

APPENDIX 1

Copy Application For Review of Premises Licence

Our Ref: SMW / LAPREM/00212/22
Ask for: Sarah Ward
Direct Dial: [REDACTED]
Email: [REDACTED]

Date: 29th November 2023

The Depute Clerk to the Aberdeenshire Licensing Board

Dear Sir/Madam

REVIEW OF PREMISES LICENCE IN TERMS OF SECTION 36(4) LICENSING (SCOTLAND) ACT 2005

DURN HOUSE, DURN ROAD, PORTSOY – AB-N-P309

On 28 November 2023, I carried out a premises visit following contraventions provided in the Letter of Notice dated 8 November 2023 and spoke with Andrew Fraser and Jo (no further details). It was again explained that failure to pay the Licenced Premises Annual Fees remained unresolved and the Premises Licence Holder, Durn House Ltd, has failed comply with the Section 14 requirement, payment of annual fee.

I am applying to Aberdeenshire Licensing Board for a review of the premises licence in terms of Section 36(4)(b) of the Licensing (Scotland) Act 2005.

The grounds for this being -

Issue of a notice under Section 14(2)(a) by recorded delivery to the Premises Licence Holder's personal address and to the Premises address;
by email noted on the licensing database as [REDACTED] to [REDACTED] as noted on website, to the Premises Licence Holder [REDACTED] and to the Premises Manager [REDACTED]

The Premises Licence Holder has still failed to take the action by payment of said Annual Fee.

1. Grounds for review

Breach in Schedule 3 (10) Payment of Annual Fees.

2. Background to premises

On 2 May 2017, Premises Licence Granted Highland Hideaways Limited, with sole Director Matthew Gillic, until March 2020 (resigned) and Sandra Scrudis as sole Director appointed.

Substituted Designated Premises Manager Variations lodged February 2018, July 2019, and February 2020, latterly to Matthew Gillic.

Whilst chasing Annual Fee 2022, and due to returned recorded Notice, I identified changes to connected persons and change in licence holder's address. The Annual Fee was paid following a visit and a discussion with staff on duty in respect of the requirements under Section 48 of the Act the licensing board had not received Notification - this was communicated by email (30/11/2022) in terms of the duty to Notify changes by the licence holder and a response email from Sandra Scrudis confirming she wanted some time to discuss how they wish to proceed with things in a more general way, following the passing of her husband, the day before.

On 12 January 2023, further email to the premises confirming Companies House Highland Hideaways Limited, status reflected Liquidation, and that no Transfer had been received. The board agreed to accept a late transfer, under Section 135, given the circumstances.

On 8 February 2023, Granted Premises Licence Transfer to Durn House Ltd, with Sandra Scrudis as sole Director and Matthew Gillic as Premises Manager.

3. Previous premises licence review application

I can confirm no previous premises licence review in respect of Durn House Ltd, although the licence holder and connected persons whilst trading under the previous Limited company have failed to comply and pay annual fees in a timeously manner, which has resulted in Officer time, following up and issuing emails, non-compliant letters and Section 14 Notices as follows -

- In 2017, Annual Fee paid on 06.10.2017 following Non-compliance Letter.
- In 2018, Annual Fee paid on 29.10.2018 following issue of Section 14 Notice.
- In 2019, Annual Fee paid on 23.10.2019 following issue of Section 14 Notice.
- In 2020, Annual Fee paid on 21.10.2020 following Non-compliance Letter.
- In 2021, Annual Fee paid on 25.10.2021 following Non-compliance Letter.
- In 2022, Annual Fee paid on 16.11.2022 following issue of Section 14 Notice.

4. History of noncompliance

No inspection has been carried out since the transfer of premises licence, to Durn House Ltd.

