

**REPORT BY THE CLERK TO THE LICENSING BOARD
OF 13th June 2019**

Subject: Annual Functions and Financial Reports

1. Purpose

To advise the Board of the requirement for an annual functions report as well as a financial report imposed by changes to the Licensing (Scotland) Act 2005 with the commencement of section 56 of the Air Weapons and Licensing Act 2015..

2. Recommendation

It is recommended that the Board approves the annual functions and financial report set out in Appendix 1.

3. Background

3.1 In terms of The Licensing (Scotland) Act 2005 as amended by Section 56 of The Air Weapons and Licensing (Scotland) Act 2015 Licensing Boards must prepare and publish an annual functions and financial report.

3.2 The annual functions report must include:-

- a statement explaining how the Board has had regard to the licensing objectives, and their licensing policy statement in the exercise of their functions during the financial year,
- a summary of the decisions made by (or on behalf of) the Board during the financial year, and
- information about the number of licences held under this Act in the Board's area (including information about the number of occasional licences issued during the year).

3.3 The annual financial report must include :-

- a statement of the amount of relevant income received by the Board during the financial year;
- the amount of relevant expenditure incurred in respect of the Board's area during the year; and
- an explanation of how the amounts were calculated.

3.4 The Scottish Government has not given any greater specification as to how the reports are to be presented. The draft report annexed hereto provides all the required information and is an accurate representation of the Board's actions and financial position for the financial year 2018-2019

4. Proposals

The Board should approve the report.

5. Equalities

- 5.1 This report is not proposing new services, policies, strategies, or plans (or significant changes to or reviews of them). It does not propose decisions about budgets, including budget cuts or service reductions. This report therefore has not been assessed for equalities impacts.

6. Sustainable Development Implications

- 6.1 This report does not propose or seek approval for a plan, policy, programme or strategy or document otherwise described which could be considered to constitute a plan, programme, policy or strategy

7. Options Appraisal

- 7.1 An options appraisal has not been carried out in relation to the subject matter of this report.

Background Papers

Licensing (Scotland) Act 2005
<http://www.legislation.gov.uk/asp/2005/16/contents>

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Date: 12th June 2019

South Ayrshire Licensing Board

Annual Functions & Financial Report

2018 / 19



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1.0 Introduction – South Ayrshire Licensing Board

1.1 South Ayrshire Licensing Board (“the Board”) is the licensing authority for the local government area of South Ayrshire.

The current Board, which was formed in May 2017, comprises nine members, all of whom are elected members of South Ayrshire Council. The Board is responsible for the functions set out in paragraphs 1.3 and 1.4 below within South Ayrshire. The administration team for the Licensing Board is based in Country Buildings, Wellington Square, Ayr.



Craig Mackay, Chair



Laura Brennan-Whitefield



Siobhian Brown



Andy Campbell



Douglas Campbell



Ian Fitzsimmons



Lee Lyons



Bob Pollock



Margaret Toner

1.2 South Ayrshire is situated in the south west of Scotland and covers an area of 422 square miles, extending from Troon and Symington in the north to Ballantrae in the south. It includes the towns of Ayr, Troon, Prestwick, Maybole and Girvan, together with an extensive rural area containing many small villages. It has a population of 112,550 of which 19% are aged under 18.

1.3 The Licensing (Scotland) Act 2005 as amended ("the Act") makes provision for regulating the sale of alcohol and for regulating licensed premises and other premises on which alcohol is sold.

1.4 Under the Act, Licensing Boards are responsible for considering applications for:-

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

2.0 The Licensing Objectives

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

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 is required to have regard to the licensing objectives.

3.0 Annual Function Report

3.1 In the year from 1 April 2018 to 31 March 2019, the Board met 10 times to determine applications.

The minutes of the Board are available at: <https://www.south-ayrshire.gov.uk/committees/agendas.aspx> The Board also held two special meetings in June and October to discuss the Statement of Licensing Policy.

3.2 Applications before the Board were dealt with in an open and transparent manner in accordance with licensing legislation and its three year statement of licensing policy 2013-2016, as extended under transitional arrangements. That policy was then superseded by the Board's new policy which took effect as of 22nd November 2018. A copy of the Board's statement of licensing policy is available at: <https://www.south-ayrshire.gov.uk/licensing/documents/pol20181203licpol%20final.pdf>

3.3 Information and assistance was made available to persons wishing to apply for a licence, make representations or lodge objections. In addition, the Board's Statement of Licensing Policy has a link to a resource developed by Alcohol Focus Scotland to assist anyone wishing to make an objection or representation which is available at <https://www.alcohol-focus-scotland.org.uk/media/133477/Community-licensing-toolkit.pdf>

3.4 The Board is aware of the need to ensure that the licensing process is accessible to all. Assistance is therefore always available on request for those who require special arrangements to access any part of the process.

