



REPORT TO: MORAY LICENSING BOARD ON 17 FEBRUARY 2021

SUBJECT: LICENSING (SCOTLAND) ACT 2005 – REVIEW OF PREMISES LICENCES

BY: CLERK TO THE BOARD

1. REASON FOR REPORT

- 1.1 To ask the Board to conduct a hearing to consider and determine the premises licence review proposal in respect of each of the premises listed in the schedule circulated to members separately.

2. RECOMMENDATION

- 2.1 **It is recommended that the Board consider and determine the premises licence review proposals having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.**

3. BACKGROUND

- 3.1 On 22 July 2010 (para 4 of the minute refers) the Board delegated authority to the Clerk and his staff to make a premises licence review proposal in terms of s.37(1) of the Act for any premises where the annual fee remained outstanding for a period of six weeks after the due date.
- 3.2 Annual fees are due each year on the 1 October. Fees are payable in advance for the period 1 October to the 30 September the following year. Invoices are issued on the 27 August each year, in advance of the 1 October, to serve as written reminder to licence holders, as is required by Regulations.
- 3.3 By the delegated authority detailed in para 3.1 a premises licence review proposal in respect of each of the premises listed in the schedule has been made. Notice was sent by email (where possible as many premises are shut) or first class recorded post to all licence holders concerned on the 27th January 2021.
- 3.4 In addition to the final premises licence review proposal referred to above licence holders have been provided with an invoice, at least one reminder for the invoice and a further letter requesting payment. The Licensing Standards Officer has also attempted to make contact with relevant premises licence holders.

- 3.5 The Clerk will update the schedule and withdraw the proposal in respect of any licence fee that is paid prior to the date of the hearing.
- 3.6 The review proposals must state the grounds for review. Section 36(3) of the Act states the grounds for review, which are (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.
- 3.7 A review proposal(s) having been made, the Board is obliged to hold a hearing, in terms of s.38(1), to consider and determine the proposal(s).
- 3.8 In the present case, grounds for review are made out both in terms of ss.36(3) (a) and (b) of the Act.
- 3.9 By the failure to pay the annual licence fees which became due on 1 October 2020, the licence holders concerned are breaching a mandatory condition of the premises licence, which condition is imposed by paragraph 10(2) of Schedule 3 of the Act.
- 3.10 In addition, by the failure to pay the annual licence fees, the licence holders concerned have deprived the Board of revenue and this reduces the Board's ability to promote the licensing objectives.
- 3.11 At the review hearing section 39(2) confers on the Board the power to:
- i) Issue a written warning;
 - ii) Vary the licence;
 - iii) Suspend the licence for such period as the Board may determine including suspending the licence unless and until the fee is paid; or
 - iv) Revoke the licence.

4. SUMMARY OF IMPLICATIONS

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

(b) Policy and Legal

The Legal implications have been explained above.

(c) Financial Implications

Loss of unpaid fees.

(d) Risk Implications

None.

(e) Staffing Implications

Additional administration is required in pursuing unpaid annual fees.

(f) Property

None

(g) Equalities/Socio Economic Impact

In considering this matter the Board should have regard to the subject's rights under the European Convention on Human Rights (and the Human Rights Act 1998).

(h) Consultations

None required.

5. CONCLUSION

- 5.1 The Board should consider and determine the premises licence review proposals in respect of each premises listed in the schedule circulated separately to members having regard to the powers available to the Board under s.39(2) of the Licensing (Scotland) Act 2005.**

Author of Report:	Sean Hoath, Senior Solicitor, Depute Clerk to the Licensing Board
Background Papers:	
Ref:	SAH