

## ABERDEENSHIRE LICENSING BOARD

### Minute of the Meeting of the ABERDEENSHIRE LICENSING BOARD, held by MICROSOFT TEAMS only on 4 OCTOBER 2023 at 10.15 am

Sederunt:

Board Members:

Mrs M Ewenson(Convenor), Ms Dawn Black (Vice-Convenor), Mr Stewart Adams, Mr Geoff Crowson, Mr Trevor Mason, Mr Richard Menard, Mrs Jenny Nicol and Ms Mel Sullivan

In Attendance:

Jill Joss, Depute Clerk to the Board; Fiona M. Stewart Depute Clerk to the Board; Martin Ingram, Principal Solicitor (Governance)(item 8 onwards); Lisa Godini, Sarah Ward and Kevin MacDonald Licensing Standards Officers; PC Dickson, Police Scotland; Clark Simpson and Harriet Tevendale, Paralegals

Observing:

Jenny Mearns, Administrator (Livestream);Beatrice Hay, Administrator; Kelly Bissett, Trainee Solicitor

Forum Members:

None

Apologies:

Mr Jeff Goodhall and Mr Iain Taylor  
Keith Simpson, Senior Licensing Standards Officer

The Convenor welcomed everyone to the meeting.

#### **1 Sederunt and Declaration of Members' Interests**

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct.

No declarations of interest were made.

#### **2 Public Sector Equality Duty**

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

(1) To have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
- (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
- (c) foster good relations between those who share a protected characteristic and persons who do not share it, and

- (2) to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

**3 Minutes of Board Meeting 16 August 2023**

The Board **agreed** the Minutes were a correct record of the meeting subject to correction of titles for Ms Black and Ms Sullivan in the Sederunt record.

**4 Licensing (Scotland) Act 2005 - Applications for Premises and Provisional Premises Licences - Non-contentious**

Following consideration of a report by the Clerk, dated 27<sup>th</sup> September 2023, in respect of an application for a provisional premises licence, copies of which had been circulated in advance, the Board decided the application as undernoted:

**(1) Cruden Bay Post Office, 1 Main Street, Cruden Bay, AB42 0NA**

GRANTED subject to -

- the local conditions specified in the Board Report.

**5 Licensing (Scotland) Act 2005 - Major Variations of Premises Licences - Non-contentious**

Following consideration of a report by the Clerk, dated 27<sup>th</sup> September 2023, in respect of applications for major variations of premises licences, copies of which had been circulated in advance, the Board decided the applications as undernoted:

**(1) The Bank Café & Restaurant, 2 the Square, Huntly, AB54 8AE**

GRANTED subject to:

- the local conditions set out in the Board Report,
- the specific conditions set out in the Board Report.

**(2) The Fife Arms Hotel, The Square, Turriff, AB53 4AE**

GRANTED subject to:

- The local conditions set out in the Board Report,
- The specific conditions set out in the Board Report.

**6 Licensing (Scotland) Act 2005 - Grant of Personal Licence - Notice of Relevant Conviction - Hearing**

1. Ben Parker, the applicant was present at the hearing.
2. Constable Dickson represented the Chief Constable at the hearing.
3. The Board afforded the applicant an opportunity to speak to his application.
4. The Board afforded Constable Dickson an opportunity to speak to the Chief Constable's notice.
5. The Board afforded the applicant an opportunity to respond.
6. Members were then afforded an opportunity to ask questions.

7. Both parties were afforded an opportunity to make concluding remarks.
8. The Board agreed they did not need to adjourn to seek legal advice in private.
9. The Depute Clerk advised everyone present of the Legal Test.
10. The Convenor confirmed that Members had sufficient evidence before them on which to reach a decision
11. Ms Black, seconded by Mr Mason, moved as a motion, none of the grounds of refusal having been found to apply, to grant the personal licence.
12. Mr Menard, seconded by Mr Adams moved as an amendment that, due to the nature of the conviction and the concealment, having regard to all five licensing objectives, the applicant was not a fit and proper person to be a holder of a personal licence, therefore to refuse the application.
13. On a division there voted:

**For the Motion**

Ms Black  
 Mr Crowson  
 Mrs Ewenson  
 Mr Mason  
 Mrs Nicol  
 Ms Sullivan [6 votes]

**For the Amendment**

Mr Adams  
 Mr Menard [2 votes]

14. The Convenor declared the motion carried in terms.
15. The Convenor confirmed that the decision of the Board was to grant the licence.

