing of a press release and emailing letters.

#### 2.7 Proposed Second Consultation: 1 April to 15 June 2023

It is intended that a more comprehensive, formal consultation take place for a period of around 10 weeks. The objective of this consultation will be to ask specific questions and seek feedback with regard to policy areas and to also possibly feed in comments/ questions raised throughout the first consultation. The statutory consultees will remain as per the first consultation and the mode of delivery will also remain the same (various social media fora, advertising on the Council webpage, issuing a press release and emailing letters).

A Consultation Questionnaire will be drafted and circulated for this formal Consultation.

#### 2.8 A public meeting may take place (hybrid or remote): 1 April to 15 June 2023

It is intended that a public meeting may take place during the formal consultation period. The objective of this meeting will be to receive feedback from the general public in relation to the terms of the Policy Statement and note suggested changes (if any). The date, time and mode of this meeting will be advertised in advance via social media, a press release and on the Council's webpage inviting proposed attendees to contact the Licensing Office to confirm attendance. All four Conveners would be invited to attend this meeting also.

#### 2.9 Evidence Based Sessions

Following close of Consultation, it is also suggested that evidence based sessions may be held, if necessary, on specific policy proposals depending on the content of responses received.

#### 2.10 Board meetings to analyse results: September 2023

At the close of Consultation, all responses received will be analysed and summarised and put before each respective Board at four separate meetings (or a Conjoined Board meeting if appropriate) to enable each Board to consider responses that are relevant to their particular areas. It is anticipated that these four separate Board meetings will take place around early September 2023

#### 2.11 Further conjoined Board meeting: October 2023

A further conjoined meeting of all four Divisional Licensing Boards will take place early October 2023 with a view to approving and adopting the final terms of the Policy Statement for publication.

### **DUTY TO ASSESS OVERPROVISION**

## **3. Background**

3.1 Within the new Policy Statement, the Board is obliged to include an 'Overprovision Statement'. An Overprovision Statement is a statement as to the extent to which the Boards consider there to be overprovision of licensed premises (or licensed premises of a particular description) in any locality within the Board's area. Licensed premises do not include premises that have an occasional licence in effect.

3.2 It is for the Boards to determine the 'localities' within their areas for the purposes of the overprovision assessment and the Boards may determine that the whole of their respective areas is a locality.

3.3 In considering whether there is overprovision in any locality, the Boards must have regard to:

- (i) The number and
- (ii) The capacity of licensed premises in the locality

3.4 The Boards may also have regard to such other matters as the Board thinks fit including, in particular, the licensed hours of licensed premises in the locality, and they must consult the following persons when undertaking the overprovision assessment:

- the Chief Constable
- the relevant Health Board
- such persons as appear to the Board to be representative of the interests of—
  - (i) holders of premises licences in respect of premises within the locality,
  - (ii) persons resident in the locality, and
- such other persons as the Board thinks fit.

It is suggested that those who are consulted in respect of the Policy Statement (detailed at **Appendix 1**) are also consulted with regard to the Overprovision Assessment.

It is also suggested that the consultation in respect of overprovision takes place **1 April to 15 June 2023**.

3.5 The Boards undertook an overprovision assessment whilst reviewing the current Policy Statement (2018-2023). This assessment included considering the terms of an Alcohol and Drugs Partnership (ADP) report following a presentation from the ADP on behalf of the NHS at individual meetings in September 2018. After much discussion and deliberations, all four Boards determined that there is no overprovision of licensed premises or licensed premises of a particular description in any locality within their respective areas.

3.6 In terms of section 125 of the 2005 Act, members' clubs are discounted from the overprovision assessment provided that those clubs meet the criteria contained in the Licensing (Clubs) (Scotland) Regulations 2007.

3.7 It should also be remembered that overprovision of licensed premises constitutes a ground of refusal for a premises licence in terms of section 23(5) of the 2005 Act.

3.8 The Scottish Government Guidance 2007 contains a guidance section on overprovision. In terms of section 142 2005 Act, Licensing Boards must have regard to this guidance in the exercise of their functions under the 2005 Act. This includes the assessment of overprovision. However, it is widely recognised by the trade, practitioners and Boards that this guidance needs updated and this has been communicated to the

Scottish Government. At the time of writing this report the author is not aware of any updated guidance yet being issued.

