

ANGUS LICENSING BOARD – 24 MARCH 2022

REVIEW OF PREMISES LICENCES

REPORT BY THE CLERK TO THE LICENSING BOARD

**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. RECOMMENDATIONS**

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: -

- (i) to issue a written warning to the licence holder,
- (ii) to make a variation of the licence,
- (iii) to suspend the licence for such period as the Board may determine,
- (iv) to revoke the licence, or
- (v) to take no action.

**2. BACKGROUND**

2.1 At the meeting of the Board on 17 February 2022, Board Members agreed to note the position stated in Report LB 7/22 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 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 several 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's reports are 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. 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.

## **6. 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.

**REPORT AUTHOR:** Tina Magson, Team Leader – Legal Team 1

**E-MAIL:** [LEGDEM@angus.gov.uk](mailto:LEGDEM@angus.gov.uk)

**APPENDIX 1 TO REPORT LB17/22**

**ANGUS LICENSING BOARD - 24 MARCH 2022**

**NON-PAYMENT OF ANNUAL FEES FOR 2021**

<b>Lic. No.</b>	<b>Premises Name</b>	<b>Premises Address</b>	<b>Amount</b>
127	The Workhouse	37-43 West High Street, Forfar, DD8 1BE	£220
231	Brown Horse	62 Market Street, Brechin, DD9 6BD	£280
		<b>TOTAL OUTSTANDING</b>	<b>£500</b>

**APPENDIX 2 TO REPORT LB 17/22**  
**ANGUS LICENSING BOARD – 24 MARCH 2022**

**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- 43 West High Street, Forfar, DD8 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 17<sup>th</sup> February 2022 considered a premise licence review proposal for The Workhouse, 37- 43 West High Street, Forfar, DD8 1BE 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:**

Licenceholder: Ian M Anderson

A letter advising that their premises licence annual fee was due to be paid no later than 1 October 2021 was sent out to the premises on 31 August 2021. Information was also provided on how the payment could be made.

A reminder letter was sent in November 2021 and detailed how the payment could be made.

A final reminder letter was sent on 15<sup>th</sup> December 2021 containing information on how the payment could be made.

Our records show that to date the fee remains outstanding.

I have been advised that the letters were returned as dead mail and on investigating have found that these premises are currently a hairdresser's shop and came before you last year where you suspended the licence until payment of the outstanding annual fee was made. I have been unable to contact the current licence holder. **As these premises are no longer trading as a licensed premises the Board may wish to revoke this licence.**

To date the premises licence annual fee of £220 has not been paid.

I duly submit this report for the Board's consideration.

Nicky Corletto  
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:

**Brown Horse, 62 Market Street, Brechin, DD9 6BD**

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 17 February 2022 considered a premise licence review proposal for Brown Horse, 62 Market Street, Brechin, DD9 6BD 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:**

Licenceholder: Southesk Developments Ltd, 46/48 Clerk Street, Brechin, DD9 6AY

A letter advising that their premises licence annual fee was due to be paid no later than 1 October 2021 was sent out to the premises on 31 August 2021. Information was also provided on how the payment could be made.

A reminder letter was sent in November 2021 and detailed how the payment could be made.

A final reminder letter was sent on 15<sup>th</sup> December 2021 containing information on how the payment could be made.

I telephoned the premises licence holder on 17 January and again on 23 February and left a message for them to call me but to date I haven't received a call back. I asked Police Scotland to check whether the premises were still open, and trading and they confirmed on 17<sup>th</sup> March 2022 that they are.

To date the premises licence annual fee of £280 has not been paid.

I duly submit this report for the Board's consideration.

Nicky Corletto  
Licensing Standards Officer  
Angus Council