

SPECIAL ANGUS LICENSING BOARD – 6 FEBRUARY 2018

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 to the Board for review.

1. RECOMMENDATION

It is recommended that the Board conducts a Hearing to review the premises licences listed in **Appendix 1** to this Report and, if satisfied that a ground for review is established, the Board may take such of the following steps, as it considers necessary and appropriate, for the purposes of any of the licensing objectives:-

- (a) to issue a written warning to the licence holder,
- (b) to make a variation of the licence,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence.

2. BACKGROUND

2.1 At the meeting of the Board on 4 January 2018, Members agreed to note the position stated in Report 5/18 regarding the non-payment of Annual Fees and agreed to hold a review hearing in respect of the premises as detailed in **Appendix 1** to the Report.

2.2 In terms of section 36(3) of the 2005 Act, the grounds for review are:

- (za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence;
- (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.

The licensing objectives are:-

- (a) preventing crime and disorder;
- (b) securing public safety;
- (c) preventing public nuisance;
- (d) protecting and improving public health; and
- (e) protecting children and young persons from harm.

2.3 In terms of the 2005 Act, it is a mandatory condition applicable to all premises licences that the annual fee must be paid.

2.4 Despite requests for payment and reminders, the annual fees in respect of each of the licensed premises detailed in **Appendix 1** have not been paid. Accordingly, where a premises licence is in effect, or is suspended, the holder of that licence must make payment of the 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 a Sunday, on the immediately following Monday.

The respective premises licence holders would therefore appear to be in breach of the said condition of their licence.

2.5 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.

2.6 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

3.1 There are no financial implications arising from this report.

4. HUMAN RIGHTS IMPLICATIONS

4.1 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.

4.2 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.

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

4.4 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.

5. CONCLUSION

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

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APPENDIX 1 TO REPORT LB13/18

SPECIAL ANGUS LICENSING BOARD – 6 FEBRUARY 2018

NON PAYMENT OF ANNUAL FEES FOR 2018

Premises Number	Premises Name	Premises Address	Amount
154	Club One	89-91 North Street, Forfar, DD8 3BL	£280
158	The Old Bolag Bar	1 Church Street, Brechin, DD9 6HB	£220
182	Azzurro Ristorante	43 High Street, Arbroath, DD11 1AN	£220
377	Wellbank Shop	13 Kellas Road, Wellbank, DD5 3PE	£220

SPECIAL ANGUS LICENSING BOARD – 6 FEBRUARY 2018

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW PROPOSAL

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

Club One, 89-91 North Street, Forfar DD8 3BL

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 4 January 2018 considered a premise licence review proposal for Club One 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:

All premises were written to on 15 September 2017 to advise that annual fees were due to be paid no later than 1 October 2017 as well as including the amount due and information on how payments can be made. Those premises that had not paid their fees were written to again on 27 November 2017.

On 6 December 2017 I spoke to the licence holder who advised me that the premises had not traded for over a year and that planning permission had been granted to convert the building into a gym, flats and a shop; the licence holder advised me that he would surrender the licence.

On 17 January 2018 I left a message for the licence holder to contact me.

To date, the premises licence has not been surrendered.

Mark Gillespie

Licensing Standards Officer

Angus Council

22 January 2018

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW PROPOSAL

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

Old Bolag Bar, 1 Church Street, Brechin DD9 6HB

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 4 January 2018 considered a premise licence review proposal for the Old Bolag 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:

All premises were written to on 15 September 2017 to advise that annual fees were due to be paid no later than 1 October 2017 as well as including the amount due and information on how payments can be made. Those premises that had not paid their fees were written to again on 27 November 2017.

On 5 November 2017 a serious fire seriously damaged the interior of the premises.

On 6 December 2017 I spoke to a co-owner of the premises and advised him that the fees were due to be paid.

On 3 and 17 January 2018 I left voicemail messages for the licence holder to contact me.

On 22 January 2018 I spoke to a member of staff at the Royal Hotel who advised me that the owners of the Old Bolag Bar had been away on holiday and, she believed that, they were returning that day; they were going to ask the licence holder to contact me.

Mark Gillespie

Licensing Standards Officer

Angus Council

22 January 2018

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW PROPOSAL

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

Azzurro Ristorante, 43 High Street, Arbroath DD11 1AN

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 4 January 2018 considered a premise licence review proposal for Azzurro Ristorante 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:

All premises were written to on 15 September 2017 to advise that annual fees were due to be paid no later than 1 October 2017 as well as including the amount due and information on how payments can be made. Those premises that had not paid their fees were written to again on 27 November 2017.

On 6 December 2017 I emailed the licence holder to advise them that the fees remained unpaid.

On 11 December 2017 I attempted to visit the premises but it was closed.

On 14 December 2017 and 18 January 2018 I was unable to contact the licence holder by phone so sent further emails.

On 23 January 2018 I attempted to visit the premises but it was closed.

Mark Gillespie

Licensing Standards Officer

Angus Council

22 January 2018

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW PROPOSAL

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

Wellbank Shop, 13 Kellas Road, Wellbank DD5 3PE

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 4 January 2018 considered a premise licence review proposal for the Wellbank Shop 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:

All premises were written to on 15 September 2017 to advise that annual fees were due to be paid no later than 1 October 2017 as well as including the amount due and information on how payments can be made. Those premises that had not paid their fees were written to again on 27 November 2017.

On 6 December 2017 I left a message for the licence holder to call me.

On 11 December 2017 I visited the shop and left my business card again asking the licence holder to call me.

On 3 January 2018 I emailed the licence holder who responded and advised that he had posted a cheque for his fees on 20th December 2017; I advised the licence holder that we had not received the cheque.

On 17 January 2018 I emailed the licence holder to hasten payment.

On 23 January 2018 I visited the premises and left my card with a request that the licence holder contact me as a matter of urgency.

Mark Gillespie

Licensing Standards Officer

Angus Council

22 January 2018