

Renfrewshire Council

To: Renfrewshire Licensing Board

On: 17th June 2019

**Report
by
Clerk to the Licensing Board**

Annual Functions Report 2018-2019

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 56(2) of the Air Weapons and Licensing (Scotland) Act 2015 introduced a new requirement into the Licensing (Scotland) Act 2005 ("the 2005 Act") that the Licensing Board, on an annual basis, publish an Annual Functions Report. The first Annual Functions Report required to be published in 2018, for the financial year 2017- 2018, after the requirement was introduced.

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 for the financial year to 31st March 2019 requires to be published by 30th June 2019.

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 –

3.1.1 Agree publication of the report attached at Appendix 1.

A handwritten signature in cursive script, appearing to read "K. Graham", is written over a horizontal dotted line.

Kenneth Graham
Clerk to the Licensing Board

RENFREWSHIRE LICENSING BOARD

The Licensing (Scotland) Act 2005

Annual Functions Report 2018-2019

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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 2018-2019.

2. BACKGROUND INFORMATION

2.1 When undertaking its functions, the Board has regard to the Licensing Objectives 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 the applicant has been convicted of a relevant offence or a foreign offence;
- 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.

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 2018- 2019 and the number of licensing applications considered, and the decisions made in relation to them.

3.5 Ten premises licence applications were considered and granted during the financial year 2018-2019.

3.6 However, in the case of some licence applications, the Board granted the licence subject to conditions or restrictions which they considered necessary for the Licensing Objective of Protecting Children and Young Persons from Harm. These decisions followed upon receipt of representations from Police Scotland and/or Renfrewshire Health and Social Care Partnership. These

conditions included, in two particular cases, restrictions on the extent of children's access requested by the applicant for the licence.

- 3.7 In relation to a further two premises licence applications, conditions were attached to licences concerning the online delivery of alcohol from the premises. These conditions were attached to these licences prior to the Board agreeing the final terms of its Statement of Licensing Policy in November 2018, which now provides for local conditions in relation to similar premises as set out at section 4 of this report.
- 3.8 The Board has also attached conditions to premises licences in relation to the use of an outside area and supervision. In one further case, the Board restricted the hours sought in a premises licence application, as detailed at Paragraph 4.8 below.
- 3.9 Eight applications for review of a premises licence were considered by the Board. Having regard to the five Licensing Objectives, the Board took action on three occasions. One premises licence was revoked and two premises licences were varied.
- 3.10 The decision to revoke was required as a result of the Board finding the licence holder no longer a fit and proper person, having regard to the licensing objectives. The decisions to vary arose from a complaint from a member of the public, in one review, and from Police Scotland in another. In the former the Board amended the operating plan relating to the premises, as necessary for the Licensing Objectives of Securing Public Safety and Preventing Public Nuisance. In the latter, the Board amended the Operating Plan relating to the premises and added a number of additional conditions relative to the management of the premises, as necessary for the Licensing Objectives of Preventing Crime and Disorder, Securing Public Safety, Preventing Public Nuisance and Protecting Children and Young Persons from Harm.
- 3.11 The Board refused one application for a personal licence, following receipt of a submission from the Chief Constable. The Board refused the application relative to the Licensing Objective of preventing crime and disorder.
- 3.12 Two reviews of personal licences were considered by the Board. The Board took action in relation to both of these matters. In respect of one review, the Board revoked the personal licence as necessary or appropriate for the Licensing Objectives of preventing crime and disorder, preventing public nuisance, protecting and improving public health and protecting children and young persons from harm. In the other review, the Board suspended the licence for a period of three weeks, relative to the Licensing Objectives of preventing crime and disorder, securing public safety and protecting and improving public health.
- 3.13 Occasional licence applications and extended hours applications are frequently referred to two Board members, as provided in the Board's Statement of Licensing Policy, due to representations or objections from the Police or the Board's Licensing Standards Officers, or where the hours sought are outwith the terms of the Board's Statement of Licensing Policy. This has

resulted in the Members attaching additional conditions to licences or restricting the hours applied for.