3.5 At all meetings, the Board attempted to make the process as informal as possible and consistent with the carrying out of the Board's quasi-judicial function. The Board always attempts to follow best practice in enforcement which will in its actions be proportionate, accountable, consistent, transparent and targeted.

4.0 Decisions of the Board

4.1 Each application for a provisional premises licence or a major variation of a premises licence was decided on its merits. There were no objections to the provisional premises licence granted and the objections to one of the major variations were withdrawn when the applicant decided not to proceed with proposed new hours.

The only provisional premises licence granted in 2018/19 is listed at Appendix 1. This licence has not been confirmed as of 31st March 2019. All but one of the provisional licences granted in 2017/18 have now been confirmed

4.2 During the course of the year, the Board granted 697 occasional licences. The register of occasional licences is available at:- <https://www.south-ayrshire.gov.uk/licensing/occasional-licence/>

The Board will not normally grant occasional licences with a terminal hour later than midnight as it recognises the need to protect the amenity of the surrounding neighbourhood but has granted some occasional licences beyond midnight in venues which are isolated and are unlikely to cause disturbance to neighbours.

4.3 The vast majority of the occasional licences applications are dealt with under delegated powers but if the application was for hours beyond midnight or there were objections or representations then the application was referred to the Board for a decision.

4.4 There are currently 408 licensed premises in South Ayrshire. A register of current Premises Licences is available at:- <https://www.south-ayrshire.gov.uk/licensing/premises-licence/>

4.5 In the course of the year the Licensing Board granted 206 personal licences and 1 application was refused following an objection from Police Scotland. 182 personal licences were revoked during the year because the licence holders had failed to meet the refresher training requirements and a further personal licence was revoked following a review requested by Police Scotland. One personal licence holder who had been convicted of a relevant offence had his personal licence reviewed and the Board endorsed the licence but took no further action.

5.0 Licensed Hours

- 5.1 In granting licences the Board recognises that licensing hours are important to individual licensed premises, but can have a wider impact for an area. Balanced against this, the Board does not wish to unnecessarily inhibit the development of thriving and safe evening and night time local economies which are important for investment, employment and tourism. The Board considers that the on sale policy hours are appropriate for South Ayrshire and represent a balance between the interests of the public, residents, licensed businesses and patrons of licensed premises.
- 5.2 For applications relating to premises licences and occasional licences, the Board's general policy on the licensed hours for the sale of alcohol for consumption on the premises is that the maximum period granted will be 14.5 hours.
- 5.3 In terms of the Act, the sale of alcohol for consumption off the premises is not permitted before 10.00am or after 10.00pm. The Board's policy is that maximum available licensed hours of 10.00am to 10.00pm each day are generally appropriate for off sales. However, each off sales application will be assessed on its own merits against these licensed hours to ensure that the licensing objectives are being promoted in such applications. If this is not demonstrated to the Board, the Board may grant reduced hours for off sales.
- 5.4 The Board has not permitted opening of any licensed premises before 10am except by way of an extended hours application for a members club on good cause having been shown. The Licensing Forum has advised the Board that it does not support premises being allowed to open before 10am.
- 5.5 Extended hours applications are individually assessed on their own merits. When the extended hours sought are in respect of on sale premises and fall outwith on sale policy hours appropriate to the applicant's premises, the applicant is required to demonstrate to the Board that there are good reasons for the hours sought and that the hours are appropriate in the circumstances. The applicant will require to provide the Board with sufficient information to enable a decision to be made in this regard.

This information will include:-

- the hours sought;
- a description of the special event or occasion;
- the proposed activities to take place during these hours;
- when each activity will take place;
- why the event or occasion is considered to be special;
- why the event or occasion cannot take place within the on sale policy hours appropriate to the applicant premises.

Any application which is for more than an additional hour or which would involve premises being open later than 02:30 is referred to the Board for a decision and is not dealt with under delegated powers.

