

SPECIAL ANGUS LICENSING BOARD – 5 DECEMBER 2023

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 9 November 2023, Board Members agreed to review the premises licences, detailed in **Appendix 1** to Report LB59/23, on the grounds that one or more conditions to which the premises licence is subject have been breached, in that the said licence holders have failed to pay their annual fee. Board members also agreed that should the outstanding fee be paid prior to the Review Hearing, the hearing would be cancelled.

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.

- 2.4 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.
- 2.5 Despite reminders and requests for payment being made, the annual fees in respect of the licensed premises detailed in **APPENDIX 1** remain unpaid. The respective premises licence holders would therefore appear to be in breach of the said condition of their licence.
- 2.6 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 LB 64/23

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NON-PAYMENT OF ANNUAL FEES FOR 2023

Lic. No	Premises	Address	Town	Postcode	Annual Fee
30	The Park Bar	19-21 Park Road	Brechin	DD9 7AE	£220.00
66	Rupali Restaurant	3/5 Queen Street	Forfar	DD8 3AJ	£220.00
139	Finavon Hotel	Finavon	By Forfar	DD8 3QE	£280.00
173	Shimla	19 Swan Street	Brechin	DD9 6EE	£280.00
185	The Webster Memorial Theatre	64 High Street	Arbroath	DD11 1AW	£500.00
208	Strathmore Cricket Club	Lochside Park	Forfar	DD8 1DU	£180.00
209	Airlie Lodge No 286	47 Roods	Kirriemuir	DD8 4EY	£180.00
231	Brown Horse	62 Market Street	Brechin	DD9 6BD	£280.00
248	Montrose Caledonia Golf Club	Traill Drive	Montrose	DD10 8SW	£180.00
275	Aboukir Hotel	38 Ireland Street	Carnoustie	DD7 6AT	£280.00
348	Coast Bar (Lower Level)	4 Gravesend	Arbroath	DD11 1HT	£280.00
357	Webmor's	66 High Street	Arbroath	DD11 1AW	£220.00
379	Shotz Pool & Snooker Club	2-4 John Street West	Arbroath	DD11 1RT	£280.00
401	Panzerotti Café & Bakery	Unit 3A Craig O' Loch Road	Forfar	DD8 1BT	£220.00
410	The Attic Club	2A St Malcolm's Wynd	Kirriemuir	DD8 4HB	£280.00
424	Cashleys	1 Castle Street	Forfar	DD8 3AE	£220.00
443	Cliffburn Hotel	Cliffburn Road	Arbroath	DD11 5BT	£280.00