

EAST AYRSHIRE LICENSING BOARD

28 June 2022

Annual Financial & Annual Functions Reports

Report by Clerk to the Licensing Board

1. PURPOSE OF REPORT

- 1.1 To invite the Board to approve the Annual Financial Report for 2021/22, set out in Appendix I to this Report.
- 1.2 To invite the Board to approve the Annual Functions Report for 2021/22, set out in Appendix II to this Report.

2. BACKGROUND

- 2.1 The Air Weapons and Licensing (Scotland) Act 2015 introduced a number of measures in relation to alcohol licensing, including the requirement for Licensing Boards to produce annual financial and annual functions reports.
- 2.2 In terms of Section 56 of the Air Weapons and Licensing (Scotland) Act 2015, Licensing Boards must prepare and publish an Annual Financial Report and an Annual Functions Report, not later than three months after the end of each financial year, however the timescale for preparing and publishing both these reports was extended by the Coronavirus (Scotland) Act 2020.

3. ANNUAL FINANCIAL REPORT

- 3.1 The Annual Financial Report must include:-
 - a statement of the amount of relevant income received by the Licensing 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 in the statement were calculated.
- 3.2 The Scottish Government have not given any greater specification as to how the report is to be presented. The report annexed hereto therefore provides all required financial information and is an accurate representation of the Board's financial position for 2021/22.
- 3.3 Members of the Board will note that ultimately there was a deficit of £30,142 in 2021/22. Licensing Board income cannot be guaranteed in any financial year being completely dependent on the numbers of licensed premises which continue to operate as the vast majority of Board income stems from annual premises licence fees.
- 3.4 The Board income and expenditure is kept under review on a regular basis.

4. ANNUAL FUNCTION REPORT

3.2 The Annual Function Report must include:-

- (a) a statement explaining how the Board has had regard to—
 - (i) the licensing objectives, and
 - (ii) their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)),in the exercise of their functions under this Act during the financial year:
- (b) a summary of the decisions made by (or on behalf of) the Board during the financial year; and
- (c) 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).

4.1 A report under this section may include such other information about the exercise of the Licensing Board's functions under this Act as the Board consider appropriate.

4.2 At the request of a Licensing Board the relevant council must provide the Board with such information as the Board may reasonably require for the purpose of preparing the annual function report.

4.3 In discharging their duties under subsection (1) and section 9B(1) (annual financial report), a Licensing Board may, if they consider it appropriate, prepare and publish a combined report containing the information required under this section and under section 9B.

4.4 The draft report annexed hereto therefore provides all required information for the financial year 2021/22.

4.5 East Ayrshire Licensing Board's Annual Functions Report for 2021/22 is set out in Appendix II attached to this Report.

5. POLICY/LEGAL IMPLICATIONS

5.1 None arising directly from this Report.

6. FINANCIAL IMPLICATIONS

6.1 There are no financial implications arising directly from this report.

7. RECOMMENDATIONS

7.1 It is recommended that Members: -

- (i) approve the Annual Financial Report set out in Appendix I to this Report;

- (ii) approve the Annual Functions Report set out in Appendix II to this Report;
- (iii) authorise the Clerk to the Board to proceed with the publication of both the Annual Financial Report and the Annual Functions Report; and
- (ii) otherwise note the contents of this report.

David Mitchell
Clerk to the Licensing Board

20 June 2022

LIST OF BACKGROUND PAPERS

NIL

For further information on any matter contained within this Report please contact Stuart McCall, Depute Clerk to the Licensing Board.

**LICENSING BOARD
INCOME & EXPENDITURE REPORT 2021-22**

Description	Final Outturn 2021-22 £
<u>INCOME</u>	
Income - Licensing Fees	(117,086)
Non Liquor Licensing Fees Income (ie Gambling Fees)	(14,120)
Total Income	(131,206)
<u>EXPENDITURE</u>	
Staff Costs LSO	40,543.49
Staff Costs Other	74,128.78
Transport	34.05
Supplies & Services	17,687.13
Overheads-Support Costs	28,954.53
Total Expenditure	161,347.98
Surplus/(Deficit)	(30,142)

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1. Introduction - East Ayrshire Licensing Board

- 1.1 East Ayrshire Licensing Board ("the Board") is the licensing authority for the local government area of East Ayrshire for the purposes of the Act.

The current Board, which was formed in May 2022, comprises ten members, all of whom are elected members of East Ayrshire Council. The Board is responsible for the functions set out in paragraphs 1.3 and 1.4 below within East Ayrshire

- 1.2 East Ayrshire covers a land area of 490 square miles in west central Scotland, 30 miles southwest of Glasgow. The population of East Ayrshire in 2020 was estimated to be 121,600, of which there were 58,943 males and 62,657 females.