- 5.6 The Board permits on sales premises to apply for extended hours during the festive period 1st December -2nd January when it will generally permit trading for an additional hour. Many premises already have this embedded in their licence as a seasonal variation.

6.0 Licensing Board Training

- 6.1 The current Board comprises 9 members who were elected in the local council elections in May 2017.
- 6.2 Board members received statutory training from Alcohol Focus Scotland in licensing legislation and Board functions. This included a post training examination which all were required to pass with a minimum of 75% before they were permitted to make any decisions.
- 6.3 The Board recognises the need for continuous development of understanding and awareness of licensing law and practices, and having an up to date knowledge of the effects of alcohol on people across South Ayrshire is essential to making informed licensing decisions. It regularly receives updates from Police Scotland and from officers of the Council.

7.0 Licensing Forum

- 7.1 The role of Licensing Forum is to keep under review the operation of the Act in the South Ayrshire area and to give advice and make recommendations to the Board in relation to such matters as the Forum considers appropriate. The Forum is the community's voice on alcohol licensing issues.
- 7.2 It has proved challenging to keep a full membership of the Forum, particularly in relation to representation for young people and minority groups. Full details of Forum membership is available at: <https://www.south-ayrshire.gov.uk/licensing/forum.aspx>
- 7.3 The Forum meets on a quarterly basis and has a joint meeting with the Board once a year. These meetings are open to the public. The minutes of the Forum are available at: <https://www20.south-ayrshire.gov.uk/corporateservices/LegalAdmin/SitePages/Agenda,%20Papers%20and%20Minutes.aspx>
- 7.4 Representatives of the Forum try to attend Board meetings to keep up to date with Board decisions and the minutes of the Board are discussed at each Forum meeting. Board members will attend the Forum by invitation.

8.0 Reviews

- 8.1 One premises was taken to review by the licensing standards officer for failing to comply with the conditions of the premises licence. In that case the Board varied the terms of the premises licence. A second premises was reviewed at the request of Police Scotland and in that case the premises licence was revoked on the grounds that the licence holder was no longer a fit and proper person to hold a licence.
- 8.2 Two personal licence holders have also had their licences reviewed by the Board. In one case the personal licence was revoked because of the serious nature of the offence which the licence holder had been convicted of. In the other case the Board endorsed the personal licence.

Twelve premises are currently suspended due to non-payment of annual fees. These premises may be re-instated once all outstanding fees have been paid. These premises are listed in Appendix 2. The Board has in the past suspended the premises licence of any premises which have breached their licence conditions by failing to pay the annual fee. The Board accepts that the annual fee may not have been paid because the premises have not been trading and may be for sale.

However, following on the review of its Licensing Policy if the premises licence remains unpaid for more than two years then the Board may hold a review to consider revoking the premises licence unless the licence holder can show good reason why the licence should not be revoked

8.3 Members have also been briefed by Police Scotland on their policy of using interventions when there has been an incident on licensed premises. The Board is aware that if the intervention is successful then the matter will not be brought to the Board thus ensuring that only the most serious incidents are brought to the Board.

9.0 Licensing Standards Officer

9.1 South Ayrshire Licensing Board has one Licensing Standards Officer, Mrs Catrina Andrew. The Licensing Standards Officer for a council area has the following general functions:-

- providing information and guidance concerning the operation of licensing legislation in South Ayrshire,
- supervising the compliance of licence holders with the conditions of their licences and other requirements of licensing legislation,
- providing mediation services for the purpose of avoiding or resolving disputes or disagreements between the licence holders any other persons.

9.2 Mrs Andrew has dealt with numerous complaints and enquiries throughout the year, the vast majority of which have been resolved without matters having to proceed to any formal review before the Board. Issues which have occurred repeatedly relate to:-

- noise from licensed premises (including those with occasional licences)
- compliance with legislation
- inadequate staff training.

9.3 Mrs Andrew, in conjunction with two local personal licence holders, organised two further free training events for staff in local premises (both on and off) which were very well attended and which meant that the staff who attended are now properly trained. Members of the Board also attended for interest.

10.0 Statement of Licensing Policy

10.1 The Board inherited the policy of the previous Board but has now carried out a comprehensive review of its policy. The Board noted the issues which have been raised by the Licensing Forum and the issues which were highlighted at an information gathering event in 2018 which was attended by the Board members, Community Councils, Licence holders, as well as representatives from Environmental Health, Police Scotland and Public Health.