In respect of the non-payment of Annual Fees 2023: (documents attached)

- On 28 August 2023 the Annual Fee Reminder was sent by email from the licensing team to all Licenced Premises in Aberdeenshire.
- On 17 October, a generic email (to email addresses on record) to all premises still outstanding reminding them of outstanding fees and to get in touch if any issues or if payment made so we could update our records.
- On 24 October, a Non-Compliance Letter by email (to email addresses on record), in respect of the breach to conditions in Schedule 3(10) of the Licensing (Scotland) Act 2005.
- On 7 November, I called Durn House premises and spoke with Andrew Fraser, Guest Service Manager there, confirmed that the emails from Licensing had been received and he apologised for non-payment. He stated that he would call Sandra Scrudis and call me back and that “she’d sort it out”. No return call has been received.
- On 9 November, I issued a Section 14 Notice which was sent by recorded delivery to the Premises Licence Holder’s address and a copy was sent to the premises.
- (Note -tracking reflects signed for by Joshua on the 11 November 2023).
- On 16 November, I sent a further email (to all email addresses on record) with a copy of all correspondence, including copy of Section 14 Notices.
- On 28 November, during the visit in respect of outstanding Annual Fees, both Andrew Fraser, and Jo (no further details), Supervisor confirmed all email addresses as noted above were correct.
- Andrew and Jo both confirmed that Matthew Gillic, Premises Manager, has been absent due to health issues and is not on the premises as a day-to-day manager. Matthew will appear with supplies from the Cash and Carry, leaving the staff to run the premises from day to day.
- Staff reported unpaid wages and the paying of wages in instalments, in addition to frequent visits and phone calls regarding unpaid Invoices. They also confirmed that staff are left to run the premises themselves along with Chloe Cowie, Operations Manager (approximately 2 months employed). She was on Annual Leave at the time of my visit.

In respect of the Premises Manager – Matthew Gillic, absence from day-to-day duties:

On 12 January 2023 I received an email from Sandra Scrudis stating

“In view of recent events we have decided to re-structure the business. And as a result we wish to transfer the licence to Durn House Ltd. nothing else will change and Matthew will continue as premises manager on a part-time basis supported by Vivienne Long until we can get a personal licence in place for Candice White who is the General Manager and will take over as premises manager in due course. Unfortunately, Matthew has been diagnosed with a serious illness and will need to step down once we have things in place. “

Further to this, on 28 November 2023, Andrew Fraser and Jo (NFD) confirmed that Vivienne Long left sometime during the summer this year (July / August 2023?), and that no one else on the premises holds a personal licence that they were aware of. I confirmed that I would check the data base for Chloe Cowie however, if she didn't have a personal licence then a substitution of premises manager application would not be possible without another personal licence holder and the Licensing Board may issue the premises licence with no premises manager which may result in the premises not being able to sell alcohol. (note, no record on our data base of a Personal Licence for Chloe Cowie).

I can confirm that at time of writing no variation has been lodged to substitute the designated premises manager.

5. Conclusion and recommendation

- 1) If at the time of the board hearing the Premises Annual Fee remains outstanding, then for the Licensing Board to consider all options in respect of Section 39 of the Act.
- 2) If the Premises Licence Annual Fee is paid, then in terms of Section 39 of the Act a Warning to the licence holder, for failing to pay the Annual Fee in a timeously manner and to ensure that payments are paid on time and no later than 1st October Annually.
- 3) For the Board to consider issuing the premises licence with no Premises Manager, in line with the Board's Supplementary Policy, as noted below in respect of the premises manager not working within the premises on a day-to-day basis:

6.5: “The Board expects Personal Licence Holders that are also Designated Premises Managers (“DPMs”) to be generally working within the premises on a day-to-day basis. The Board does not, however, consider that a Personal Licence Holder is required to be on the premises at all times, with the exception of certain late opening premises, where mandatory conditions require a Personal Licence Holder to be on the premises after 1.00 a.m., or where the Board has required the presence of a Personal Licence Holder in terms of its local conditions relating Festive hours. However, where a Personal Licence Holder is not present, they are not removed from all responsibility. This should be addressed in the terms of the authorisation.