4 LICENSING POLICY STATEMENT

4.1 The Board completed the review of its Statement of Licensing Policy ("Statement") in November 2018. Prior to doing so, the Board consulted widely, as well as conducting an online survey, to obtain as wide a range of views as possible to inform the terms of the new Statement. A full list of these consultees is attached at Annex 2. The responses received to the consultation were published with the report to the Licensing Board of 4th October 2018, along with the Clerk to the Licensing Board's comments on each response received. This report is accessible at <http://www.renfrewshire.gov.uk/Review-Licensing-Policy-Statement-2018-2022>

4.2 In its new Statement, which was published in November 2018, the Board has continued to determine 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 continue to be excluded from this policy. In the new policy, the Board states that the terms of this overprovision policy was agreed following upon responses to consultation (and, in particular, representations from Police Scotland) and are relevant to the Licensing Objectives of preventing crime and disorder, securing public safety and preventing public nuisance.

4.3 In the financial year 2018-2019, the Board did not require to consider any applications for "liquor or pub type premises" within the Paisley Town Centre overprovision area. Accordingly, no further licences have been issued within this area.

4.4 The Board's new Statement includes new local conditions applicable to licensed premises seeking to offer deliveries of alcohol. These conditions seek to protect children and young persons from harm by introducing checks and safeguards around alcohol deliveries. These conditions, as set out in the new Statement, are in the following terms:

1. A robust age verification policy requires to be in place for deliveries that include alcohol and must be strictly adhered to by all delivery staff, incorporating a Challenge 25 approach. Documentation presented as verification of age requires to be of a type prescribed in the Licensing (Scotland) Act 2005 or Regulations under that Act as suitable for that purpose.

2. An order register must be kept on the premises containing details of the items ordered/ despatched, with details of when the order was placed and when the alcohol was despatched.

3. A delivery/refusal register requires to be maintained by the delivery driver containing details of the person accepting delivery or, if delivery was refused, the reason for any refusals.

4. No delivery of alcohol should be left unattended or with children or young persons where there is no adult available to accept delivery.

- 4.5 As stated at Paragraph 3.7, additional conditions in relation to online delivery of alcohol were attached to two new premises licences considered in 2018-2019 but prior to the introduction of the new Statement. The Board has not required to consider any further applications for premises to which these conditions apply since the agreement and publication of the new Statement in November 2018.
- 4.6 The Board also, in its new Statement, recognises that, for those who are not used to the licensing process, it can be a daunting experience and therefore provides more detailed information on the role of Licensing Standards Officers and the assistance they are able to give to people with an interest in licensing. The Board also includes in its new Statement a link to the Toolkit published by Alcohol Focus Scotland. The Board took steps to publicise their new Statement widely. More detailed information is now available on the Board's web pages in relation to the role of Licensing Standards Officers and the availability of the toolkit, reflecting the terms of the new Statement.
- 4.7 In accordance with Paragraph 15.4 of its Statement, the Board approved extended hours for the festive period 2018/2019. Paragraph 15.4 sets out the Board's practice of permitting longer licensed hours each year over the festive period. Prior to approving those extended hours, the Board consulted with Renfrewshire Licensing Forum, the Chief Constable of Police Scotland and Renfrewshire Health and Social Care Partnership. Following the adoption of these extended hours, no complaints were received in relation to the operation of any premises' use of the extended hours.
- 4.8 The Board considered, in 2018- 2019, an application for a premises licence which proposed hours outwith the terms of the Board's policy, as set out at Paragraph 15 of the Board's Statement. The Board decided to restrict the hours during which alcohol may be sold on the premises, in accordance with the terms of its Statement relating to licensed hours.
- 4.9 The Board also updated the control measures set out at Paragraphs 20 to 24 of the Statement. The revisals related to the Licensing Objectives of preventing crime and disorder, securing public safety and preventing public nuisance, specifically with regard to the wearing of high-visibility clothing by stewards and the operation and maintenance of CCTV.
- 4.10 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 2018- 2019. All decisions were made in accordance with the Scheme of Delegation set out in the Board's Statements 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 and extended hours

applications outwith the terms of the Board's policy, or where adverse comment had been received, were referred to two Members of the Licensing Board for a decision. 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. MINIMUM UNIT PRICING- UPDATE ON COMPLIANCE VISITS

