

**ANGUS LICENSING BOARD – 25 MARCH 2021**

**PREMISES LICENCES – REQUEST TO VARY UNDER THE LICENSING (S) ACT 2005**

**REPORT BY CLERK TO THE BOARD**

**ABSTRACT**

The purpose of this Report is to present three applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 which require to be determined by the Board.

**1. RECOMMENDATION**

It is recommended that the Board consider and determine each application to vary premises licences as detailed in **Appendix 1**, in terms of one of the following options: -

- (i) to grant the application, subject to Statutory Conditions and any other variation to the conditions to which the licence is subject that the Board may wish to impose;
- (ii) to defer the application to the next Licensing Board; or
- (iii) to refuse the application on one or more of the grounds referred to in Paragraph 4.4.

**2. BACKGROUND**

The Board has received three applications to vary premises licences under section 29 of the Licensing (Scotland) Act 2005 (“the Act”) which require to be determined by the Board because the matters are not subject to delegation and can only be discharged by the Licensing Board.

**3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this Report.

**4. LEGAL**

4.1 The Act provides that a variation, in relation to a Premises Licence, means any variation of: -

- (a) any of the conditions to which the licence is subject (other than the Statutory Conditions);
- (b) any of the information contained in the operating plan contained in the licence;
- (c) the layout plan contained in the licence; or
- (d) any other information contained or referred to in the licence,

and includes an addition, deletion or other modification

4.2. If the variation sought is a minor variation, then the variation must be granted and powers have been delegated to the Clerk to approve these minor variation applications. Minor variations are: -

- (a) any variation of the layout plan, if the variation does not result in any inconsistency with the operating plan;

- (b) where, under the operating plan contained in the licence, children or young persons are allowed entry to the premises, any variation reflecting any restriction or proposed restriction of the terms on which they are allowed entry to the premises;
- (c) any variation of the information contained in the licence relating to the premises manager (including a variation so as to substitute a new premises manager), and
- (d) any other variation of such description as may be prescribed.

4.3. Section 30 of the Act provides that if the variation(s) being sought are not minor, the Board must hold a hearing to determine the application.

The Board must, in considering and determining the application, consider whether any of the grounds for refusal apply and: -

- (a) if none of them apply, the Board must grant the application; or
- (b) if any of them apply, the Board must refuse the application.

4.4. The grounds for refusal are: -

- (a) that the application must be refused under Section 32(2) of the Act (the Board had previously refused an application to vary a premises licence within the preceding one year), Section 64(2) of the Act (alcohol would be sold for a continuous period of 24 hours from the premises, unless there are exceptional circumstances which justify allowing the sale of alcohol on the premises during such a period), or Section 65(3) of the Act (if alcohol is to be sold for off sales purposes before 10am or after 10pm, or both);
- (b) that the Licensing Board considers that the granting of the application would be inconsistent with one or more of the licensing objectives,
- (c) that, having regard to:
  - (i) the nature of the activities carried on or proposed to be carried on in the subject premises;
  - (ii) the location, character and condition of the premises; and
  - (iii) the persons likely to frequent the premises,
 the Board considers that the premises are unsuitable for use for the sale of alcohol in accordance with the proposed variation,
- (d) that, the Board considers that, if the application were to be granted, there would, as a result, be overprovision of licensed premises, or licensed premises of the same or similar description as the subject premises (taking into account of the variation), in the locality.

4.5 Where the Licensing Board grants the application, the Board may make a variation of the conditions to which the licence is subject.

4.6 Where the Licensing Board refuses the application, the Board must specify the ground for refusal and if the ground relates to a licensing objective, the Board must specify the objective or objectives in question.

