

SPECIAL ANGUS LICENSING BOARD – 12 DECEMBER 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 10 November 2022, Board Members agreed to note the position stated in Report LB 52/22 regarding the non-payment of Annual Fees and agreed to hold a review hearing in respect of the premises whose fees remained unpaid, (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 requests for payment being made, the annual fees in respect of the licensed premises detailed in **APPENDIX 1** remain unpaid.

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 report from the Licensing Standards Officer for the area in which the premises concerned are situated.

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 and a copy of this Report.

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.

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APPENDIX 1 TO REPORT LB58/22

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NON-PAYMENT OF ANNUAL FEES FOR 2022

Lic. No.	Premises Name	Premises Address	Amount
30	The Park Bar	19-21 Park Road, Brechin, DD9 7AE	£280
102	Bob's Bar	Tayock Caravan Park, Brechin Road, Montrose, DD10 9LE	£220
146	The Crown Inn	49 High Street, Monifieth, DD5 4AA	£280
162	Railway Inn	48 Market Street, Forfar, DD8 3EW	£220
186	The Strathmore Arms	1 The Square, Glamis By Forfar, DD8 1RS	£500
244	Lochlands Bowling Club	Lochlands Drive, Arbroath, DD11 3BZ	£220
253	The Royal British Legion	1 Academy Street, Forfar, DD8 2HA	£220
409	Smugglers Tavern	65 Ladybridge Street, Arbroath, DD11 1AX	£220
410	The Attic Club	2A St Malcolm's Wynd, Kirriemuir, DD8 4HB	£220
413	Copper Oven	14 Applegate, Arbroath, DD11 1HX	£220
		TOTAL OUTSTANDING	£2,600