

**ANGUS LICENSING BOARD – 2 APRIL 2015**

**REVIEW OF PREMISES LICENCES**

**REPORT BY THE CLERK TO THE LICENSING BOARD**

**ABSTRACT:**

The purpose of this Report is to present Premises Licences under the Licensing (Scotland) Act 2005 ("the 2005 Act") to the Board for review.

**1. RECOMMENDATION(S)**

It is recommended that the Board conducts a Hearing to review the Premises Licences listed in the Annex to this Report and, if satisfied that a ground for review is established, then the Board may:-

- (i) issue a written warning to the Licenceholder;
- (ii) make a variation of the licence;
- (iii) suspend the licence for such period as the Board may determine; or
- (iv) revoke the licence.

**2. BACKGROUND**

Members will recall determining on 19 February 2015 to hold a Review in respect of premises where the premises licenceholder has failed to pay annual fees.

In terms of the 2005 Act, the Licensing Board may review the licence on the following grounds:-

- (a) that one or more of the conditions to which the premises licence is subject has been breached; or
- (b) any other ground relevant to one or more of the licensing objectives.

It is a mandatory condition of all premises licences issued under the 2005 Act that an annual fee must be paid in terms of the relevant regulations. Accordingly, where a premises licence is in effect, or is suspended, the holder of that licence must make payment of an annual fee;

- The first annual fee being payable on 1 October 2009 or 30 days after the date on which the licence takes effect.
- Subsequent annual fees are due on 1 October each year, or where that date falls on a Saturday or Sunday on the immediately following Monday.

Despite the Clerk giving notification to licensees that annual fees are due in respect of the premises, fees remain unpaid in respect of those premises listed in Appendix 1. The respective premises licence holders would therefore appear to be in breach of the said condition of their premises licence.

Where a review hearing is to be held, the Board must, in the case of a premises licence review application, give notice of the hearing to the applicant, and give notice of the hearing and a copy of the premises licence review proposal or application to the licence holder, and any Licensing Standards Officer for the area in which the premises concerned are situated.

Where a Licensing Standards Officer receives a copy of a premises licence review proposal or application the Officer must, before the review hearing, prepare and submit to the Board a report on the proposal or application, and the Board must take the report into account at the hearing. The Licensing Standards Officer has provided a report which is attached as Appendix 2.

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising out of this Report.

### **4. HUMAN RIGHTS IMPLICATIONS**

In dealing with the matters as set out in this report, the Board will have regard to any human rights issues in relation to the licence holders.

Members are advised that Article 1 of the First Protocol of the European Convention of Human Rights (i.e. protection of property) applies in relation to this Report. The licence holder is considered to be the owner of the licence and as such is entitled to the peaceful enjoyment of his/her possession. However, Angus Licensing Board may take such action as it deems necessary to control the use of the property in accordance with the general interest and subject to the conditions provided for by law. Article 14 requires non-discriminatory treatment of individuals in the enjoyment of their rights.

The legal basis for taking any action in connection with this Report is in terms of the 2005 Act.

Any actions considered by the Licensing Board must be proportionate, i.e. there should be as little intervention as possible to achieve the Board's desired aim. If the Board is minded to suspend the licence, members must first consider the Board's desired aim in imposing a period of suspension and must also consider an appropriate period of suspension taking into account the guidance on proportionality and must ensure that their decision does not discriminate against the licence holder.

### **5. EQUALITIES IMPLICATIONS**

The issues dealt with in this report have been the subject of consideration from an equalities perspective. An equalities impact assessment is not required.

### **6. CONCLUSION**

The Board is requested to review the premises licences and determine what steps, if any, they consider to be necessary for the purposes of the licensing objectives.

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**NOTE:** The background papers (other than any containing confidential or exempt information) which were relied on to any material extent in preparing the above report are:

- The Licensing (Scotland) Act 2005
- The Licensing (Fees)(Scotland) Regulations 2007

## ANGUS LICENSING BOARD – 2 APRIL 2015

## NON PAYMENT OF ANNUAL FEES FOR 2014

<b>PREMISES</b>		
44 Victoria Bar	55/57 Dundee Loan, Forfar, DD8 1EA	£220
55 The Lorne Bar	17 Commerce Street, Arbroath, DD11 1NA	£280
220 Red Lion Inn	55/57 Montrose Street, Brechin, DD9 7BZ	£220
273 Cath Rennie's	2 Mattocks Road, Wellbank, DD5 3PJ	£280
320 The Swan	St Malcolm's Wynd, Kirriemuir, DD8 4HB	£220
369 White Eagle	94 Castle Street, Forfar, DD8 3AA	£220

## APPENDIX 2 TO REPORT LB 21/15

### LICENSING (SCOTLAND) ACT 2005 PREMISES LICENCE REVIEW PROPOSAL

A premises licence review proposal has been received from Angus Licensing Board in respect of:

#### **The Victoria Bar, 55/57 Dundee Loan, Forfar**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

#### **Background:**

The Licensing Board on 19 February 2015 considered a premise licence review proposal for the Victoria Bar as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

#### **Licensing Standards Officer's Report:**

I visited the premises on the 4 March 2015 to inform them a report was to go to the Licensing Board due to non-payment of fees. I passed this message to member of staff on duty and requested that Ms Flynn, the premises licence holder and designated premises manager, contact me as a matter of urgency. To date no one has been in contact.