The decision of the Board was therefore to GRANT the application.

**7 Licensing (Scotland) Act 2005 - Grant of Personal Licence - Notice of Relevant Conviction - Hearing**

1. The applicant, Chelsea Brown was neither present nor represented at the hearing having indicated in advance that she would not be attending and having provided written submissions in advance for consideration by the Board.
2. Constable Dickson represented the Chief Constable at the hearing.
3. The Board agreed to proceed with the hearing in the absence of the applicant.
4. The Board heard Constable Dickson speak to the Chief Constable's notice.
5. An opportunity was provided to Board Members to ask questions of Constable Dickson.

6. The hearing was then paused to allow Constable Dickson to respond to a question and the Board moved on to the next item on the agenda, before coming back to the hearing.
7. Board Members resumed questions to Constable Dickson and further information was raised, but not stated, by Constable Dickson during questioning. This information was not part of the Chief Constable's notice.
8. Mr Menard, seconded by Ms Black, moved a motion to defer this application to the next Board as there was not sufficient information upon which to make a determination and for the further information to be provided by Police Scotland so that it could be circulated to the Applicant in advance of consideration at the next Board Meeting.
9. No amendment was proposed.
10. The Board confirmed the decision to be unanimous.

The decision of the Board was therefore to DEFER the application to the next meeting of the Board on 20<sup>th</sup> December 2023.

## **8 Update Report on Consultation on Draft Policy Statement**

Having considered the terms of a report by the Depute Clerk dated 27<sup>th</sup> September 2023, providing an update on the review of the Licensing Policy Statement following the end of the public consultation period, copies of which had been circulated to members in advance, the Board:

- a. Noted the terms of the updated Timeline for Review of the Policy Statement as set out in Appendix 1 to the report.
- b. Considered and commented on the responses to the Consultation Exercise contained in Appendices 2 to 4 to the report. Congratulated Depute Clerk Fiona Stewart and the Licensing Team for the hard work on the review of the Policy Statement and commented that it would be useful to go through Overprovision at the public sessions, to ensure understanding, following consideration of the responses.
- c. Considered an informal development session to be held before the final Draft Policy Statement is presented to the Board for approval at their meeting on 25<sup>th</sup> October 2023 and agreed this was to be during the week commencing 23<sup>rd</sup> October 2023 and a suitable date and time would be identified.

- d. Noted that a meeting to discuss the revised Local Conditions for Occasional Licences will be held with the Police and LSOS on 9th October 2023
- e. Noted that Information sessions with the Licensed Trade will be held in November 2023.
- f. Authorised officers to review the responses made relating to the re-establishment of the Aberdeenshire Licensing Forum and submit a proposal to the Board for consideration at their meeting on 25th October 2023

## **9 Approval of Board Dates for 2024 - 2025**

Having considered the terms of a report by the Depute Clerk, dated 22<sup>nd</sup> September 2023, seeking approval to fix the dates of Board Meetings for the Committee Cycle commencing 1st May 2024 and ending on 30th April 2025, the Board:

- a. Agreed dates for meetings of the Board between 1st May 2024 and 30th April 2025 as set out at Appendix 1 to the report.
- b. Noted that any physical meetings will take place at Woodhill House, Aberdeen but that Board Meetings continue to be held virtually at the current time.
- c. Noted that all meetings will commence at 10.15am.
- d. Noted that, once approved, the dates of the Board Meetings will be published via Aberdeenshire Council's Committee Management System, on the Council's website.
- e. Agreed the Pre-meetings for Board members should start at 9.15 and not 9am.

## **10 Date of Next Board Meeting**

The Board Noted the next meetings would be –

- (a) Special Board Meeting – 25<sup>th</sup> October 2023
- (b) Board Meeting – 20<sup>th</sup> December 2023

The Convenor drew the meeting to a close, at which point the recording of the meeting ended.