(a) The licensing objectives are: -

- (i) preventing crime and disorder
- (ii) securing public safety
- (iii) preventing public nuisance
- (iv) protecting and improving public health; and
- (v) protecting children and young persons from harm

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**APPENDIX 1 TO REPORT LB14/21**  
**ANGUS LICENSING BOARD – 25 MARCH 2021**

**(a) LICENCE NO. 314, DOBBIES GARDEN WORLD, ETHIEBEATON PARK, MONIFIETH, DD5 4HB**

**Name and Address of Applicant**

Dobbies Garden Centres Limited, Melville Nursery, Lasswade, Midlothian, EH18 1AZ

**Type of Licence:** On and Off Sales

**Description of Variation**

**1. Seasonal Variation**

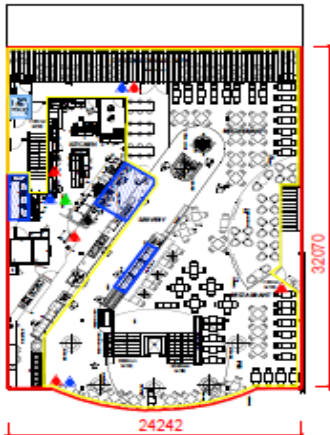
to add "Any additional hours available for the festive season or other recognised events in terms of the Board's Policy"

**2. Variation of Information contained within Operating Plan –**

- (i) No alcohol to be provided outwith core hours
- (ii) Restaurant and outside area open before 11.00am for light food, non alcoholic drinks, group meetings and functions but not after the end of core hours
- (iii) Christmas and related function events, charity events, garden and flower events.
- (iv) Recorded music may be played throughout the premises

