

Renfrewshire Council

To: Renfrewshire Licensing Board

On: 21st June 2021

**Report
by
Clerk to the Licensing Board**

Annual Functions Report 2020-2021

1. Summary

- 1.1 The purpose of this report is to seek approval of the draft Annual Functions Report at Appendix 1 as suitable for publication.

2. Background

- 2.1 Section 9A of the Licensing (Scotland) Act 2005 (“the Act”) requires that the Licensing Board, on an annual basis, publish an Annual Functions Report. The Board’s first Annual Functions Report required to be published in 2018, for the financial year 2017- 2018, with subsequent reports due annually thereafter.
- 2.2 The report must contain information in relation to the preceding financial year to 31st March, including:
- (i) An explanation as to how the Board has had regard to the licensing objectives;
 - (ii) An explanation as to how the Board has had regard to its policy statement and any supplementary policy statement (including its overprovision assessment);
 - (iii) A summary of the decisions made by, or on behalf of, the Board; and
 - (iv) Information about the number of licences held under the 2005 Act in the Board’s area, including occasional licences.
- 2.3 The report may also contain other information about the exercise of the Board’s functions, at the Board’s discretion.

- 2.4 The Annual Functions Report requires to be published by 30th June 2021, except, in terms of emergency changes to the above legislation, where this deadline cannot be met for a reason relating to coronavirus.
- 2.5 The Board's approval of the Annual Functions Report at Appendix 1 is now sought to enable the above requirement to be met.

3. Recommendations

- 3.1 It is recommended that the Board agree publication of the report attached at Appendix 1.



Kenneth Graham
Clerk to the Licensing Board

RENFREWSHIRE LICENSING BOARD

The Licensing (Scotland) Act 2005

Annual Functions Report 2020-2021

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1. INTRODUCTION

- 1.1 This Annual Functions Report has been prepared by Renfrewshire Licensing Board (“the Board”) in terms of Section 9A of the Licensing (Scotland) Act 2005 (“the Act”). The Act requires this report to include the following:
1. A statement explaining how the Board has had regard to –
 - a) The licensing objectives; and
 - b) Their licensing policy statementin the exercise of their functions under the Act during the financial year.
 2. A summary of the decisions made by (or on behalf of) the Board during the financial year; and
 3. Information about the number of licences held under the Act in the Board’s area (including occasional licences).

The Board may also include other information about the exercise of the Board’s functions as the Board considers appropriate.

- 1.2 This Annual Functions Report has been prepared for the financial year 2020-2021.

2. BACKGROUND INFORMATION

- 2.1 When undertaking its functions, the Board has regard to the Licensing Objectives under the Act and to its own Statement of Licensing Policy. The Board published its current Statement of Licensing Policy, as required under the terms of the Act, in November 2018.

- 2.2 The Act sets out the Licensing Objectives, which are:

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

3. SUMMARY OF DECISIONS AND INFORMATION ABOUT LICENCES HELD

3.1 Under the Act and the Board's current Statement of Licensing Policy, matters which are dealt with at a meeting of the Board are:

- Premises licence applications;
- Major variations to premises licences;
- Application for transfer of a premises licence where the applicant has been convicted of a relevant offence or a foreign offence; or where a notice recommending refusal or other information is provided by the Chief Constable;
- Personal licence applications or renewals where there is a recommendation for refusal from the Chief Constable;
- Reviews of premises licences and personal licences;
- Closure orders; and
- Refusal of any application for confirmation of a provisional premises licence.

3.2 The Clerk and Depute Clerks have delegated authority to determine most of the applications which do not fall within the above categories, provided that there are no objections or representations received from the Chief Constable or other consultees and the application is within policy hours. If there is an objection or representation to an occasional licence or an extended hours application, or if the hours sought are outwith the policy hours, then the application will be considered by two members of the Board. In practice, one of the members who determines the application is usually the Convener of the Board. Further information on the Board's decision-making framework is set out in the Board's Statement of Licensing Policy at Paragraphs 5.3 to 5.7.

3.3 These delegated powers ensure that the Board provides an efficient and cost-effective service to all those involved in the licensing process. At the same time, the delegated powers are limited to ensure that any potentially controversial applications are appropriately scrutinised by members of the Board while having due regard to the Licensing Objectives and the Board's Statement of Licensing Policy.

3.4 A summary is provided in Annex 1 of licences (including occasional licences) held in Renfrewshire in the financial year 2020-2021 and the number of licensing applications/ reviews considered, and the decisions made in relation to them. It should be noted that the number of liquor licence applications received in 2020 to 2021 was lower for most application types than in 2019 to 2020 as a result of the global pandemic and the restrictions imposed upon on-

licensed premises, which required to be closed during certain periods of the year. The Licensing Board were also unable to hold meetings between the onset of the pandemic and late summer 2020. A notable exception to the reduction in applications is in relation to occasional licences, the number of which increased, due to applications received and considered to enable premises to offer external drinking areas.