6.6 “Where a DPM is likely to be absent from the premises for a period of more than three months, the Premises Licence Holder should consider substituting a new DPM onto the licence for the duration of the absence.”

Yours sincerely,

Sarah Ward
Civic Licensing Standards Officer

Enclosed: Reminder Letter, Reminder email(s), Non-Compliance letter, and
 Section 14 Letter and Notice
 Copy of email from Sandra ref Transfer / DPM proposals.

Fiona Stewart

From: Sarah Ward
Sent: 29 November 2023 16:18
To: Fiona Stewart
Subject: Review Letter and supporting emails correspondence - Durn House Portsoy AB-N-P309
Attachments: SW - 29.11.2023 - Durn House Review PL Letter to Licensing Board.doc; ACTION IMMEDIATELY - OUTSTANDING ANNUAL FEE - DURN HOUSE LTD PREMISES LICENCE HOLDER - AB-N-P309 ; ACTION URGENT - Annual Fee Reminder ; ACTION LICENCE HOLDER - Outstanding Annual Fee Payment - Non Compliant Letter AB-N-P309 - Durn House, Portsoy; 12.01.2023 email correspondence from Sandra Scrudis response ref - Durn House Premises Licence AB-N-P309
Importance: High

Fiona,
For the Licensing Boards Attention, Request Review of Premises Licence in respect of Breach in Schedule 3 (10) Annual Fees.

Regards,
Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council



Fiona Stewart

From: Sarah Ward
Sent: 08 November 2023 09:22
To: Sarah Ward
Subject: ACTION Notice to be posted Recorded Delivery ref Durn House Portsoy
Attachments: 8.11.2023 Sec 14 Notice Durn House ref Annual Fees.doc

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Regards,
Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council



Our Ref: SMW/ LAPREM/00212/22
Ask for: Sarah Ward
Direct Dial: 07824547358 / 01467 534725
Email: sarah.ward@aberdeenshire.gov.uk

Infrastructure Services
Environmental Health
St Leonards
Sandyhill Road
Banff
AB45 1SD
www.aberdeenshire.gov.uk

Licence Holder
Durn House Ltd
71-75 Shelton Street
Covent Garden
London
SC2H 9JQ

8TH November 2023

Dear Licence Holder,

**NOTICE IN TERMS OF SEC 14 LICENSING (SCOTLAND) ACT 2005
LICENSING (SCOTLAND) ACT 2005 - ANNUAL FEE PAYMENT**

Durn House, Portsoy AB-N-P309

Further to our letters by email dated 29th August and reminders dated 17th & 24th October, our records show the payment of £280.00 remains outstanding.

As a result of non-payment of Annual Fees, you have continued to fail to comply with Schedule 3, paragraph 10 of the Licensing (Scotland Act 2005), which contains details of the mandatory conditions attached to your premises licence. As such, I am now issuing you, as premises licence holder, with a Section 14(2)(a) compliance notice. Details of the breach are contained within the notice along with action required to remedy the situation.

How to Pay

Online payment using a debit or credit card is the quickest and most convenient method. **If using this method, please go the following web address:-**

- www.aberdeenshire.gov.uk
- Click on the word "Pay"
- At the bottom of the list click on "Liquor licence annual fee"
- Complete your details on screen

If you are unable to pay online, please contact licapps@aberdeenshire.gov.uk and we will arrange a telephone payment or provide you with the details for a BACS transfer. If you wish to pay via bank transfer, please ensure that you advise us when the payment has been made, and let us know the reference used, so we can track your payment.

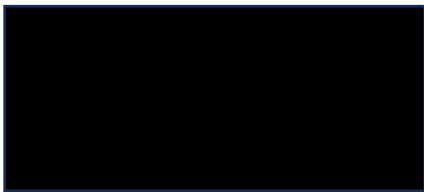
Please be aware that Aberdeenshire Council no longer accept cash or cheque payments.

