

SPECIAL ANGUS LICENSING BOARD – 22 APRIL 2021

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 or 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; or
- (d) to revoke the licence.

2. BACKGROUND

2.1 At the meeting of the Board on 25 March 2021, Board Members agreed to note the position stated in Report [LB16/21](#) regarding the non-payment of Annual Fees and agreed to review each of the premises licences listed in **APPENDIX 1** to this Report by holding a review hearing.

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 a number of the licensed premises detailed in **APPENDIX 1** remain unpaid. Where the fee has been paid or the licence has been surrendered, this has been detailed.

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.

6. NOTIFICATION

Each premises licence holder, and or their Agent, have been given a copy of the Premises Licence Review Proposal, a copy of this Report and a copy of the LSO's Report to the Board. The Licensing Standards Officer was given a copy of the Premises Licence Review Proposal and copy of this Report prior to his departure from the Licensing Department and has

submitted a Report for the Board's attention. The Premises licence holder, and or their Agent, have been invited to attend the Board.

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APPENDIX 1 TO REPORT LB 21/21
SPECIAL ANGUS LICENSING BOARD – 22 APRIL 2021

Unpaid:

<u>Lic. No.</u>	<u>Premises Name</u>	<u>Premises Address</u>	<u>Amount</u>
36	The Corner Bar	2 Howard Street, Arbroath	£280
39	The Foundry Bar	5/7 East Mary Street, Arbroath	£220
127	The Workhouse	37-42 West High Street, Forfar	£220

Paid between 18 March and 22 April 2021:

207	Royal British Legion, Brechin	2a Bank Street, Brechin	£180
94	The Old Brewhouse	Dangerhouse, 1/3 High Street, Arbroath	£500
118	Lochlands Coffee Mill	The Mill, Forfar	£280

Licences Surrendered:

The following licence was surrendered on 9 April 2021. Accordingly, the licence no longer has effect and it is not competent to hold a Premises Licence Review Hearing for this premises.

86	World Buffet	Montrose Road, Arbroath	£280
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SPECIAL ANGUS LICENSING BOARD – 22 APRIL 2021

LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW PROPOSAL

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

The Corner Bar, 2 Howard 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 25 March 2021 considered a premise licence review proposal for the Corner Bar, Arbroath 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 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee remained outstanding. A reminder letter was sent on 20 November 2020 containing information on how the payment could be made.

Records showed that as of 4 February 2021, the fee remained outstanding. I emailed the Premises Licence Holder about the outstanding fee on 4 February 2021. This email also contained information on how to pay the fee. With no reply or payment forthcoming, I made phone calls to both a mobile number and landline number on 2 March 2021. The mobile number was invalid, and the landline number rung out. I therefore sent a further email on 3 March 2021. With no payment or contact forthcoming, I sent a further letter to the premises on 24 March 2021 asking that they get in touch with me to discuss this matter further. I have received no contact from the Premises Licence Holder despite multiple attempts to contact them.

To date, the premises licence annual fee of £280 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:

The Foundry Bar, 5/7 East Mary 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 25 March 2021 considered a premise licence review proposal for The Foundry 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:

The premises were written to on 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee remained outstanding. A reminder letter was sent on 20 November 2020 containing information on how the payment could be made.

Records showed that as of 4 February 2021, the fee remained outstanding. I emailed the Premises Licence Holder about the outstanding fee on 4 February 2021. This email also contained information on how to pay the fee. With no reply or payment forthcoming, I made phone calls to both a mobile number on 2 March 2021 and left a message asking the Licence Holder to contact me by return to my email or call. With no payment or contact forthcoming, I sent a further email on 15 March 2021 along with a letter to the Premises Licence Holder home address on 24 March 2021 asking that they contact me to discuss this matter. I have received no contact from the Premises Licence Holder despite multiple attempts to contact them.

To date, the premises licence annual fee of £220 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:

The Workhouse, 37-42 West High 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 25 March 2021 considered a premise licence review proposal for The Workhouse 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 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee remained outstanding. A reminder letter was sent on 20 November 2020 containing information on how the payment could be made.

Records showed that as of 4 February 2021, the fee remained outstanding.

From previous dealings with this premises, I was aware there was a solicitor who had acted on behalf of a member of staff at these premises and I contacted the agent in an attempt to speak with that member of staff who I had worked with previously. However, despite two attempts by the agent to obtain contact on 4th February 2021 and 3rd March 2021, she was not successful. I therefore emailed the licence holder with an email on file on that same day. With no reply forthcoming, I telephoned the licence holder on 15th March and left a message. Again, with no reply or payment forthcoming, I sent a letter to the business address of the licence holder on 24 March 2021.

To date, the premises licence annual fee of £280 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:

Royal British Legion, 2A Bank 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 25 March 2021 considered a premise licence review proposal for RBL Brechin 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 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee remained outstanding. A reminder letter was sent on 20 November 2020 containing information on how the payment could be made.

Records showed that as of 4 February 2021, the fee remained outstanding.

I emailed the Premises Licence Holder about the outstanding fee on 4 February 2021. However, the email was invalid. I located another email on our system and emailed that on the same day. With no response forthcoming, I emailed again on 2 March 2021 as we have no phone numbers listed for this premises. On 15 March 2021, I located on the RBL Scotland website an email for the local Chairman. I sent an email on the same day. With no response forthcoming, I contacted the chairman by telephone on 24 March 2021 and he said he would pass the matter to the treasurer.

The premises licence fee of £180 was paid on or around 1st April 2021.

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:

The Old Brewhouse, Dangerhouse, 1/3, High 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 25 March 2021 considered a premise licence review proposal for The Old Brewhouse 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 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee remained outstanding. A reminder letter was sent on 20 November 2020 containing information on how the payment could be made.

Records showed that as of 4 February 2021, the fee remained outstanding.

I emailed the Premises Licence Holder about the outstanding fee on 4 February 2021. This email also contained information on how to pay the fee. With no reply or payment forthcoming, I made phone call to the mobile number on file on 2 March 2021 and left a message asking the Licence Holder to contact me. With no payment or contact forthcoming, I sent a further email on 15 March 2021 along with a letter to the Premises Licence Holder home address on 24 March 2021 asking that they contact me to discuss this matter. I have received no contact from the Premises Licence Holder despite multiple attempts to contact them.

The premises licence annual fee of £500 was paid on or around 8 April 2021.

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:

Lochlands Coffee Mill, The Mill, 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 25 March 2021 considered a premise licence review proposal for Lochlands Coffee Mill 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 at the premises address on 1 September 2020 and advised that their premises licence annual fee was due to be paid no later than 1 October 2020. Information was also provided on how the payment could be made.

Records showed that as of 20 November 2020, the fee was outstanding. A reminder letter was sent on 20 November 2020 again containing information on how the payment could be made. The Licence Holder issued a response by email to the reminder letter containing foul language and refused to pay.

I emailed the Licence Holder on 2 March 2021 again including details on how payment could be made. The Licence Holder replied stating that they will not pay their fee due until his *"right to earn a living from these premises is afforded"* to him.

I would ask Board Members to recall that financial assistance has been provided by both UK and Scottish Government for Licensed Premises in order to help with fixed costs, of which the Annual Fee is one. Given that it was evident the Licence Holder was refusing to meet the mandatory conditions, I made no further efforts to contact him. I would also remind Board Members that of 347 Annual Fees due, this premises was the only one that refused or responded with foul language.

The premises licence annual fee of £280 has now been paid by BACS payment, received on 12/04/2021.

Daniel J. Coleman
Licensing Standards Officer
Angus Council