

Renfrewshire Council

To: Renfrewshire Licensing Board

On: 12 January 2023

**Report
by
Clerk to the Licensing Board**

Annual Functions Report 2021-2022

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.

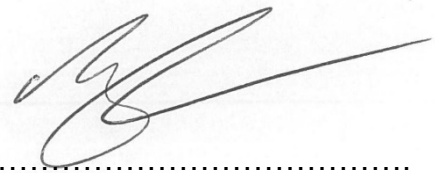
2. Background

- 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 in respect of the period from 1st April 2021 to 31st March 2022 required to be published by 30th June this year, except, in terms of temporary and emergency changes to the above legislation, where this deadline was unable to be met for a reason relating to coronavirus. The Board may recall that the meeting arranged for June 2022 was cancelled in light of technical difficulties relating to access to the online exam platform introduced as a result of the coronavirus pandemic. Officers published information on the licensing web pages to indicate that the Statement would be published before the end of the current calendar year.
- 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.



Mark Conaghan
Clerk to the Licensing Board

RENFREWSHIRE LICENSING BOARD

The Licensing (Scotland) Act 2005

Annual Functions Report 2021-2022

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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 2021-2022.

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 held in Renfrewshire in the financial year 2021-2022 (hereinafter 2021-22") and the number of licensing applications/ reviews considered, and the decisions made in relation to them. In the Annual Functions Report for 2020 to 2021, it was noted that the number of liquor licence applications received was lower in comparison to previous years as a result of the global pandemic and the associated restrictions

imposed upon on-licensed premises. In relation to 2021-22, an increase was seen in relation to some licence types, with others either down slightly or remaining relatively static as compared to the previous year. The numbers of licensed premises in 2021-22 show a slight decrease in the overall number of on-licensed premises and a similar increase in the overall number of off-licensed premises. However, the figures also show a slight decrease in the number of off-sales only applications in the same period and an increase in those relating to premises offering on-sales of alcohol. As in 2020 to 2021, a significant increase was recorded in 2021-22 in relation to the number of occasional licence applications received and granted, with a number of premises continuing to operate external licensed areas. An increase was also noted in the number of personal licences granted as compared to the previous year.

- 3.5 Ten premises licence applications (including provisional licence applications) were received during the financial year 2021-2022. The number of such applications considered by the Board in the same period was twelve, as application processes often straddle more than one financial year due to the statutory procedures involved. These were granted with, in almost all cases, additional conditions. The conditions attached in respect of these applications were generally in relation to deliveries of alcohol offered by premises, with the policy conditions relating to alcohol deliveries set out in the Board's Statement of Licensing Policy being attached to the licence. The Board considered these conditions necessary for the purposes of protecting children and young persons from harm. Other conditions were imposed as appropriate, including a coronavirus-related condition for the purpose of protecting and improving public health.
- 3.6 In addition to applications for proposed new licensed premises, the Board also considered 23 applications within the same period for major variation of premises licences. The Board granted most of these applications, with one exception where they refused to license an external drinking area owing to concerns over the area's suitability for the sale of alcohol. Seven applications were granted with no conditions other than the mandatory ones required by the Licensing (Scotland) Act 2005. In respect of the remainder, the Board, in granting the application for variation, further varied the licence conditions.
- 3.7 As in the case of applications for new licences, many of the applications for major variation sought to introduce alcohol deliveries, with the Board imposing in these cases the conditions set out in their Statement of Licensing Policy in respect of alcohol deliveries, relative to the licensing objective of protecting children and young persons from harm. In some of these cases, the Board also attached further conditions requested by the police in relation to training of delivery drivers and in respect of collections of alcohol, where provided at the premises. In some instances, conditions were imposed in relation to premises seeking to operate an external licensed area with a view to ensuring that the

area would be effectively supervised and managed to prevent public nuisance and/ or to prevent crime and disorder, as well as to protect children and young persons from harm. In some cases, the hours of use of an external area were restricted, or restricted for certain purposes. In relation to two applications, a condition requiring an appropriate number of SIA stewards was imposed, for the purposes of public safety.

- 3.8 Two premises licence review hearings were held during 2021-2022. Both resulted from review applications made by Police Scotland. In one review, the Board had earlier continued the review hearing after initially considering the application to allow the premises a period within which to engage with Police Scotland and for the operation of the premises to be monitored. Although the Board ultimately found grounds for review to be established, they were of the view that no action was necessary or appropriate for the purposes of the licensing objectives as the issues raised had been resolved. In the other review application, the Board found grounds of review established in relation to the licensing objectives of preventing crime and disorder and of protecting children and young persons from harm. A period of suspension of one month was ordered by the Board as necessary or appropriate for the purposes of these licensing objectives.
- 3.9 No personal licence applications were refused by the Board within 2021-22 and no personal licences were the subject of endorsement, suspension or revocation.
- 3.10 As stated at Paragraph 3.4 above, an increased number of occasional licence applications was received during 2021-22 as compared with the previous year. Applications for occasional licences, including those which related to external drinking areas, were considered and determined by two Members of the Licensing Board where representations or objections were received, or conditions requested which were not accepted by the applicant. The Licensing Standards Officer, where appropriate, submitted a report containing information on these applications, resulting in many of these applications being considered by Board Members, as in the previous year. This allowed relevant issues to be scrutinised by Board Members in appropriate cases, such as the suitability of the external areas applied for, the applicable public health restrictions then in place, the hours of operation of the external areas and children and young persons' access. The Board, in appropriate cases, attached conditions as requested by Police Scotland and the Licensing Standards Officer, including regulating external areas and children and young persons' access to these.