- 3.5 Eight premises licence applications (including provisional licence applications) were received during the financial year 2020-2021. The number of such applications considered in the same period was three, all of which were applications for provisional premises licences, and these applications were granted. Several of the applications made within the period were not received until late in the financial year and were not therefore able to be considered before 31st March.
- 3.6 However, in approving each of these applications the Board attached additional conditions. In the case of one of the premises, the Board granted the licence subject to a condition in relation to CCTV, as requested by Police Scotland. As all three of the applications related to the provision of off sales of alcohol, the Board attached the conditions set out in its Statement of Licensing Policy in relation to alcohol deliveries, which they considered necessary for the purposes of protecting children and young persons from harm.
- 3.7 In addition to applications for proposed new licensed premises, the Board also received 16 applications for major variation, 11 of which were considered before the end of the financial year (as with applications for new licences, a number of applications were received towards the end of the period). While the Board granted the 11 applications, they considered it necessary, in a number of them, for the purposes of the licensing objectives to impose additional conditions and in two cases the terminal hour for external areas was restricted to 9pm. In three cases, further conditions were imposed in relation to the management of external areas, for the purpose of preventing crime and disorder and preventing public nuisance. The Board also imposed, in two of these cases, conditions for the purpose of protecting children and young persons from harm. In four other cases, the Board attached conditions relating to alcohol deliveries where off sales were being provided, in accordance with the Board's Statement of Licensing Policy.
- 3.8 Five premises licence review hearings were held during 2020-2021. One review related to non payment of an annual fee. No action was ultimately taken by the Board, in circumstances where payment was made at the time of the hearing and an application was received seeking transfer of the licence to another party. In relation to the other review hearings, two were concerned with incidents where premises were alleged to have breached public health restrictions relating to the coronavirus. In one of these reviews, the Board,

having regard to the licensing objectives of preventing crime and disorder and protecting and improving public health, found the licence holder no longer fit and proper to hold the licence and accordingly required to revoke that licence. In the other, the Board found grounds for review to be made out, but accepted that culpability lay with a personal licence holder for the incident and that, on learning of the incident, the premises licence holder had taken appropriate measures. As such, the Board decided to take no further action.

- 3.9 The other two review applications considered by the Board during the year related to grounds said to be relevant to the licensing objectives of preventing crime and disorder, securing public safety, preventing public nuisance and protecting children and young persons from harm and were made by Police Scotland following alleged incidents on premises. In one of these reviews, the Board found the grounds for review established and varied the licence by adding conditions to achieve improved monitoring of the premises by management. In the other review, the Board continued consideration of the application to allow monitoring of action to be taken by the licence holder on a voluntary basis as they had agreed with Police Scotland. The matter as such remains to be determined by the Board.
- 3.10 A personal licence application was refused during 2020-2021 on the basis the Board considered the applicant not to be a fit and proper person. Four reviews of personal licences were also considered. One of these resulted in no action being taken by the Board, while another resulted in a licence being endorsed as necessary for the purposes of preventing crime and disorder and securing public safety. The other two reviews concerned alleged breaches of public health restrictions relating to the coronavirus. The Board found both personal licence holders to no longer be fit and proper to hold their licences, having regard to the licensing objectives of preventing crime and disorder and protecting and improving public health, and as such the Board were required to revoke these personal licences.
- 3.11 As stated at Paragraph 3.4 above, an increased number of occasional licence applications was received during 2020-21 as compared with the previous year. Applications for occasional licences which related to external drinking areas were considered and determined by two Members of the Licensing Board, with the Licensing Standards Officers preparing a report containing information on these applications. In addition, officers extended the notification procedure for occasional licence applications to include Council Services with a potential interest in the suitability of locations and/or the current public health requirements, to allow them to comment in appropriate cases. With applications being referred to Board Members to determine, further scrutiny was able to be given to any likelihood of public nuisance from outside areas, particularly in the case of premises in the vicinity of residential properties, and

to determine suitable terminal hours for the sale of alcohol and for appropriate children and young persons' access, where applicable.

- 3.12 One occasional licence application in respect of an external area was refused due to concerns over the suitability of that area based on the information provided and another was refused due to public nuisance concerns. However, in numerous cases, Members restricted the terminal hour of outside areas, having regard to the licensing objective of preventing public nuisance, or restricted the terms of children and young persons' access, having regard to the licensing objective of protecting children and young persons from harm.

4 LICENSING POLICY STATEMENT

- 4.1 The Board's current Statement of Licensing Policy ("Statement") was published in November 2018.

