

ANGUS LICENSING BOARD – 19 FEBRUARY 2015

PERSONAL LICENCE REFRESHER TRAINING

REPORT BY SHEONA C HUNTER CLERK TO THE BOARD

ABSTRACT

The purpose of this Report is to advise members of the number of Personal Licence Holders who are licensed by Angus Council and who required to undertake refresher training in accordance with the Licensing (Scotland) Act 2005.

1. RECOMMENDATION

It is recommended that the Board:-

- (i) note that the first batch of Personal Licence Holders were obliged to undertake refresher training no later than 31 August 2014;
- (ii) note that as at 31 August 2014, 578 Personal Licence Holders should have undertaken refresher training;
- (ii) note that various reminders were sent out to Licence Holders, providing information on the refresher retraining requirements and information was made available to licensees through the Council's web pages, Council press releases and visits by the Council's Licensing Standards Officer;
- (iv) note that a number of Designated Premises Managers do not appear to have completed the requisite refresher training, which may mean that alcohol can no longer be sold from the licensed premises; and
- (v) endorse the action taken by the Clerk in accordance with the provisions of the 2005 Act and approve that such action be repeated in respect of personal licence holders who are obliged to undertake refresher training after 31 August 2014.

2. BACKGROUND

- 2.1 Most of the provisions of the Licensing (Scotland) Act 2005 came into effect on 1 September 2009. The Act introduced a fundamental change in Scottish Licensing law and in particular introduced Premises Licences, granted in respect of the physical premises from which alcohol would be sold, and Personal Licences which require to be held by an individual supervising or authorising the sale of alcohol.
- 2.2 Personal Licences are granted for a period of ten years. A holder of a Personal Licence must possess a licensing qualification, before the Personal Licence can be granted and thereafter the Personal Licence Holder must undertake refresher training at five yearly intervals and advise the Board that the training has been completed within three months of the due date.
- 2.3 Since the Act was introduced on 1 September 2009, the first batch of individuals granted Personal Licences under the 2005 Act required to undertake refresher training no later than 31 August 2014. Some 578 Personal Licence Holders in Angus therefore required to undertake refresher training by 31 August 2014. Individuals who were first granted a Personal Licence after 1 September 2009 would require to complete the refresher training no later than five years after the licence was issued and accordingly we expect that approximately 15 Personal Licence Holders will require to renew their Personal Licences per month from and after 1 September 2014.

3. FINANCIAL IMPLICATIONS

The Board should note that there are no fees payable to the Board in connection with producing the documentation required as evidence that the requisite refresher training has been completed. The Board has undertaken a considerable amount of work in alerting the trade and individuals of the requirement to undertake refresher training but these costs are absorbed within the Board's general budgets and there are no other financial implications arising from this Report.

4. OTHER LEGAL IMPLICATIONS

- 4.1 The Board undertook a number of initiatives in order to inform Personal Licence Holders of the requirement to undertake refresher training. Numerous letters were sent to Personal Licence Holders, press releases were arranged, items appeared on the council's web site and officers were regularly involved in briefing the trade and individuals about the requirement to undertake refresher training.
- 4.2 Personal Licence Holders were not only obliged to undertake refresher training but they had to exhibit the necessary certificate to the Board within three months of the deadline for undertaking refresher training. Accordingly, prior to 30 November 2014, the Board should have received 578 refresher training certificates from individuals in the event that they wished their personal licence to continue in force. Despite the efforts undertaken by the Board to inform Personal Licence Holders of the legal obligations incumbent upon them, as at 30 November 2014, the Board had only received 321 notifications that the requisite refresher training had been undertaken. We were also informed that three licensees were deceased and 51 licences were surrendered.
- 4.3 Although a degree of discretion was exercised in allowing for late submissions where, for example, training had been undertaken timeously but notification was received late, the terms of the legislation are quite clear in providing that where requisite training and notification is not made to the Board, then the Board is obliged to revoke the Personal Licence held by the individual. In accordance with this requirement, 203 letters were sent to individuals informing them that their licences had been revoked in accordance with the legislation (i.e. 578-321-51-3 = 203).
- 4.4 Members are asked to note that of the 203 individuals who did not appear to undertake the training and notify the Board thereof, some licence holders will no longer be working in the licensed trade. However, the provisions of the legislation do have serious ramifications for individuals who still work in the licensed trade and require a Personal Licence as part of their employment obligations. Board members may also wish to note that the provisions of the legislation are to the effect that where a Personal Licence has been revoked as a result of failure to undertake the necessary refresher training, the individual affected thereby cannot apply for a new Personal Licence for a period of five years. The Scottish Parliament is currently considering a proposed amendment to this provision of 2005 Act which will allow individuals to apply for a new Personal Licence at an earlier stage.
- 4.5 One other difficulty caused by the legislation relates to the obligation for individual premises to appoint a Designated Premises Manager, who must hold a Personal Licence. Where the Designated Premises Manager becomes incapable for any reason from acting as Premises Manager (e.g. if his/her Personal Licence is revoked) then the sale of alcohol from the premises must stop, unless an application to substitute a new Designated Premises Manager is made to the Board within six weeks of the Premises Licence being revoked. The Board is asked to note that several premises in Angus were potentially affected by this particular provision of the legislation but officers have been making efforts to ensure that when Premises are still open, a variation is submitted to substitute a new Designated Premises Manager. Three premises are still open and affected by this provision, but officers hope to resolve this prior to the Board meeting.
- 4.6 The Board is asked to note that if a new Designated Premises Manager is not approved, then action will be taken, in conjunction with Police Scotland, to prevent alcohol from being sold from the Premises.
- 4.7 The requirement to undertake refresher training is an ongoing obligation and, as indicated, approximately 15 licensees per month will be subject to this obligation. Similar steps to those outlined above will be taken in respect of these licensees.

NOTE: No background papers were relied on to a material extent in preparing the above report.

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