Further failure to comply with this notice will result in the premises licence being subject to a review hearing at the next meeting held by Aberdeenshire Licensing Board, in December. At the hearing the Licensing Board may consider one of the following steps:

1. issue a written warning
2. make a variation
3. suspend the licence for a period
4. to revoke the licence

You may also wish to take legal advice as, potentially your premises licence could be at risk

Yours faithfully,



Sarah Ward
Civic Licensing Standards Officer

Cc: Licence Holder, Durn House, Durn Road, Portsoy AB45 2XT


If you have difficulty reading this document, please contact
Sarah Ward [REDACTED]

**LICENSING (SCOTLAND) ACT 2005
COMPLIANCE NOTICE UNDER SECTION 14**

Notice is hereby given in terms of Section 14 (2)(a)(i) of the above Act and is issued by Sarah Ward being a Licensing Standards Officer for Aberdeenshire Licensing Board.

This notice requires action to be taken by the Licence Holder to remedy the breaches of the licensing conditions outlined below to which the Premises Licence is subject. Failure to do so to the satisfaction of the Licensing Standards Officer within the time allowed for compliance (if any) will result in an application to Aberdeenshire Licensing Board for a review of the Premises Licence.

Premises Licence Holder & Licence No:	Durn House Limited AB-N-P309
Premises Subject to Notice:	Durn House, Durn Road, Portsoy AB45 2XT
Date & Time Issued:	8.09.2023 (Office hours)
Premises Manager Details:	Matthew Gillic
Manner of service:	By Post (Recorded)
Details to Whom Issued:	Durn House Limited
Details of Breach of Condition and Remedy <i>Licensing Standards Officer should detail the condition(s) breached and describe the remedial action required to be taken in order to comply with this notice. *</i>	
<u>Mandatory Conditions.</u> Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005 <u>Remedy</u> Make payment of the outstanding annual fee - £280.00 within 7 days from date of this notice. Payment can be made in any of the following methods: Online, telephone or at one of the Aberdeenshire Council Service Points. Where possible, we would encourage you to pay online at the undernoted website address. http://www.aberdeenshire.gov.uk	
REQUIREMENT TO COMPLY	
With Immediate Effect:	NO
(or) Comply By:	

		Date: 7 days from date of the attached letter
Licensing Standards Officer (Print Name & Signature)		Notice Received by (Print Name & Signature)
Sarah Ward,		

Fiona Stewart

From: Sarah Ward
Sent: 24 October 2023 08:16
To: Durn House; [REDACTED]
Subject: ACTION LICENCE HOLDER - Outstanding Annual Fee Payment - Non Compliant Letter AB-N-P309 - Durn House, Portsoy
Attachments: Durn House Portsoy Annual Fees Non Complaint Letter 2023.pdf; IDOX EDRMS: 'Email to Me'
Importance: High

Good Morning Licence Holder,

To date we've been unable to trace payment for Annual Fees; previous email correspondence has been sent with no response.


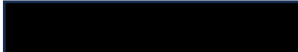
A non compliant letter and copy of Annual Fee letter as attached, Please Action Immediately.

Any queries, regarding said matter please do not hesitate to contact licensing by email on licapps@aberdeenshire.gov.uk

Kind Regards,

Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council

[REDACTED]

Our Ref: SMW / LAPREM/00212/22
Ask for: Sarah Ward
Direct Dial: 
Email: 

Licence Holder
Durn House Ltd
71-75 Shelton Street
Covent Garden
London
WC2H 9JQ

24.10.2023

Dear Licence Holder,

**Licensing (Scotland) Act 2005, Annual Fee Payment
Durn House, Portsoy AB-N-P309**

I refer to the above premises and write to advise that in terms of paragraph 7(2) of the Licensing (Fees) (Scotland) Regulations 2007 the annual fee in respect of the premises has not been paid by **01/Oct/2023**. The outstanding fee due is £280.00, you are now required to pay the fee within 7 days of the date of this letter.