- 4.2 In its Statement, the Board considers that Paisley Town Centre is overprovided in respect of "Liquor or Pub Type Premises", being pub type premises used wholly or predominantly for the sale of alcohol. Restaurant, hotel and nightclub premises are excluded from this policy. The Board's current Statement also provides, amongst other things, for local conditions relating to deliveries of alcohol which provide additional safeguards to protect children and young persons from harm.

- 4.3 The above overprovision policy, subject to some revisions, has been in place for a number of years and the licensed trade and their representatives are familiar with its terms. In the financial year 2020-2021, the Board did not receive, nor require to consider, any premises licence applications for "liquor or pub type premises" within the Paisley Town Centre overprovision area. Accordingly, no further such licences have been issued within this area.

- 4.4 As stated above at Paragraphs 3.6 and 3.7, the Board attached the conditions set out in its Statement in relation to alcohol deliveries to a number of premises licences. Where applicants sought to include off sales in, or to add alcohol deliveries to, their licence, applicants were invited to address these policy conditions in their submissions at hearings before the Board, as in the previous year, and in such cases the standard policy conditions relating to alcohol deliveries were attached by the Board. Similarly, Licensing Standards Officers highlighted the need for such conditions in relation to occasional

licence applications, where applicable, to allow officers or Board Members, as appropriate, to consider attaching similar conditions to those licences.

4.5 In accordance with Paragraph 15.4 of its Statement, the Board normally approves a policy on extended hours for licensed premises during the festive period. Although, in 2020-21, officers consulted the Licensing Forum on this matter as provided for in the policy, it became apparent in late 2020 that there was little prospect of extended licensed hours over the festive period given the ongoing level of restrictions generally and in relation to licensed premises in particular.

4.6 The Board has otherwise had regard to the terms of its Statement in considering applications and reaching decisions under the Act in the financial year 2020- 2021. All decisions were made in accordance with the Scheme of Delegation set out in the Board's Statement covering that period. As stated above, applications requiring to be considered by the Board were referred to a hearing before the full Licensing Board and occasional licence applications outwith the terms of the Board's policy, or where comments had been received, were referred to two Members of the Licensing Board for a decision (this was the case for all applications for external drinking areas, as detailed at Paragraph 3.11). In these cases, Members of the Board considered applications referred to them on their individual merits, balancing the terms of the Statement of Licensing Policy and the submissions received, with appropriate consideration of the licensing objectives.

5 FURTHER ACTIONS OF THE BOARD RELATING TO THE LICENSING OBJECTIVES

5.1 Throughout 2020-21, officers and Board Members recognised that the licensed trade, particularly on-sales premises, faced considerable financial and logistical challenges as a result of closure of premises and restrictions to their usual trading models. Officers and Board Members accommodated the licensing of external areas through occasional licence applications and endeavoured to deal with these applications as quickly as possible, while Licensing Standards Officers ensured that sufficient information in relation to the location of premises, proximity to any residential dwellings and other relevant issues (for example, suitability for children's access) was provided to allow robust consideration of applications relative to the licensing objectives.

- 5.2 Licensing Standards Officers prepared a set of conditions which they would propose in relation to any external drinking area applications received, in advance of restrictions being eased in early July 2020. These conditions were designed to ensure the licensing objectives would be met, with particular focus on preventing crime and disorder, preventing public nuisance, securing public safety and protecting and improving public health. In relation to the latter, a condition was developed and requested that premises would only operate where permitted by, and in accordance with, legislation, regulations, directions and guidance of the UK and Scottish Governments, relative to the COVID-19 pandemic, whether relating to the protection of public health, restrictions of social gatherings, requirement for social distancing or otherwise. The condition is now also regularly requested by Police Scotland and is understood to be in use also in other Licensing Board areas.
- 5.3 As detailed at Paragraph 3.11, officers extended the notification procedures for occasional licence applications relating to external areas beyond the statutory minimum requirements. This was particularly to ensure sufficient information was available from relevant Council Services as to the suitability of areas and to ensure there was no inconsistency with the licensing objectives in granting any application, while also ensuring that those responsible for enforcement of public health restrictions were able to comment in appropriate cases. However, licensing officers also worked more extensively with Renfrewshire Council Services in relation to the licensing of external drinking areas. To simplify the procedures for those intending to operate an outside area, a streamlined process was developed to allow any necessary Road Occupation Permit to be obtained in tandem with the licensing process. Further, a working group was established to allow licensing officers to meet regularly with colleagues in Planning, Roads, Environmental Health/Trading Standards and Regeneration to ensure appropriate co-ordination on these matters where required.
- 5.4 The Licensing Board held its annual joint meeting with Renfrewshire Licensing Forum in November 2020. Licensing Standards Officers are members of the Forum and attend the Forum's scheduled meetings throughout the year. A Depute Clerk to the Licensing Board attends Forum meetings regularly to provide updates as required. A report was submitted by the Clerk to the Licensing Board, on the licensing of additional outdoor drinking areas, to the Forum's September meeting in 2020.
- 5.5 The Licensing Board considered and discussed, at their meeting on 28th January 2021, a detailed report by the Renfrewshire Alcohol and Drugs

Commission, which had been set up in 2019 to address the challenges posed by alcohol and drugs in Renfrewshire. The Commission is the first of its kind to be established, relating to both alcohol and drugs.

