

THE ABERDEENSHIRE LICENSING BOARD

REPORT TO LICENSING BOARD HEARING – 28th February 2024

LICENSING (SCOTLAND) ACT 2005

Sections 36 - 40

APPLICATION FOR REVIEW OF PREMISES LICENCE - HEARING

1. Executive Summary/Recommendations

1.1. This report relates to a request for a review of a premises licence in terms of Section 36 of the Licensing (Scotland) Act 2005 (“the 2005 Act”) which is a matter which can only be determined by the Licensing Board.

Recommendation

1.2. **It is recommended that the Board considers the materials before them and –**

(a) **Determines whether there is enough evidence before the Board to allow a determination to be made, or whether the Board needs to defer consideration of the matter to the next available Board meeting; and**

(b) **Where the Board has concluded that there is sufficient evidence before them to allow a determination to be made, the Board should consider the request for review of the Licence as attached at Appendix 1 to this Report and consider -**

(i) **If any of the grounds for review have been established; AND**

(ii) **Where any of the grounds for review have been established what steps require to be taken under Section 39(2) of the Act.**

(c) **Determines whether the Board requires to hold any hearing in terms of Section 84 of the Act in respect of any personal licence holder working at the premises where appropriate to do so.**

2. Decision-Making Route

2.1. This matter has not been considered by the Board previously.

3. Discussion

Review of Premises Licence

3.1. Sarah Ward, Licensing Standards Officer (“LSO”) lodged an application for review of a premises licence by letter dated 12th February 2024. The application seeks the review of the premises licence for The Plough Inn, 13-15 Skene Street, Macduff, AB44 1RL. A copy of the review application is attached as **Appendix 1** to this Report and referred to for its terms.

3.2. The grounds for review submitted by the LSO are:-

- i. Failure to fully pay Annual Fee thereby resulting in a Breach of Mandatory Condition 3(10) of the Premises Licence;

3.3. The Plough Inn, 13-15 Skene Street, Macduff, AB44 1RL is the subject of premises licence No AB-N-P061. The premises licence holder is Ms Marie Charles, 5 Reidhaven Crescent, Findochty, AB56 4QG. Ms Charles has been the Premises Licence Holder since 9th January 2023 and is also the Designated Premies Manager at the premises. Her personal Licence was issued by Moray Licensing Board and is numbered 19/01632/PERLIC.

3.4. A copy of the premises licence is attached as **Appendix 2** to this Report.

3.5. A copy of Ms Charles’ Personal Licence is attached as **Appendix 3** to this Report.

3.6. A copy of the review application was forwarded to the Licence Holder on 13th February 2024.

3.7. Payment of the annual fee is a mandatory condition of a premises licence. Where an LSO believes that a condition of licence has been breached, he/she may service a notice on the Licence Holder under Section 14(2) of the 2005 Act requiring such action to be taken to remedy the breach as may be specified in the notice.

- 3.7. If the Licence Holder fails to take the action specified in the Section 14(2) notice, the LSO may make an application for review of the licence on the grounds that one of the conditions of the licence has been breached. The Board MUST hold a hearing to determine the review application.
- 3.8. The LSO's letter of 12th February 2024 advises that the ground of review of the premises licence is that one of the conditions of the premises licence has been breached, namely that the Licence Holder has failed to pay the full annual fee of £220.00. This ought to have been paid by 1st October 2023. Part 4 of the LSO's letter narrates the steps that have been taken to try to ensure that the annual fee is paid. The final step was the issue of a Compliance Notice under Section 14(2) of the 2005 Act on 8th November 2023. A copy of the Compliance Notice is included in the Application for Review which forms **Appendix 1** to this Report. The Compliance Notice was sent by recorded delivery mail and has not been responded to.
- 3.9. In order to assist the premises licence holder it was agreed to permit payment of the Annual Fee in instalments. The first partial payment of £65 was made on 21st December 2023. No further payment has been made to date. Officers are not permitted to accept cash payments.

Consultations

- 3.10. In terms of Section 38(4) of the Act, where not the person seeking the review application, the Licensing Standards Officer must prepare and submit a report to the Board on the premises licence review proposal.
- 3.11. No consultations have taken place in respect of this review application, it having been submitted by the Licensing Standards Officer.

Legal Test

- 3.12. The Legal Test forms **Appendix 4** to this Report.

The Board's Powers

3.13. If the Board is not satisfied that a ground of review is established then no action can be taken.

3.14. Where the Board is satisfied that a ground of review is established under Section 39(1) of the 2005 Act (whether or not on the basis of any circumstances alleged in the premises licence review proposal/application considered at the hearing) the Board may take any of the following steps as the Board considers necessary or appropriate for the purposes of any of the licensing objectives:-

- (a) **Issue a Written Warning.** Where a written warning is given, the licence holder can continue to trade under the terms of his premises licence as currently granted;
- (b) **Vary the terms of the Licence:** Where a variation of the licence is made, the licence holder can continue to trade under the terms of the varied premises licence
- (c) **Suspend the licence for such period as the Board sees fit.** Where the Board suspends the licence, the licence holder cannot trade for the duration of the suspension.
- (d) **Revoke the Licence.** Where the Board revokes the licence, there is no longer a premises licence that can be traded.

