

# North Ayrshire Licensing Board

# Annual Functions Report under Section 9A of the Licensing (Scotland) Act 2005

# for the Financial Year 2022-2023

## General

The Board consists of 10 elected Councillors from North Ayrshire Council. The Board meets in public, usually in Council Chambers, Cunninghame House, Friars Croft, Irvine, KA12 8EE. The dates, times and places of meetings are publicised.

Information and assistance is provided by Board staff and the Licensing Standards Officer to members of the public wishing

- to apply for a Licence

- to object to a Premises Licence or

- to complain about the operation of Licensed Premises.

Many documents and application forms are available from the Board's [website](https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx).

The Board attempts to make the Public Meeting process as informal as possible and consistent with the Board's quasi-judicial function. The Board is aware that often people applying for a Licence, or objecting, or complaining about the operation of Premises already licensed, are not legally represented. Therefore, the Convenor will explain the procedure to them at the start of the meeting, and sometimes the Convenor makes an announcement to people waiting for cases to call to explain what is happening. The Convenor will consider requests to change the sequence of cases on the Agenda in order to accommodate parties, so long as other parties are not inconvenienced. The Convenor will also consider requests to postpone a case to a later Meeting in order to accommodate a party (for example, where a party's legal representative is otherwise engaged on the appointed day).

## Licensing Objectives

The Board is required to ensure that its policies promote the Licensing Objectives as set out in Section 4 of the Licensing (Scotland) Act 2005 (“the Act”). There are five Licensing Objectives contained within Section 4:

preventing crime and disorder;

securing public safety;

preventing public nuisance;

protecting and improving public health; and

protecting children and young persons from harm.

The Board has regard to the Licensing Objectives and the Licensing Policy Statement adopted in 2013 when considering cases on their merits.

Applications and other matters before the Board are dealt with in an open and transparent manner - for example, all meetings are in public and the Agendas and Reports are published in advance. The Board acts in accordance with the licensing legislation and its Licensing Policy Statement.

## Annual Functions Report

Section 9A of the Act requires that an Annual Functions Report is prepared for publication. This report contains information relating to the financial year of 2022/23, running from 1 April 2022 until 31 March 2023.

The Act states that an Annual Functions Report must contain the following information:

a statement as to how the Licensing Board has had regard to the Licensing Objectives;

a statement as to how the Licensing Board has had regard to its Licensing Policy Statement;

a summary of the decisions made by the Licensing Board; and

information about the number of licences held under the 2005 Act in the Licensing Board’s area, including Occasional Licences.

1. Statement of how the Board has had regard to the Licensing Objectives

The Board's approach to the issues raised in individual cases is set out in detailed Minutes which are published on the Board's website.

In the year ended on 31 March 2023, the Board met on 5 occasions.

The Board has regard to the Licensing Objectives and the Licensing Policy Statement when considering cases on their merits. These matters are considered whether or not any third-party makes an objection or representation. The considerations for the Board are set out in the Reports or Case Summaries prepared by or on behalf of the Clerk. These appear on the Board's Agenda, which is published on the [Board's website](https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx) in advance of the meeting.

2. Statement of how the Board has had regard to its Licensing Policy Statement

The Minutes show this consideration. The Board applies 'Standard Conditions' when granting Premises Licences and Occasional Licences. These go further than the basic mandatory conditions which the statute applies and reflect the Board's Licensing Policy Statement and its views on the Licensing Objectives. These are on the Board's [website](https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx). It is not possible to attach conditions to Personal Licences.

3. Summary of the decisions made by (or on behalf of) the Board during the Financial Year

**Premises Licence**

Licences in Force on 31 March 2023 383

on-sales only 99

off-sales only 126

both 158

Applications received during 2022-23

on sale 3 (3 PPL)

off sale 1 (1 PPL)

both 1 (1 PPL)

Applications refused during 2022-23 under section 23 0

Applications granted during 2022-23 under section 23 5 (5 PPL)

Applications for review of premises licence during 2022-23 under S36 & S37 resulting in:

written warning 0

variation 0

suspension 0

revocation 0

no action 0

**Occasional Licence Statistics**

Number of Occasional Licences granted during 2022-23 701

**Personal Licence Statistics**

Personal Licences in Force on 31 March 2023 1338

Applications during 2022-23 under section 72:

Refused 0

Granted 128

Proceedings taken during 2022-23 under section 83 (notice of conviction) resulting in:

Endorsement 0

Suspension 0

Revocation 0

no action 0

Proceedings during 2022-23 under section 86 (multiple endorsements) resulting in:

Endorsement 0

Suspension 0

Revocation 0

no action 0

Revocations of personal licences during 2022-23 under section 87(3) (failure to provide evidence of having undertaken refresher training) 156

**Staff employed at 31 March 2023**

Number (full-time equivalent) of licensing standards

officers employed 1

## Premises Licence

A Premises Licence is required by anyone who intends to carry on a permanent business of selling alcohol on their premises.

## Provisional Premises Licence (PPL)

A Provisional Premises Licence is for an alcohol business where the premises are still under construction or conversion. These are commonly chosen by Applicants due to the Board's policy about Overprovision, with a presumption of refusal of:

- new Licences, and

- variation increasing capacity

In both cases the presumption is particularly strong with off-sales, and also particularly strong in certain parts of the Board's area.