There are 23 main communities and settlements in a diverse geographical area, embracing both rural and urban areas. Established as a result of local government reorganisation in 1996, the area does not reflect any natural or traditional community, stretching as it does down the eastern length of the County of Ayrshire.

- 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 The Board, for the purposes of the Licensing (Scotland) Act, 2005 is responsible for the consideration of:

- Premises licences
- Occasional licences
- Temporary licences
- Provisional licences
- Personal licences
- Variations of licences
- Review of licences
- Transfer of licences
- Extensions of licensed hours
- The sale of alcohol by retail
- The supply of alcohol in members' clubs

2. The Licensing Objectives

- 2.1 In exercising their functions under the Licensing (Scotland) Act 2005, the Board will have regard to the statutory licensing objectives, which are set out at section 4 of the Act:

- 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.

3. Annual Functions Report

- 3.1 In the year, from 1 April 2021 to 31 March 2022, the Board met virtually via MS Teams on a monthly basis, with the exception of July and October 2021 and January 2022 to determine the applications shown in the following link – [Applications](#).
- 3.2 Applications before the Board were dealt with in an open and transparent manner in accordance with licensing legislation and its [statement of licensing policy 2018-2022](#).
- 3.3 Information and assistance was made available to persons wishing to apply for a licence, make representations or lodge objections.
- 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 the 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 including adoption of standards, which will in its actions be proportionate, accountable, consistent, transparent and targeted.

4. Decisions of the Board

- 4.1 During the course of the year, 3 applications for grant of provisional premises licence, 2 applications for grant of premises licence, 13 applications for major variation of premises licence, 2 personal licence applications, 2 applications for renewal of club machine permit, 1 application for grant of Bingo Licence and 6 occasional licence applications were considered by the Board. Each application was considered on its own merit.

All 3 Provisional Premises Licences were granted, however one was granted subject to the removal of the request to provide off sale. 1 Premises licence was granted, subject to the removal of the request to provide off sale and 1 premises licence application was refused. Of the 13 major variation applications lodged, 11 variations were permitted and 2 refused. Both personal licence applications were granted, both club machine permits renewals were granted and the Bingo premises licence was granted. Of the 6 Occasional Licence applications considered, 4 were granted and 2 were refused.

- 4.2 During the course of the year, the Board received applications for both [Occasional Licences](#) and [Extended Hours](#). The breakdown of these are shown in the relevant links.
- 4.3 In assessing applications, the Board used a considerable number of different sources of information to enable them to reach determinations. These sources included reports from Community Councils, Local Residents, the East Ayrshire Licensing Forum, East Ayrshire Licensing Standards Officers, Police Scotland, National Health Service and application objectors.
- 4.4 A breakdown of current Premises Licences is shown using link – [Premises Licences](#).
- 4.5 During the course of the year 107 applications for personal licences were granted and 18 personal licences were renewed by the Clerk to the Licensing Board under delegated authority. A breakdown of those licences are shown using link – [Personal Licences](#).

5. Licensed Hours

5.1 While each application will be assessed on its own merits, the following section sets out the Licensing Board's guidelines on licensing hours. For applications for licensed premises at times outwith the Board's guidelines, applicants will require to demonstrate to the Board that the additional requested hours are appropriate in the circumstances. The Board's guidelines are reflected in the undernoted table.

5.2 Off-Sales

For applications relating to premises licences and to occasional licences, the licensed hours for the sale of alcohol for consumption off the premises (off-sales hours) are 10am until 10pm every day of the week. The Licensing Board has no discretion to permit licensed hours outwith these times. In determining applications and licensed hours within these times, the Board will, in considering the merits, have particular regard to the effect (if any) which the proposed off-sales hours would have on the occurrence of anti-social behaviour.

5.3 On-Sales

For applications relating to premises licences including extensions to hours, the licensed hours for the sale of alcohol for consumption on the premises (on-sales hours), the Licensing Board considers the commencement of alcohol sales shall be no earlier than 11am. The undernoted table reflects the Board's guidelines.

5.4 Night clubs and discotheques, in addition, currently impose a 1.15am curfew whereupon no persons will be allowed entry to the premises after this time. The Board supports this measure.