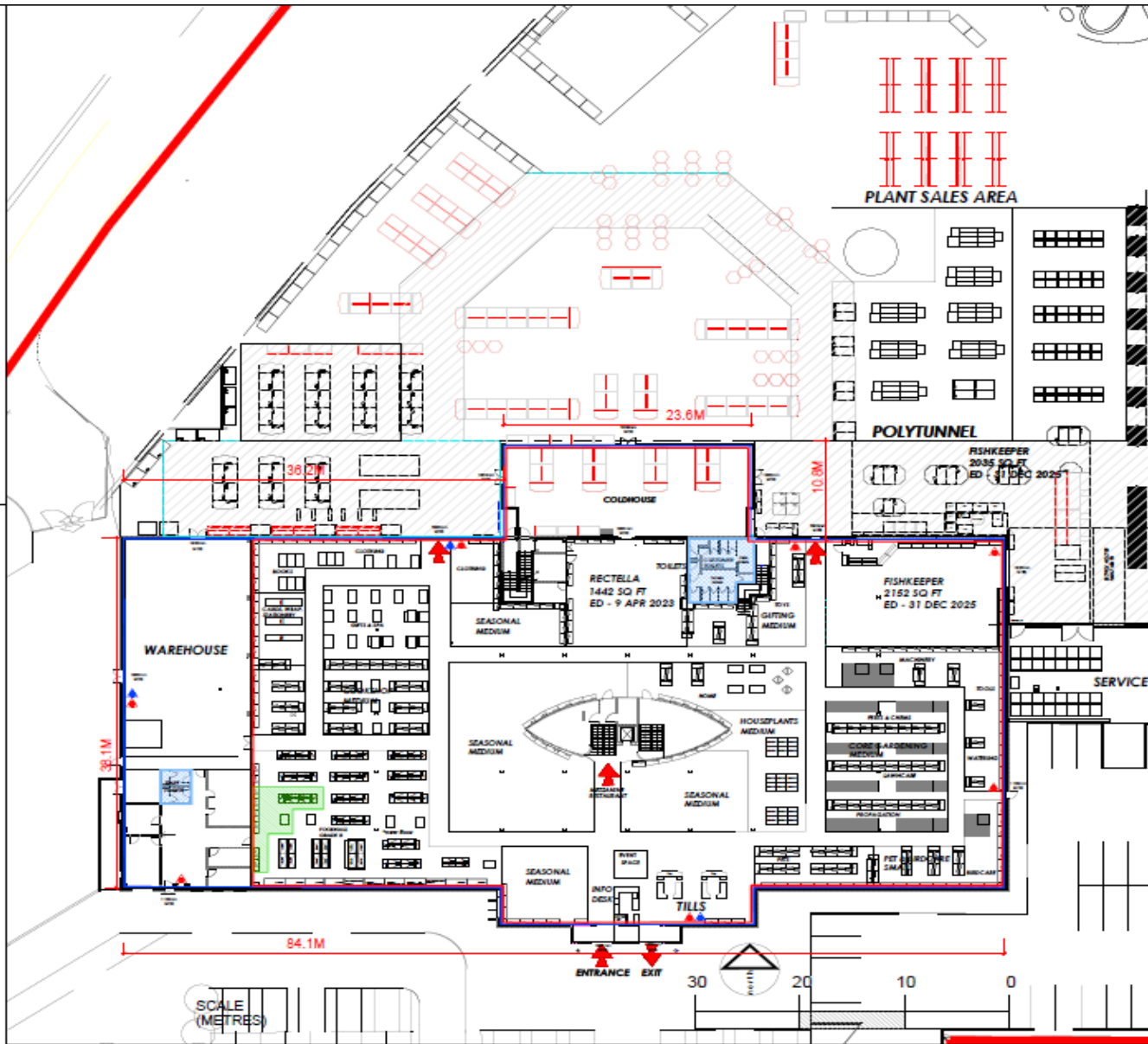
**3. Layout Plan**

Relocation of off sales and increase in capacity to 23.98m<sup>2</sup>



**MEZZ RESTAURANT**

Restaurant facilities, Receptions (including weddings, funerals, birthdays, retirements etc), Club or other group meetings etc, Recorded Music, Live performances, Outdoor dining facilities, Restaurant and outside area open before 11.00am for light lunch, non-alcoholic drinks, picnic meetings and functions but not after the end of open hours, Live music from three to five in the restaurant, meals throughout the building, Childrens and school function events, charity events, garden and flower events, Recorded music may be played throughout the premises.



- Notes**
1. Dimensions must be checked by Contractors and setting out drawings based on site dimensions must be approved by Dobbies Garden Centres prior to construction.
  2. Any variations between stated dimensions and site dimensions should be reported to the designer prior to work being executed.
  3. Samples of all finishes must be provided by Contractors for Approval by Dobbies Garden Centres prior to construction.

- KEY**
- Devise RPI - If fire main supply
  - Devise RCI - 2kg CO2
  - Devise RPI - If fire wall checked
  - Devise RPI - Fire blanket
  - Devise RPI - 8kg dry powder
  - Devise RCI - 8kg CO2
  - Young persons and children have unrestricted access to this area
  - Unrestricted access
  - Devise external sales and storage areas
  - Devise external of customer table (on baby change)
  - Devise off sales display area
    - Zone 1.20m wide x 1.0m high glass edge = 4.75x2.0
    - Zone 1.20m wide x 1.0m high glass edge = 2.8x2.0
    - Zone 1.20m wide x 1.0m high glass edge = 2.8x2.0
    - Zone 1.20m wide x 1.0m high glass edge = 1.8x2.0
    - Zone 1.20m wide x 1.0m high glass edge = 1.8x2.0

**NOTES**

All counter tops are to be a maximum of 800mm high in both the main service and outdoor bar.

Priority of trading will be covered by an agreement the appropriate authority.

Children and young people have access throughout the premises with the exception of outdoor tables and staff areas.

Restricted facilities, Reception (including weddings, funerals, birthdays, retirements etc), Club or other group meetings etc, Recorded Music, Live performances, Outdoor dining facilities, Restaurant and outside area open before 11.00am for light lunch, non-alcoholic drinks, picnic meetings and functions but not after the end of open hours, Live music from three to five in the restaurant, meals throughout the building, Childrens and school function events, charity events, garden and flower events, Recorded music may be played throughout the premises.

Revision:

Dobbies Garden Centres  
Mossley Farmery  
Mossley  
S410 1AZ  
Tel: 0121 863 6776

Project: **DOBBIES, ETHESBATOM PARK, MONSIEUR**  
Architect: **Doobie Group**

Scale: 1:200 @ A1 Date: DEC 2020 Drawn/Checked: GT

Drawing No: LACENCE - 01 Revisions: -

This drawing is the property of Dobbies Garden Centres plc. Copyright is reserved by them and the drawing is issued on the condition that it is not copied, reproduced, retained or disclosed to any unauthorised person, either wholly or in part without the consent in writing of Dobbies Garden Centres plc.