## Personal Licences

A Personal Licence allows an individual to supervise or authorise the sale of alcohol. It is a mandatory condition of a Premises Licence that there should be a Premises Manager and that they should have a valid Personal Licence. Not all staff who work on premises have to hold a “Personal Licence”, as the legislation allows people to sell alcohol after passing a training course (the content of the course is not set by the Licensing Board, and the administration of courses is done by external bodies).

## Occasional Licence

An occasional licence is issued under the Licensing (Scotland) Act 2005 to allow unlicensed premises to sell alcohol for occasions such as parties and other social functions. These occasions are usually one-off events and last only a few hours.

## Decision of the Board

Where the Board reviewed a Premises Licence or Personal Licence, 'granted' indicates that the Review was upheld. The Minutes in individual cases show what action, if any, the Board took in the particular case. The options are:

Premises Licence - revoke, suspend, vary, or issue a written warning (or none of these)

Personal Licence - revoke, suspend or endorse (or none of these)

The legislation does not allow for any of these actions in relation to Occasional Licences.

## Variation of Licence

A variation is required if there is a need to change or delete any of the following licence details:

licence conditions;

information contained within the operating plan;

information contained or referred to in the licence; and/or

layout plan

There are two main kinds of variation:

Minor Variations

Major Variations

A “Minor Variation” is an application to make a change to the licence which does not have a significant effect, or increase to, how alcohol is sold from the subject premises licence. This is defined by the legislation, so an amendment to a Premises Licence which might be described as a ‘minor’ change in ordinary language might not be treated as a “Minor Variation”.

The Board calls any variation other than a “Minor Variation” a “Major Variation”.

The distinction affects the procedure to be followed, the processing time, and the fee the Premises Licence Holder must pay:

“Minor Variation” applications:

are usually granted quickly under “Delegated Powers”, which often means that they can be granted by the Clerk or another Board officer without the need for a hearing at a Licensing Board meeting (it may take longer if the Premises Licence Holder wants a “Major Variation” as well, because that has to call at a Board meeting)

Minor Variations cost £20 or £31, depending on what is requested.

“Major Variation” applications:

must call at a Licensing Board meeting (Delegated Powers are not used) and

follow a procedure which is similar to that used for applying for a Premises Licence in the first place, for example the Premises Licence Holder must display a Site Notice at or near the Premises informing the public of the proposals, and third parties (such as the Police, the Community Council and neighbours) have the right to state Objections or Representations to the Licensing Board.

Major Variation cost the same as the Premises’ “Annual Fee” (which is usually linked to their “Rateable Value”, so can be hundreds of pounds).

## North Ayrshire Council Licensing Register

North Ayrshire Council maintains a licensing register containing a summary of current licence information both under:

the Licensing (Scotland) Act 2005 (Licensing Board: alcohol licensing) and

the Civic Government (Scotland) Act 1982 and other licensing legislation (Licensing Committee: non-alcohol legislation)

The Licensing Register can be found on our [website](https://www.licensingregisters.north-ayrshire.gov.uk/licensingregister/).

Select tabs "Premises Licence", "Personal Licence" or "Occasional Licence".

4. Licensed Hours

Licensed Hours are an integral part of the function of a licensed premises. The Board Members recognise the importance of licensed hours to the operators of licensed premises and that this can have an impact on the persons who live and work within a close proximity to the premises.

The Board’s policy is contained within the Licensing Policy Statement, which can be found on our [website](https://www.north-ayrshire.gov.uk/business/licences-and-permits/food-alcohol-gambling-licences/licensing-board.aspx).

5. Licensing Board Training

The 2005 Act provides that an 'election of Licensing Board members' must be carried out by the local authority at their first meeting after each ordinary election of the local authority. All Licensing Board members must undertake the required training within 3 months of appointment. Each time members are re-elected they must undergo the training again, within three months of their re-election. Members must provide evidence of having completed their training to the clerk to the Licensing Board within four months of the member's election or re-election. The North Ayrshire Council Licensing Board Members received training on 15 June 2022.

6. Licensing Standards Officers (LSOs)

The 2005 Act requires local authorities to appoint at least one Licensing Standards Officer in their area.

A Licensing Standards Officer is neither an agent nor an employee of the Licensing Boards,

Licensing Standards Officers do not need to be legally qualified and must not provide legal advice when offering guidance, information and assistance to interested parties.

The general functions of Licensing Standards Officers for a local authority area are:

providing information and guidance concerning the operation of the 2005 Act in the area;

supervising the compliance of the holders of premises licences or occasional licences in respect of premises in the area with the conditions of their licences and other requirements of the 2005 Act (which includes powers to issue notices to licence holders; and in relation to premises licences to make licence review applications);

providing information to Licensing Boards about any conduct of holders of, or persons applying for, personal licences in the area, which is inconsistent with the licensing objectives; and

providing mediation services for the purpose of avoiding or resolving disputes or disagreements between the holders of premises licences or occasional licences; and any other persons, concerning any matter relating to compliance with the 2005 Act as referred to in this paragraph.

The LSO can be contacted by email.