5.5 During the festive period the Board will consider further extending the terminal hour for on-sale premises until 2am with night clubs/discotheques being allowed to remain open until 3am on a maximum of four occasions. This will not be an automatic right and an application to the Board will require to be made by each premises wishing to take advantage of this extension, if permission has not already been granted in terms of the Premises Licence. Where an extended hours application has been granted over the festive period, or where the operating plan permits the premises to open until 3am on four occasions over the festive period, the curfew will be extended to 2.15am, on these occasions.

5.6 As can be seen from the table at appendix 4 the number of applications received show that the system is not being abused and have not elicited any complaints in relation to their use.

5.7 The festive period, for the purpose of this aspect of the policy, will be two weeks prior to Christmas Day and until the 6 January.

5.8 Trading Hours Guidelines

Trading	Day	Time
Off-sale Premises	Monday – Sunday	10am – 10pm
On-sales Premises	Sunday – Wednesday Thursday – Saturday	11am – 12 Midnight 11am – 1am
On-sales Premises Providing Late Night Entertainment	Sunday – Wednesday Thursday – Saturday	6.30pm – 2am 6.30pm – 2.30am

- 5.9 Premises wishing to cater for early morning funerals prior to 11.00am may request in their Operating Plan to sell alcohol from 10.00am. However, it will be a condition of the Premises Licence that prior notification must be given to the Board, in writing.

6. Licensing Board Training

- 6.1 As stated at the beginning of this report, our current Licensing Board comprises 10 members who were elected in the local council elections in May 2022. Three Councillors returned to serve on the Licensing Board from the previous Board complement of 10.
- 6.2 On 23 May 2022, 8 Board Members received a day's training from Alcohol Focus Scotland in licensing legislation and Board functions. One Board Member received training on 26 May 2022 and a further Member received training on 8 June 2022. This training included a post training examination which all were required to pass with a minimum of 75% on the same day. The course afforded a significantly enhanced learning experience for the new members of the Board.
- 6.3 Unfortunately any further proposed training requirements were postponed due to the coronavirus (COVID-19) crisis.
- 6.4 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 East Ayrshire. This is essential to making informed licensing decisions.

7. Licensing Forum

- 7.1 The role of Licensing Forum is to keep under review the operation of the Licensing Act in the East Ayrshire area and to give advice and make recommendations to the Board in relation to those matters as the Forum considers appropriate. The Forum is the community's voice on alcohol licensing issues.
- 7.2 Over the years, since the Forum was first established in 2007, membership and participation of this very important group has seen a variety of highs, lows and fallow periods where interest nearly died. It is very pleasing to report that the current Forum is going from strength to strength with enthusiasm and interest input from 3 residents of East Ayrshire, 2 licence holders, 2 representatives for young people, 2 representatives from Health, Education & Social Work, a representative from Police Scotland and the local Licensing Standards Officers.
- 7.3 In relation to keeping abreast of local issues, a Board Member normally attends Forum meetings. The Member feeds back the views of the Board to Forum members and vice versa.
- 7.4 The Licensing Board are formally required to meet with the Forum at least once per annum. The joint minute can be viewed using link – [Joint Minute](#)

8. Reviews

In the period from 1 April 2021 to 31 March 2022, 4 premises licence review applications were received from Police Scotland, all in relation to the operation of premises. Following Premises Licence review Hearings, 1 premises licence was suspended with immediate effect and until such time as a transfer application had been lodged, considered by the Board and granted; 1 premises

licence had additional conditions added to the licence; 1 resulted in a written warning letter being issued; and 1 resulted in a written warning letter being issued in respect of the premises licence with a request that the licence holder participate in an intervention process with Police Scotland.

4 Premises licence review hearings were considered by the Board in terms of Section 44 of the Act, where the Board received notification that the licence holder had been convicted of a relevant offence in terms of the Licensing (Scotland) Act 2005. No action was taken in respect of all 4 hearings.

3 premises licence review requests were received from East Ayrshire Council's Licensing Standards Officers and related to non payment of the annual premises licence fees and where every attempt had been made to contact the licence holders. The hearings resulted in 1 premises licence being surrendered and 2 premises licences being revoked.

In the period from 1 April 2021 to 31 March 2022, 2 personal licence review applications were received from Police Scotland, resulting in 1 licence being endorsed and 1 licence being revoked.

9. Conclusion

- 9.1 The Board is pleased to report that licensed premises in East 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.
- 9.2 The Board also recognises the efforts of the many officers and partners involved in ensuring that licensed premises in East Ayrshire are compliant with and kept well informed of the requirements of the array of licensing legislation and regulations.
- 9.3 While there is no doubt that East 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 continue to be complied with in the period 2021/2022.