10.2 The Board identified 3 main areas it wished to address:-

- Access to licenced premises and events for young people
- Noise issues from licenced premises
- Overprovision of off-sales premises

10.3 The Board wished to strike a balance, in support of the objective of protecting children and young persons from harm, by suggesting that moderate on-premises consumption of alcohol in a well-run and supervised family friendly environment is better able to protect children and young people than any provisions the Board could make to discourage families consuming excessive alcohol in their homes.

Children attending events with Occasional Licences are also a complex matter. The wide range of events in South Ayrshire's vibrant calendar is of significant importance to the local economy. Every event has different requirements; however there have been some good examples throughout the year where event organisers have worked with the Licensing Standards Officer to ensure that young attendees can fit seamlessly into the event arrangements, ensuring the licensing requirements are adhered to without requiring more onerous measures. The new policy specifically encourages organisers of larger events to discuss their plans with the Licensing Standards Officer before submitting their application. In doing so it is the Board's intention to highlight examples of good practice, which for larger events may include laying out food and drinks vendors within a shared space, rather than having a separate "beer tent".

- 10.4 On noise related issues, the Board's focus was on clarifying the policy. There was consensus that noise nuisance is best dealt with through Environmental Health, and that the Board's previous policy which was slightly at variance with the statutory duties of Environmental Health served only to make enforcement more complex.

The Board has however strengthened the protection for neighbouring properties. New live entertainment venues will be encouraged to engage a noise consultant to demonstrate how noise nuisance will be prevented, with adequate design and management measures in place to minimise any risk of disturbance to neighbouring properties. Additional safeguards will also be introduced for occasional licences for events in marquees

- 10.5 The Board considered the possibility of adopting a policy on overprovision in significant detail, specifically in relation to off sales, both at the pre-consultation stage and following receipt of consultation responses and further discussions with NHS Public Health. It fully recognises the concerns from a public health point of view about the availability of alcohol and links which can be made with anti-social behaviour but in the end the Board took the view that there was no overprovision of off sales. Further information on this is contained in Appendix 2 of the Board's Policy Statement. The final policy was approved in November 2018.

11.0 **Conclusion**

- 11.1 The Board is pleased to report that licensed premises in South Ayrshire have been well run and generally problem free in the last year. In this respect the Board congratulates and thanks the licensed trade in its efforts in promoting and upholding the licensing objectives and complying with the Board's policy.
- 11.2 The Board also recognises the efforts of the many officers and partners involved in ensuring that licensed premises in South Ayrshire are compliant with and kept well informed of the requirements of the array of licensing legislation and regulations.
- 11.3 While there is no doubt that South Ayrshire licensed premises are well run, the Board will continue to ensure that there is no complacency in promoting good practice and that the licensing objectives are complied with.

South Ayrshire Licensing Board
Income and Expenditure Report -Licensing (Scotland) Act 2005 section 9B
Financial year 2018/2019

Income

Liquor licensing fees	£182,885
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Expenditure

Staff Costs	£95,231
Other expenditure	£96,655
Total Expenditure	£191,886
Deficit (Income – Expenditure)	£9,001

Note

The income comprises application fees and annual fees.

The staff costs shown reflect the proportion of staffing costs attributable to the liquor licensing function. The costs include salary, superannuation, national insurance and pension costs.

Other expenditure includes supplies and services and a portion of central administrative costs such as accommodation, ICT, facility management etc. that are allocated to the Licensing Board.

Appendix 1

Provisional premises licences granted in 2017/18

Turnberry Gardens, Craig Tara, Craig Tara Holiday Park, Dunure Road, Ayr

Appendix 2

Premises suspended due to non-payment of annual fees

1. Shop premises, 1 Morrison Gardens, Ayr
2. The Village Store, 2 Kennedy Drive, Dunure
3. River Cottage, 4 River Terrace, Ayr
4. Blossom Place, 41 South Harbour Street, Ayr
5. Cosses Country House, Ballantrae
6. Hula, 11 Burns Statue Square, Ayr
7. L And M's 1A Bath Place Ayr
8. Brunston Castle Golf Course, Golf Course Road, Dailly
9. Plough Inn, 10 Cunningham Street, Tarbolton
10. Elms Court Hotel, 21-23 Miller Road, Ayr
11. Douneburn Stores, 29 Kirkpatrick Street, Girvan
12. Ayr Town Lodge, 9-11 Barns Street, Ayr