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 2021-22, the Board received one premises licence application for on-sales within the overprovision area, but did not require to determine it within that financial year. In any event, the premises offered bar-restaurant facilities. As such, the Board did not have to consider any premises licence applications for "liquor or pub type premises" within the Paisley Town Centre overprovision area in 2021 to 2022. Accordingly, no further licences were issued for such premises within this area.
- 4.4 As stated above at Paragraphs 3.5 to 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 previous years, and in such cases the standard policy conditions relating to alcohol deliveries were attached by the Board as appropriate along with, in some cases, further conditions requested by Police Scotland. 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. While no festive policy had been agreed in the financial year 2020 to 2021 due to the applicable public health restrictions over the Christmas and New Year period, the Board agreed a policy for 2021 to 2022, after consultation with members of the Licensing Forum, which was similar in scope to that which had applied in previous years. As the policy required to be agreed some time prior to the festive period to allow for its implementation, it was introduced subject to any public health restrictions which might be put in place during the festive period agreed by the Board.

- 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 2021-22. 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 to be made. 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 AND OTHER INFORMATION

- 5.1 Throughout 2021-22, 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. As in 2020-21, officers and Board Members continued to accommodate 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 In further recognition of these challenges, officers implemented, in 2021-22, a decision of Elected Members from March 2021 to divert discretionary grant funding to allow on-licensed premises a full refund in respect of their 2020 annual fee payment.
- 5.3 Licensing Standards Officers continued to request additional conditions in relation to applications received for occasional licences in respect of external drinking areas, based on those they had prepared in the previous year. 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, the conditions requested continued to state 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.

- 5.4 Licensing Board Members held their annual joint meeting with Renfrewshire Licensing Forum in November 2021. 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.
- 5.5 Members of the Board visited one licensed premises prior to consideration of an application at their subsequent meeting.
- 5.6 Members of the Board considered the terms of an annual statutory report from the Chief Constable, Police Scotland, at their meeting of 4th February 2022.
- 5.7 The Board's legal officers completed Continuing Professional Development (CPD) as required by the Law Society of Scotland over the course of 2021-22. In particular, the Depute Clerks attended courses run by Central Law Training, with one of them presenting at one of these Conferences. Officers continued to attend meetings of the Society of Local Authority Lawyers and Administrators (SOLAR) Licensing Group, by remote means.
- 5.8 Prior to the pandemic, Licensing Standards Officers had carried out extensive programmes of compliance visits to licensed premises, both in relation to minimum unit pricing and more generally. In 2021-22, as in the previous year, licensing compliance visits to licensed premises were limited and in any event many licensed premises required to operate under considerable restrictions during parts of the year. Licensing Standards Officers again continued to assist licensed premises and members of the public as required, on a case-by-case basis.

6. **CONCLUSION**

- 6.1 The Board is satisfied that, in all decisions made in 2021-22, 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 appreciated the considerable challenges facing the licensed trade within 2021-22 and continued 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 2021-2022 (Period 01/04/2021 to 31/03/2022)

Local Authority - RENFREWSHIRE	
Premises Licence Statistics	
Licences in Force on 31 March 2022 (this should equal total of a+b+c)	431
(a) on sales o	92
(b) off license o	152
(c) b	187
Applications received during 2021-2022	
(a) on s	0
(b) off s	5
(c) b	5
Applications refused during 2021-2022 under section 23	0
Applications granted during 2021-2022 under section 23	10
Applications for review of premises licence during 2021-2022 under S36 & S37 resulting in:-	
(a) written warn	0
(b) variat	0
(c) suspens	1
(d) revocat	0
(e) no act	1
Occasional Licence Statistics	
Number of Occasional Licences granted during 2021-2022	807
Personal Licence Statistics	
Personal Licences in Force on 31 March 2022	1338
Applications during 2021-2022 under section 72:-	
(a) refu	0
(b) gran	103
Proceedings taken during 2021-2022 under section 83 (notice of conviction) resulting in:-	
(a) endorsem	0
(b) suspens	0
(c) revocat	0
(d) no act	0
Proceedings taken during 2021-2022 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsem	0
(b) suspens	0
(c) revocat	0
(d) no act	0
Proceedings during 2021-2022 under section 86 (multiple endorsements) resulting in:-	
(a) endorsem	0
(b) suspens	0
(c) revocat	0
(d) no act	0
Revocations of personal licences during 2021-2022 under section 87(3) (failure to provide evidence of having undertaken refresher training)	0
Staff employed at 31 March 2022	
Number (full-time equivalent) of licensing standards officers employed	1