## LICENSING STANDARDS OFFICER VISIT REPORT

An application for a provisional premises licence has been received from Shepherd and Wedderburn on behalf of Dobbies in respect of:

**DOBBIES, GARDEN WORLD, ETHIEBEATON PARK, MONIFIETH, DD5 4HB**

### **Background:**

The application to vary the premises licence was received on 8<sup>th</sup> January 2021. The Licensing Board at their meeting on the 25<sup>th</sup> March 2021 will consider this application.

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

Due to COVID-19 restrictions, I was unable to arrange a visit to the premises to meet with the applicant. I met via Microsoft Teams with the Premises Manager at 12 noon on 1<sup>st</sup> March 2021. Whilst normally the virtual visits would include the applicant or Premises Manager being at the premises, on this occasion The Premises Manager was unable to be at the premises.

The applicant has applied to permit restaurant and outdoor drinking facilities before the commencement of core hours. This is with the view to providing breakfasts and light snacks and soft drinks prior to 11am in the outdoor drinking area. The applicant understands that alcohol cannot be sold or consumed outwith core hours.

They have also applied to permit Christmas and related function events, charity events and garden and flower events on the premises along with recorded music within and outwith core hours.

Despite the Premises Manager not being at the premises, I did ask if relevant documentation was kept and if appropriate notices were displayed. Based on his answers only, I identified no infringements. However, to assure Board Members, although I will be unable to undertake these visits myself, I will ensure that the next Licensing Standards Officer has a list of premises requiring a visit and this premises will be named on that list.

I informed the Licence Holder that what was discussed would form part of a report to be placed before Board Members. I duly submit this report for consideration by Members.

Daniel J. Coleman  
Licensing Standards Officer  
Angus Council

**(b) LICENCE NO. 20, NEPTUNE BAR, 7 ERSKINE STREET, MONTROSE, DD10 8HL**

**Name of Applicant**

Anna Thomson

**Type of Licence:** On and Off Sales

**Description of Variation**

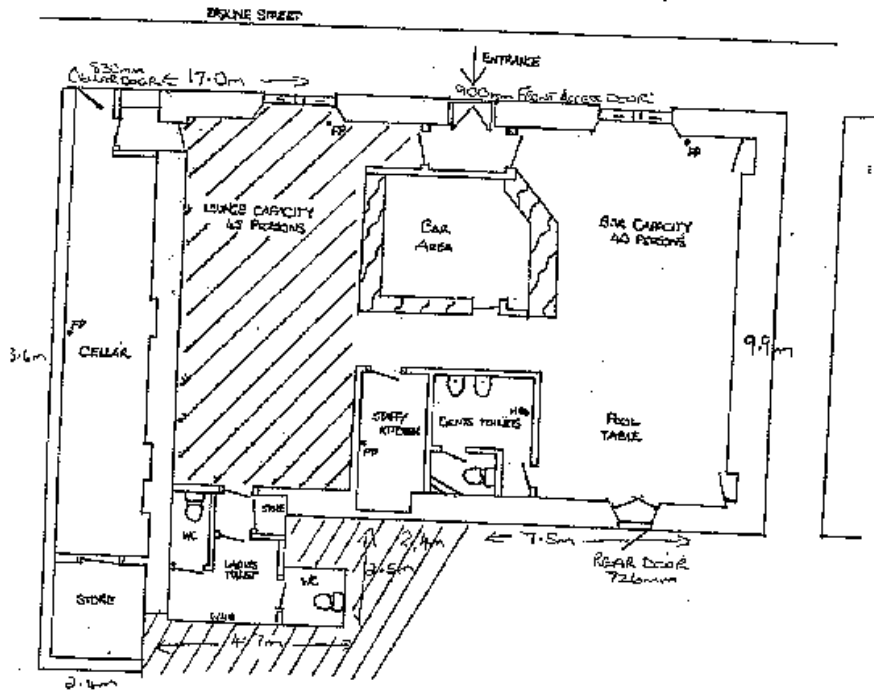
**1. Activities**

- (i) Add bar meals within and outwith core hours.
- (ii) Add recorded music outwith core hours.