- 5.1 Following upon a legal challenge, Minimum Unit Pricing (MUP) of Alcohol was introduced in Scotland with effect from 1st May 2018. The introduction of this legislation was widely publicised, following high profile coverage of the impact of alcohol consumption upon public health in Scotland. Information was sent out to licence holders by the Licensing Standards Officers prior to minimum unit pricing coming into effect.
- 5.2 At implementation on the above date, the Board's Licensing Standards Officers commenced a programme of visits to all off-sales only licensed premises in Renfrewshire. This programme of visits continued until 18th February 2019, at which point all those premises had been visited. During these visits, 105 of the 137 off-sales only premises in Renfrewshire were found to be fully compliant with minimum pricing legislation and other licensing legislation. A total of 21 premises were noted to have failed to comply with minimum pricing requirements, due to errors in the MUP calculation or incorrect prices of products displayed on shelves or tills. These issues were rectified at the time of the visits. Further information is attached at Appendix 3, which summarises the compliance issues highlighted during these visits.
- 5.3 The Licensing Standards Officers will continue to visit premises to ensure that licensing requirements are met and, in particular, to monitor that minimum unit pricing requirements are properly observed.

6. FURTHER ACTIONS OF THE BOARD RELATING TO THE LICENSING OBJECTIVES

- 6.1. Members of the Licensing Board attended a licensing seminar hosted by Police Scotland in November 2018 along with officers of Renfrewshire Council's licensing department. The Convener of the Licensing Board opened this seminar as in the previous year. The Seminar covered various aspects of alcohol licensing, relevant primarily to crime prevention and public safety.
- 6.2 The Board's officers have also undertaken other continuous professional development opportunities. This has included attendance at national licensing conferences (including presenting at one) and meetings of the Society of Local

Authority Lawyers and Administrators' (SOLAR) Licensing Group. Licensing staff dealing with applications on a regular basis attended a counter-fraud presentation organised by Police Scotland. The Licensing Standards Officers attend regular networking meetings with counterparts from other Licensing Board areas. The Depute Clerk attended meetings of multi-agency working groups in relation to the review of the statutory guidance on liquor licensing under section 142 of the 2005 Act. These meetings were also attended by representatives of Police Scotland, health professionals, officers of Licensing Boards and private practice solicitors and Advocates with a particular interest in liquor licensing.

- 6.3 The Licensing Board held its annual joint meeting with Renfrewshire Licensing Forum in November 2018. Licensing Standards Officers are members of the Forum and attend the Forum's scheduled meetings throughout the year. The Depute Clerk to the Licensing Board attends Forum meetings regularly to provide updates as required.
- 6.4 The Board were aware, during the financial year 2018-19, that a large number of personal licence holders would require, by the end of May 2019, to apply for renewal of their personal licences. In addition to issuing one statutory reminder in 2018, the Board also issued a second reminder in February 2019 and also wrote to all licensed premises in March 2019 advising them of the importance of their staff applying timeously for renewal and complying with their refresher training requirements. These additional steps were taken to reduce the risk of personal licences being lost (and of premises being potentially unable to trade), as well to ensure that staff within licensed premises have undertaken the required training.
- 6.5 In early 2019, officers of the Board commenced a review of the Council's current byelaws prohibiting the consumption of alcohol in designated public places. The existing byelaws were made in 2009 and officers identified additional geographical areas to be included within the designated areas covered by the byelaws.
- 6.6 The Board's officers also assisted Police Scotland to facilitate an initiative to tackle hate crime in licensed premises.

7. CONCLUSION

- 7.1 The Board is satisfied that in all decisions undertaken in the financial year 2018-2019, 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 continues to encourage and support the licensed trade to maintain good practice in their premises for the benefit of the people of Renfrewshire.