Iain Johnstone  
Licensing Standards Officer  
Angus Council

09 March 2015

**LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW PROPOSAL**

A premises licence review proposal has been received from Angus Licensing Board in respect of:

**The Lorne Bar, 17 Commerce Street, Arbroath**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

**Background:**

The Licensing Board on 19 February 2015 considered a premise licence review proposal for the Lorne Bar as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

**Licensing Standards Officer's Report:**

I noted at the beginning of January 2015 the premises had closed and a "For Sale" sign was display on the building. On the 6 Jan 2015 I wrote to Mr Burgess, the designated premises manager and joint premises licence holder, to inform him that his personal licence had been revoked.

Iain Johnstone  
Licensing Standards Officer  
Angus Council

09 March 2015

**LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW PROPOSAL**

A premises licence review proposal has been received from Angus Licensing Board in respect of:

**The Red Lion Inn, 55/77 Montrose Street, Brechin**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

**Background:**

The Licensing Board on 19 February 2015 considered a premise licence review proposal for The Red Lion Inn as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

**Licensing Standards Officer's Report:**

On the 6 Jan 2015, I wrote to Mrs MacDonald, the premises licence holder, to inform her that the personal licence of the designated premises manager: Mrs R Cooper, had been revoked. I met with Mrs MacDonald and Mrs Cooper on the 16 February, at this meeting Mrs MacDonald informed me the premises was permanently closed and would not be re-opening as a bar. In the light of this information I requested that the premises licence be surrendered and returned to the licensing section at Angus Council.

The Board are asked to note the premises have not been opening on a regular basis since 2012. On the 13 October 2013, I noted the premises was for sale.

Iain Johnstone  
Licensing Standards Officer  
Angus Council

09 March 2015

LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW PROPOSAL

A premises licence review proposal has been received from Angus Licensing Board in respect of:

**Cath Rennie's 2 Mattocks Road, Wellbank**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

**Background:**

The Licensing Board on 19 February 2015 considered a premise licence review proposal for Cath Rennie's as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

**Licensing Standards Officer's Report:**

I was informed on the 7 March 2104 by Mr Wise, the designated premises manager, the premises were closing. I noted on the 25 March 2014 a "For Sale" sign was displayed

Mr Wise informed the licensing section by phone in January 2015, the premise had gone into voluntary liquidation in March 2014 and that Begbies Traynor, Insolvency Practitioners, Aberdeen were dealing with the property.

Iain Johnstone  
Licensing Standards Officer  
Angus Council

09 March 2015

LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW PROPOSAL

A premises licence review proposal has been received from Angus Licensing Board in respect of:

**The Swan Indian Restaurant, St Malcolm's Wynd, Kirriemuir**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

**Background:**

The Licensing Board on 19 February 2015 considered a premise licence review proposal for The Swan as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

**Licensing Standards Officer's Report:**

On the 17 November 2014 Mr M Jahan, the premises licence holder and designated premises manager of the above premises, presented a cheque for the outstanding fees to the licensing section. This cheque was returned from the Bank as insufficient funds were available.

I telephoned the premises on the 8 January to speak to Mr M Jahan, regarding outstanding fees, as Mr Jahan was not available, I asked, as a matter of urgency, for him to return my call. At time of writing I have not heard from Mr Jahan.

On the 2 March 2015 Mr Jahan came to the licensing section at Angus House but did not have the correct sum of money to pay the outstanding fees in full, he was advised to return with the correct amount of £220.

Iain Johnstone  
Licensing Standards Officer  
Angus Council  
09 March 2015

## APPENDIX 2 TO REPORT LB 21/15

### LICENSING (SCOTLAND) ACT 2005 PREMISES LICENCE REVIEW PROPOSAL

A premises licence review proposal has been received from Angus Licensing Board in respect of:

#### **The White Eagle Store, 94 Castle Street, Forfar**

The Board are asked to note where a Licensing Standards Officer receives a copy of a premises licence review proposal, the Licensing Standards Officer must, before the review hearing, prepare and submit to the Licensing Board a report on the proposal. The Board must take this report into account at the hearing.

#### **Background:**

The Licensing Board on the 19 February considered a premise licence review proposal for The White Eagle as the premises had failed to pay their annual fees. The Board's decision was to hold a review hearing.

#### **Licensing Standards Officer's Report:**

I visited this premises on the 6 January 2015 and noted no alcohol was on display or for sale. I was informed by staff in the shop, the premises, as the White Eagle, had closed down in 2014 with Ms Isabela Mikos, the premise licence holder and designated premises manager, having no further interest in the store. The shop re-opened under new management who have never stocked or sold alcohol.

Iain Johnstone  
Licensing Standards Officer  
Angus Council

23 March 2015