**2. Other Activities**

Breakfasts or funeral teas before core hours.

Receptions including weddings, funerals, birthday parties, retirement parties etc and Club or other group meetings



- FP = FIRE EXTINGUISHERS
- WHS = WASH HAND BASIN
- /// = CHILDREN'S AREA

This plan was granted on 7 January 2016 by Angus Licensing Board in respect of nominal variation of premises licence for The Neptune Bar, 7 Erskine Street, Montrose

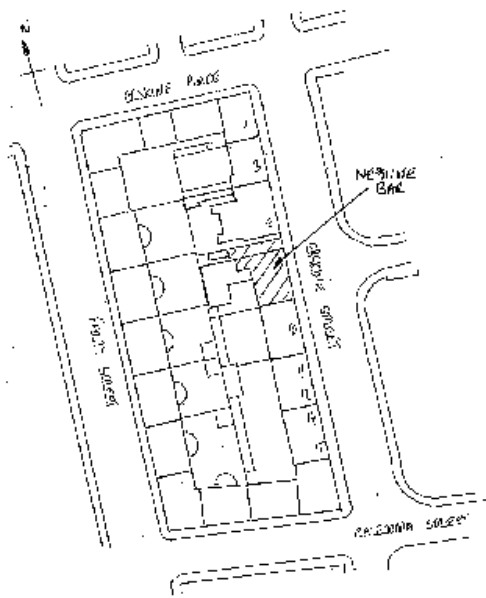
*James G. Grant*  
Clerk

**Neptune Bar**  
Erskine Street  
Montrose  
DD10 8HL

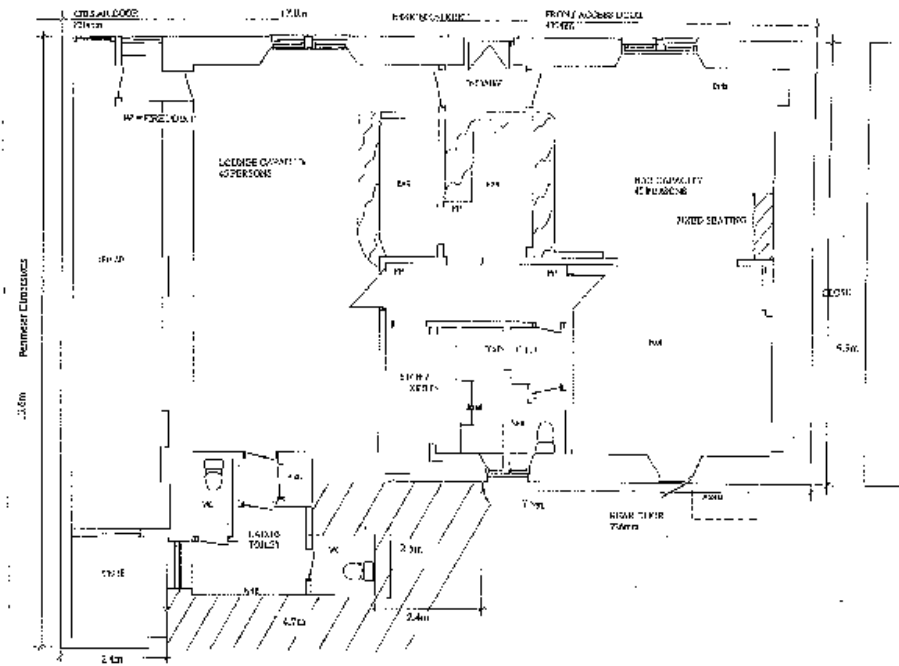


Neptune Bar  
 Erskine Street  
 Montrose  
 DD10 8HL

Floor Plan 1:100



site location



FP = FIRE EXTINGUISHERS

This plan was granted on 10 December 2000  
 by Angus Licensing Board in respect of  
 premises licence at Neptune Bar, 7 Erskine  
 Street, Montrose.