ANNEX 1

Liquor Licensing Statistics for Year 2018-19 (Period 01/04/2018 to 31/03/2019)

Local Authority - Renfrewshire	
Premises Licence Statistics	
Licences in Force on 31 March 2019 (<i>this should equal total of a+b+c</i>)	434
(a) on license only	106
(b) off license only	139
(c) both	189
Applications received during 2018-19	
(a) on sale	3
(b) off sale	6
(c) both	3
Applications refused during 2018-19 under section 23	0
Applications granted during 2018-19 under section 23	10
Applications for review of premises licence during 2018-19 under S36 & S37 resulting in:-	
(a) written warning	0
(b) variation	2
(c) suspension	0
(d) revocation	1
(e) no action	5
Occasional Licence Statistics	
Number of Occasional Licences granted during 2018-19	510
Personal Licence Statistics	
Personal Licences in Force on 31 March 2019	1310
Applications during 2018-19 under section 72:-	
(a) refused	1
(b) granted	165
Proceedings taken during 2018-19 under section 83 (notice of conviction) resulting in:-	
(a) endorsement	0
(b) suspension	0
(c) revocation	0
(d) no action	0
Proceedings taken during 2018-19 under section 84 (conduct inconsistent with licensing objectives) resulting in:-	
(a) endorsement	0
(b) suspension	1
(c) revocation	0
(d) no action	0
Proceedings during 2018-19 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 2018-19 under section 87(3) (failure to provide evidence of having undertaken refresher training)	91
Staff employed at 31 March 2019	
Number (full-time equivalent) of licensing standards officers employed	1

List of Consultees for Formal Consultation

1. Alcohol Focus Scotland
2. All Community Councils
3. All Local Area Committees
4. All Renfrewshire Council Directors
5. All Renfrewshire Councillors
6. All Renfrewshire personal licence holders
7. All Renfrewshire premises licence holders
8. Community Planning Partnership
9. DEAR Group (Diversity and Equality Alliance Renfrewshire)
10. Disability Resource Centre
11. Dr Mohammed Ishaq, University of the West of Scotland
12. Engage Renfrewshire
13. LGBT+ Renfrewshire
14. Licensing Practitioners
15. Margaret Dymond
16. Members of the Scottish Youth Parliament (per Fiona Taylor)
17. NHS Greater Glasgow and Clyde
18. PACHEDU
19. Paisley First
20. Police Scotland
21. Renfrewshire Access Panel
22. Renfrewshire Alcohol and Drug Partnership
23. Renfrewshire Community Safety Hub
24. Renfrewshire Council Chief Executive
25. Renfrewshire Council Head of Planning and Housing Services
26. Renfrewshire Council Head of Policy and Commissioning
27. Renfrewshire Council Youth Services (per Wendy Grubb)
28. Renfrewshire Effort to Empower Minorities (REEM)
29. Renfrewshire Health and Social Care Partnership
30. Renfrewshire Interfaith Group
31. Renfrewshire Licensing Forum
32. Renfrewshire Licensing Standards Officers
33. Renfrewshire Polish Association
34. Renfrewshire Rising
35. Renfrewshire Youth Voice (per Fiona Taylor)
36. Reaching Older Adults in Renfrewshire
37. Scottish Beer and Pub Association
38. Scottish Fire and Rescue Service
39. Scottish Licensed Trade Association
40. Soroptomist Paisley
41. TransForm Renfrewshire
42. West of Scotland Regional Equality Council (WSREC)
43. Women's Aid

44. YouFirst Advocacy

ANNEX 3

INFORMATION IN RELATION TO COMPLIANCE VISITS: OFF-SALES PREMISES

At the implementation of the Minimum Unit Pricing (MUP) legislation the Licensing Standards Officers carried out visits to all Off-Sales Only premises (137) in Renfrewshire between 1 May 2018 and 18 February 2019.

From the 137 premises 105 were fully compliant at the visit

17 were non-compliant re MUP only;
4 were non-compliant on MUP as well as in relation to other licence conditions;
11 were non-compliant with other conditions (non-MUP) only.

During the visits the reasons for MUP non-compliance were noted and were rectified at the time. These were:

Wrong shelf price but correct at point of sale ("pos") - 3
Wrong shelf price/ immediately re-priced - 10
Item immediately removed from display - 5
Prices updated on till system – 1

Other non-compliance issues noted in *these* premises at the same time (which required a re-visit) are as follows:-

Staff training - 4
Alcohol display area - 2
Promotional material - 3
Signage problems - 3
Dual trade/non-trade pricing displayed – 1

Overall Compliance Figures (all 137 premises)

65 needed a revisit
1 was internet sales only
71 no further action