Paragraph 10 of the Mandatory Conditions to which the premises licence is subject require payment of the annual fee by 01 October. Failure to make this payment will result in a review of the licence for failure to comply with a mandatory condition which may result in an immediate revocation of the licence.

If the above contravention remains un-resolved within 7 days, I shall issue the premises with a Section 14(2) (a) compliance Notice.

I will be happy to offer advice or guidance on remedying the matters but would also recommend that you consider taking legal advice if you have any concerns about the matters being raised. If there have been any management changes that effect the licence, please get in touch to discuss any variations that may be required.

PLEASE SEE PAYMENT OPTIONS IN ATTACHED LETTER.

Should you wish to make representation to my line manager (Keith Simpson, Senior Licensing Standards Officer, [REDACTED]) you should do so within two weeks from receipt of this letter.

If you require any further information or advice, please do not hesitate to contact me at the above address.

Yours sincerely,

A large black rectangular redaction box covering the signature area.

Sarah Ward
Civic Licensing Standards Officer

Cc: Licence Holder, DPM, Enquiries all by email.

Enc. Copy of letter reminder letter.

**If you have difficulty reading this document, please contact
Sarah Ward [REDACTED]**

Fiona Stewart

From: Sarah Ward
Sent: 17 October 2023 16:02
Subject: ACTION URGENT - Annual Fee Reminder

Importance: High

Follow Up Flag: Follow up
Flag Status: Flagged

Good Afternoon,

Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005 – Payment of Annual Fees.

I am currently unable to trace the annual fee payment which was due by 1st October 2023. All Annual Fee letters were sent by email to the premises licence holder on the 29th August; if you are not in receipt of said letter, please by return of email contact me asap.

It may be that you've already made payment (and my apologies if this is the case) ; therefore , I ask if you can confirm when and how the payment was made e.g. date and reference to the receipt number or forward me a copy of your receipt.

If payment has not been made please go to - www.aberdeenshire.gov.uk Online payment is the quickest option, using a debit or credit card.

- Click on the word "Pay"
- At the bottom of the list click on "Liquor Licence Annual Fee"
- Complete your details on screen

Should you wish to pay by telephone then please contact licapps@aberdeenshire.gov.uk confirming a telephone number that licensing call you on for taking telephone card payment.

Please give this your immediate attention; if payment is not received within 7 days, then we have no choice but to follow the formal procedures for issuing a letter of non-compliance, in terms of a breach in mandatory conditions - Schedule 3 paragraph 10 of the Licensing (Scotland) Act 2005.

Thanks in advance,

Regards,
Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council



Fiona Stewart

From: Sarah Ward
Sent: 29 November 2023 16:16
To: Sarah Ward
Subject: 12.01.2023 email correspondence from Sandra Scrudis response ref - Durn House Premises Licence AB-N-P309

From: [sandra](#) [REDACTED]
Sent: 12 January 2023 14:37
To: Sarah Ward [REDACTED]
Subject: RE: ACTION - Sandra Scrudis - Durn House Premises Licence AB-N-P30

Dear Sarah,

Many thanks for your email below which I received today.

I was about to contact you this week to discuss what we need to do in any event and apologise for the delay due to the death of my husband John just before Christmas and then the Christmas and new year break.

In view of recent events we have decided to re-structure the business. And as a result we wish to transfer the licence to Durn House Ltd. nothing else will change and matthew will continue as premises manager on a part-time basis supported by Vivienne Long until we can get a personal license in place for Candice White who is the General Manager and will take over as premises manager in due course. Unfortunately, Matthew has been diagnosed with a serious illness and will need to step down once we have things in place.

Your assistance in providing details on how we can do this would be appreciated at this difficult time.

I am happy to meet with you or hold a telephone conversation if that would assist.

Kindest Regards

Sandra

Sandra Scrudis

From: Sarah Ward [REDACTED]
Sent: 11 January 2023 16:14
To: [REDACTED]
Subject: ACTION - Sandra Scrudis - Durn House Premises Licence AB-N-P309
Importance: High