Grant Hule  
 Clerk

## LICENSING STANDARDS OFFICER VISIT REPORT

An application for a provisional premises licence has been received from Anna Nicoll in respect of:

**NEPTUNE BAR, 7 ERSKINE STREET, MONTROSE, DD10 8HL**

### **Background:**

The application to vary the premises licence was received on 2<sup>nd</sup> February 2021. The Licensing Board at their meeting on the 25<sup>th</sup> March 2021 will consider this application.

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

Due to COVID-19 restrictions, I was unable to arrange a visit to the premises to meet with the applicant. I met via Microsoft Teams with the applicant at 11am on 1<sup>st</sup> March 2021.

The applicant has applied to permit Bar Meals on the Operating Plan within and outwith core hours. It is envisaged breakfasts or funeral teas will be provided before core hours. Receptions, including weddings funerals, birthdays, retirements etc and club or other group meetings and recorded music also to be permitted outwith core hours.

I took the opportunity to undertake the statutory checks by asking the applicant to show me certain things via the webcam. I identified one infringement:

- 1) Refusals Book: Not kept. I provided the applicant with a copy of one that can be used. This is a requirement as per 3.1.2 of the Board's Policy.

However, to assure Board Members, although I will be unable to undertake these visits myself, I will ensure that the next Licensing Standards Officer has a list of premises requiring a visit and this premises will be named on that list.

I informed the Licence Holder that what was discussed would form part of a report to be placed before Board Members. I duly submit this report for consideration by Members.

Daniel J. Coleman  
Licensing Standards Officer  
Angus Council

**(c) LICENCE NO. 194, BUICK SOCIAL CLUB, LOCHSIDE STREET (GREEN STREET), ARBROATH, DD11 3AB**

**Name of Applicant**

Gareth Brown, 14 Elm Brae, Arbroath, DD11 4ER

**Type of Licence:** On and Off Sales

**Description of Variation****1. Premises Name**

Change name of premises to Buick Lounge Bar

**2. Seasonal Variation**

Add Boxing Day

**3. Activities**

Add bar meals within and outwith core hours

**4. Other Activities**

Provide catering for Leagues, events, functions etc held within the premises

An application for a provisional premises licence has been received from Gareth Brown in respect of  
**BUICK SOCIAL CLUB, LOCHLANDS STREET, ARBROATH, DD11 3AB**

**Background:**

The application to vary the premises licence was received on 21<sup>st</sup> January 2021. The Licensing Board at their meeting on the 25<sup>th</sup> March 2021 will consider this application.

**Licensing Standards Officer's Report:**

Due to COVID-19 restrictions, I was unable to arrange a visit to the premises to meet with the applicant. I met via Microsoft Teams with the applicant at 12pm on 26<sup>th</sup> February 2021.

The applicant has applied to include Boxing Day as a seasonal variation on the licence, include Bar Meals as an activity and provide catering for leagues, events and functions to be held within the premises.

In reference to Bar Meals in particular, I discussed the requirement of alcohol being sold with a meal when in level 2 COVID restrictions. I explained what is expected of the licence holder when providing food and alcohol in this regard.

I took the opportunity to undertake the statutory checks by asking the applicant to show me certain things via the webcam. I identified one infringement:

- 1) Automatic Notification: The Gambling Act 2005 prescribes that the premises licence holder sends the licensing authority written notification of their intention to make up to 2 Category C or D gaming machines available for use. The current permit was out of date and in the name of the previous licence holder. Paperwork was sent to the applicant to update this. It was received by the department on 15 March 2021.

I informed the Licence Holder that what was discussed would form part of a report to be placed before Board Members. I duly submit this report for consideration by Members.

Daniel J. Coleman  
Licensing Standards Officer  
Angus Council