

SPECIAL ANGUS LICENSING BOARD – 3 JULY 2019

REVIEW OF PREMISES LICENCES

REPORT BY THE CLERK

ABSTRACT

The purpose of this Report is to present premises licences to the Board for review due to non payment of Annual Fees in accordance with the Licensing (Scotland) Act 2005 (“the 2005 Act”)

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, 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 10 June 2019, Board Members agreed to note the position stated in Report 37/19 regarding the non-payment of Annual Fees and agreed to hold a review hearing in respect of the premises detailed in **Appendix 1** to this 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 Paragraph 10 of Schedule 3 to the 2005 Act makes it a mandatory condition applicable to all premises licences that the fee must be paid as required by The Licensing (Fees) (Scotland) Regulations 2007. The regulations provide for the fee being an annual fee and specifies the amounts due by different types of premises. The Regulations specify that the first annual fee is due within 30 days after the date on which the licence takes effect. The Regulations further specify that subsequent annual fees are due on 1st October each year or, where that date falls on a Saturday or Sunday, on the immediately following Monday.

- 2.4 Despite reminders and repeated requests for payment being made, the annual fees in respect of each of the licensed premises detailed in **Appendix 1** remain unpaid. 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 proposal, give notice of the hearing to the applicant and give notice of the hearing and a copy of the premises licence review proposal 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 the Officer must, before the review hearing, prepare and submit to the Board a report on the proposal, 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 directly 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 accordance with the 2005 Act.
- 4.4 Any actions considered by the 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 as detailed in **Appendix 1** to this Report 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 LB38/19

Premises Number	Premises Name	Premises Address	Amount
222	Belmont Arms Hotel	Newtyle, Perthshire, PH12 8TJ	£220
227	Broughty Golf Club	6 Princess Street, Monifieth, DD5 4AW	£180
265	Bowlers Lounge	1-3 Ernest Street, Arbroath, DD11 1UB	£280
377	Wellbank Shop	13 Kellas Road, Wellbank, DD5 3PE	£220
331	Bon Bon	9/13 High Street, Arbroath, DD11 1BE	£280

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

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

Belmont Arms Hotel, Newtyle, Perthshire, PH12 8TJ

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 10 June 2019 considered a premise licence review proposal for Belmont Arms Hotel 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:

The premises were written to on 21 August 2018 and advised that their premises licence annual fee was due to be paid no later than 1 October 2018. Information was also provided on how the payment could be made. The premises were written to again on 7 November 2018 given no payment had been received

I attempted to make contact with the premises by the phone numbers provided but they did not work.

On 22 May 2019 I visited the premises and spoke with Licence Holder John Starkey. He told me that the premises had been closed since August last year as the electrical certificate had been withdrawn. He said that a cheque was posted in January. I asked if he could look to see if the cheque had been cashed and he said he would do so and then send in the evidence so we could locate the payment. He has not done so.

I sent a letter to the address of the Licence Holder we have on record on 3 June 2019. It was returned to sender. I sent a copy of the same letter to the premises on 6 June.

Daniel J. Coleman
Licensing Standards Officer
Angus Council

LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW PROPOSAL

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

Broughty Golf Club, 6 Princess Street, Monifieth, DD5 4AW

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 10 June 2019 considered a premise licence review proposal for Broughty Golf Club 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:

The premises were written to on 21 August 2018 and advised that their premises licence annual fee was due to be paid no later than 1 October 2018. Information was also provided on how the payment could be made. The premises were written to again on 7 November 2018 given no payment had been received.

I attempted to make contact with the premises by the phone numbers provided but they did not work.

I visited the premises on the 22 May 2019 and noted that the Broughty Golf Club building appeared to not be in use and a new club had formed as Broughty and Grange Golf Club in the Grange building. I spoke with a barman who advised I should contact the treasurer.

I spoke with Mr Colin Mullis (treasurer) on 10 June 2019 who advised Broughty Golf Club ceased to exist as of 31 December 2018 and merged with Grange Golf Club. He said he does not know where the physical copy of Broughty's licence would be but will try to find it to surrender it.

To date, the premises licence annual fee has not been paid.

Daniel J. Coleman
Licensing Standards Officer
Angus Council

LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW PROPOSAL

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

Bowlers Lounge, 1-3 Ernest Street, Arbroath, DD11 1UB

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 10 June 2019 considered a premise licence review proposal for Bowler's Lounge 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:

The premises were written to on 21 August 2018 and advised that their premises licence annual fee was due to be paid no later than 1 October 2018. Information was also provided on how the payment could be made. The premises were written to again on 7 November 2018 given no payment had been received

I phoned the premises on 3 May 2019 and left a message with a member of the bar staff for James Cowie, Premises Licence Holder, to phone me back.

I called again on 13 May 2019 and spoke to Mr Cowie myself. He advised he would post a cheque at the end of that week. No cheque was received.

I have phoned the numbers provided a number of times since to no avail.

To date, the premises licence annual fee has not been paid.

Daniel J. Coleman
Licensing Standards Officer
Angus Council

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 10 June 2019 considered a premise licence review proposal for 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:

The premises were written to on 21 August 2018 and advised that their premises licence annual fee was due to be paid no later than 1 October 2018. Information was also provided on how the payment could be made. The premises were written to again on 7 November 2018 given no payment had been received

I phoned the number provided on 3 May 2019 and was advised that Mr Ahmed (Licence Holder) no longer lived at that number. I visited the premises on 14 May 2019 and was told that Mr Ahmed had nothing to do with these premises anymore and that there was new ownership. They said they no longer sell alcohol, which I can confirm.

I looked back through old records and found a number for Mr Ahmed. I phoned and left a message on 17 May 2019. He phoned back saying that he had given up the shop in early 2018 and the new owners said they would not be selling alcohol. He said that at the time he told us on the phone he would not be renewing his personal licence and that he does not know where his Premises Licence is to surrender it.

To date, the premises licence annual fee has not been paid.

Daniel J. Coleman
Licensing Standards Officer
Angus Council

LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW PROPOSAL

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

Bon Bon, 9/13 High Street Arbroath, DD11 1BE

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 10 June 2019 considered a premise licence review proposal for Bon Bon 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:

The premises were written to on 21 August 2018 and advised that their premises licence annual fee was due to be paid no later than 1 October 2018. Information was also provided on how the payment could be made. The premises were written to again on 7 November 2018 given no payment had been received

I spoke with the former owner on 3 May 2019 who advised me that the premises had closed down last June. I visited the premises on 14 May 2019 and can confirm this to be the case.

I informed him that he must surrender his Premises Licence but to date it has not been so.

The annual fee remains outstanding.

Daniel J. Coleman
Licensing Standards Officer
Angus Council