### 3.9 LICENSED HOURS

Members are requested to agree whether or not they wish (i) to include licensed hours in the overprovision assessment and/or (ii) any other matter that they think fit.

Licensed hours were not included at the last 2018 assessment.

### 3.10 LOCALITIES

It is for the Licensing Board to determine the “localities” within the Board's area for the purposes of this Act and in doing so the Board may determine that the whole of the Board's area is a locality.

Localities agreed at the last 2018 assessment reflect the current Divisional Board areas.

### 3.11 CATEGORIES OF LICENSED PREMISES TO BE USED

Members are asked to agree the categories of licensed premises to be examined for the purposes of overprovision.

The categories used in the 2018 assessment were both on and off sales within localities.

## **4. Summary of next steps for the Policy Statement including Overprovision Assessment**

### 4.1 Policy Statement:

- 31 January to 28 February 2023: informal Consultation takes place with relevant persons/organisations
- 1 April to 15 June 2023: formal consultation takes place with consultees detailed at Appendix 1;
- 1 April to 15 June 2023: hold a public meeting for engagement (hybrid or remote)
- July 2023: Evidence based session/s may take place if relevant
- September 2023: Board meetings to take place analysing responses
- October 2023: Conjoined Board meeting takes place to approve and adopt final terms of the Policy Statement including Overprovision Assessment

### 4.2 Overprovision Assessment

- 31 January to 28 February 2023: informal consultation takes place with relevant persons/organisations
- 1 April to 15 June 2023: formal consultation takes place with consultees detailed at Appendix 1;
- July/August 2023: presentations from NHS/ADP on their evidence based view as to whether there is overprovision of licensed premises within localities to a Conjoined Board;
- October 2023: Conjoined Board meeting takes place to approve and adopt final terms of the Policy Statement including making an evidence based determination as to whether there is Overprovision of licensed premises in localities based on the non exhaustive list of responses received/data and statistics

## **5. Recommendations**

Members are asked to:

- 5.1 Agree that an informal Consultation take place with regard to review of the Policy Statement from **31 January to 28 February 2023**;
- 5.2 Agree that a formal Consultation take place in respect of both review of the Policy Statement and duty to assess Overprovision from **1 April to 15 June 2023**;
- 5.3 Agree to the proposed list of consultees detailed at **Appendix 1** in respect of both Consultations as above;
- 5.4 Remit to the Clerk the power to arrange and finalise this Consultation process including possibly undertaking a public meeting and Evidence Based sessions if relevant/required;
- 5.5 Agree whether or not licensed hours should be taken into account for the purposes of the overprovision assessment and/or whether there is any other matter that should be taken into account;
- 5.6 Agree on what will constitute a locality for the basis of the overprovision assessment;
- 5.7 Agree on the categories of licensed premises to be used for the overprovision assessment;
- 5.8 Agree to next steps in the process as detailed at paragraphs 4.1 and 4.2 above including the holding of further meetings by separate Boards and a Conjoined Board as may be required;
- 5.9 Note that a report following the final Consultation will be submitted to a conjoined meeting of all four Divisional Boards early **October 2023** when all responses/data/statistics in relation to both review of the Policy Statement and overprovision assessment will be considered and agreed with a view to finalising the Policy Statement 2023/2027 for publication by **4 November 2023**.

Caroline Treanor  
Solicitor  
Corporate Services  
11 January 2023

Vlad Valiente  
Clerk to the Licensing Board  
Corporate Services  
English Street  
Dumfries DG1 2DD

### **Appendix**

Appendix 1 - Suggested List of Consultees

### **Background papers**

Current Licensing Policy Statement

[https://www.dumgal.gov.uk/media/17458/Statement-of-Licensing-Policy/pdf/LPS - FINAL -  
Published 17.12.19.pdf?m=637122790566570000](https://www.dumgal.gov.uk/media/17458/Statement-of-Licensing-Policy/pdf/LPS_-_FINAL_-_Published_17.12.19.pdf?m=637122790566570000)

## **Appendix 1**

### **Suggested Consultees (including statutory) for both Consultations include:**

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