- 5.6 The Commission's report set out a number of aims with a view to improving the lives of people and families impacted by alcohol and drugs over a five year period, following a period of engagement and evidence-gathering. As well as setting out detailed findings and making recommendations in relation to alcohol harms and available support and providing statistical information, the Commission recognised the important role of the Licensing Board to implement legislation to improve public health, while noting that less data on alcohol related harms exists than in relation to drug related harms. The report recognised that these gaps required to be addressed, to allow the Board access to information not currently available to them. The Commission's report also found that there was potential to strengthen alcohol licensing policy at a national level. The Board Members, in addition to considering the Commission's report at their meeting (as stated at Paragraph 5.5), had given earlier consideration to the report, as Renfrewshire Councillors, at a meeting of the Council in late 2020. It is anticipated that there will be opportunities for Licensing Board Members to further consider the Commission's findings in 2021-22.
- 5.7 The Board's legal officers were not required to complete Continuing Professional Development (CPD) in the period to the end of October 2020 and, in consequence of this, fewer formal training opportunities were available. Officers continued to attend meetings of the Society of Local Authority Lawyers and Administrators (SOLAR) Licensing Group, by remote means. Officers also continued to develop their licensing knowledge through less formal means, including familiarising themselves with, and using, new emergency legislation which relaxed some of the normal procedural requirements in liquor licensing on a temporary basis in light of the pandemic. A Licensing Standards Officer also completed gambling training, part of which related to gambling in liquor licensed premises.
- 5.8 In previous years, Licensing Standards Officers carried out extensive programmes of compliance visits to licensed premises, both in relation to minimum unit pricing and more generally. In 2020-21, licensing compliance visits to licensed premises were limited and in any event many licensed premises required to be closed or to operate under considerable restrictions during a substantial part of the year. However, some visits were carried out. In particular, a Licensing Standards Officer visited licensed premises upon the

easing of lockdown restrictions in early July 2020 as part of a multi-agency initiative involving Police Scotland and Communities, Housing and Planning Services (as they then were) in order to check compliance with both the conditions of occasional licences for external drinking areas and the Health Protection regulations in place at that time. In addition to providing reports in relation to numerous applications to license external areas, Licensing Standards Officers have also addressed complaints against licensed premises (five were received in 2020-21, relating to noise and antisocial behaviour) and have offered mediation between licence holders and neighbouring residents as required.

6. CONCLUSION

- 6.1 The Board is satisfied that, in all decisions made in the financial year 2020-2021, the Board and its officers have had regard to the Licensing Objectives and the Board's Statement of Licensing Policy in their exercise of functions under the Act. The Board has taken firm action when necessary for the Licensing Objectives. At the same time, the Board appreciates the considerable challenges currently facing the licensed trade and continues to encourage and support them to maintain good practice in their premises for the benefit of the people of Renfrewshire.

Liquor Licensing Statistics for Year 2020-21 (Period 01/04/2020 to 31/03/2021)

Local Authority - Renfrewshire	
Premises Licence Statistics	
Licences in Force on 31 March 2021 (this should equal total of a+b+c)	428
(a) on license only	96
(b) off license only	148
(c) both	184
Applications received during 2020-21 (including provisional applications)	
(a) on sale	1
(b) off sale	6
(c) both	1
Applications refused during 2020-21 under section 23	0
Applications granted during 2020-21 under section 23	3
Applications for review of premises licence during 2020-21 under S36 & S37 resulting in:-	
(a) written warning	0
(b) variation	1
(c) suspension	0
(d) revocation	1
(e) no action	2
Occasional Licence Statistics	
Number of Occasional Licences granted during 2020-21	611
Personal Licence Statistics	
Personal Licences in Force on 31 March 2021	1312
Applications during 2020-21 under section 72:-	
(a) refused	1
(b) granted	62
Proceedings taken during 2020-21 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Proceedings taken during 2020-21 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	1
(b) suspension	0
(c) revocation	2
(d) no action	1
Proceedings during 2020-21 under section 86 (multiple endorsements) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Revocations of personal licences during 2020-21 under section 87(3) (failure to provide evidence of having undertaken refresher training)	0
Staff employed at 31 March 2021	
Number (full-time equivalent) of licensing standards officers employed	1