3.15. The Board may also make a finding in terms of Section 84 of the Act in respect of any personal licence holders who are or were working in the licensed premises in respect of which the premises licence was issued acted in a matter which was inconsistent with any of the licensing objectives and call for a Hearing to consider whether the personal licences held by those persons should be revoked, suspended or endorsed as per Recommendation 1.5(c) of this Report. To that end, the Designated Premises Manager has also been informed of the review application and has a right to be in attendance, but not take part in, the premises licence review hearing.

3.16. The Licence Holder has the right to appeal any of the decisions made by the Board with regard to the premises licence.

Procedure

3.17. The review of premises licence should be considered on its own merits.

3.18. The Licence Holder and the Licensing Standards Officer have been invited to attend the Hearing by letter dated 13th February 2024. Notices included a copy of this report, the Legal Test and the Board's Guidance on procedures for Hearings.

3.19. The Designated Premises Manager has also been invited to attend the Hearing as the outcome of the Hearing may affect her personal licence.

3.20. Members should follow the procedure outlined at **Appendix 5** to this Report.

3.21. In terms of the Board's procedure, any documentation/written submissions lodged by any of the parties, will be circulated to Members and all parties prior to the meeting taking place, where it is possible to do so. Such written documentation/submissions will form **Appendix 6** to this Report, if submitted.

3.22. When coming to a decision the Board must consider the evidence provided and the contents of the legal test. Supplementary advice and information can be made available by Officers, if required.

4. Priorities, Implications and Risk

4.1 The Board must determine this matter on its own merits in accordance with the legal test set out in the relevant legislation. The Board is a separate legal entity to Aberdeenshire Council and therefore the Council's priorities do not apply to this report.

4.2 The table below shows whether risks and implications apply if the recommendations are agreed:

Table 1 Risks and Implications

Subject	Yes	No	N/A
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Financial		X	
Staffing		X	
Equalities and Fairer Scotland Duty	X		
Children and Young Peoples' Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

- 4.3 An Integrated Impact Assessment (“IIA”) has not been carried out in this case due to lack of time to conduct one. Officers are cognisant of compliance with the Fairer Scotland Duty where persons may be experiencing financial hardship. To that end, arrangements were made to permit the licence holder to pay via instalments in order to ease the financial burden on the premises. However, payment of the fee is a statutory duty and a mandatory condition of the premises licence with which the premises licence holder must comply.
- 4.4 There are no staffing implications. There is £155 outstanding in respect of the annul fee for the premises.
- 4.5 There are no Risks identified in respect of this matter in terms of the Corporate and Directorate Risk Registers as the Licensing Board is considering the application as the Licensing Authority in a quasi-judicial role and must determine each application on its own merits in accordance with the legal tests set out in the relevant legislation.
- 4.6 The Town Centre Principle does not apply in respect of this matter as the Board is considering the applications as Licensing Authority in a quasi-judicial role and must determine the applications on their own merits in accordance with the legal tests set out in the relevant legislation

Governance

4.1. In terms of paragraph 1.11 of Part 1 of the Boards' current approved Scheme of Delegation, such hearings are a matter reserved to the Licensing Board.

Karen Wiles
Clerk to the Board

Report Prepared by Fiona M Stewart, Senior Solicitor (Governance), Depute Clerk to the Board

Date: 12th February 2024

File Reference: LAPREM/00183/22

Appendices

Appendix 1 – Application for Review of Premises Licence

Appendix 2 – Copy Premises Licence



Appendix 3 – Copy Personal Licence of Designated Premises Manager

Appendix 4 – Legal Test

Appendix 5 – Procedure

Appendix 6 – Written Submissions

Copy Application For Review of Premises Licence

Our Ref: SMW / LAPREM/00183/22
Ask for: Sarah Ward
Direct Dial: 
Email: 

Date: 12th February 2024

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

The Plough Inn, Macduff – AB-N-P061

I write to Aberdeenshire Licensing Board to request 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, to the Premises address, by email noted on the licensing database and hand delivered.

The Premises Licence Holder has failed to take action by payment of full Annual Fee.

1. Grounds for review

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

2. Background to premises

On 9th January 2023, the Premises Licence was Granted to Ms Marie Charles as Premises Licence Holder and Designated Premises Manager.

3. Previous premises licence review application

I can confirm that no premises licence review application has been requested in respect of the current premises licence holder for said premises.

4. History of noncompliance

A premises licence inspection was carried out on the 8th March 2023, with Police Scotland and identified some minor compliance issues that were resolved, with exception of the following:

- Unable to provide Personal Licence – allegedly lodged with Transfer and not returned. LSO communicated with Licensing Admin, who confirmed they had not been able to locate. Copy of PLH lodged with Transfer and LSO forwarded back to the Licence Holder by email. Suitable advice provided in terms of logging lost or stolen with Police Scotland.
- Recommended Personal Licence Address updated, to reflect now residing above the premises. Suitable advice provided at the time to contact Moray Council, (issuing authority) to update Personal Licence.
- If above resolved, then apply for a minor variation to update the address for the Premises Licence Holder and DPM Address.

In respect of the non-payment of Annual Fees 2023, sum of £155.00 remains outstanding and suitable guidance has been provided to the premises licence holder, as follows:

- 28th August 2023 the Annual Fee Reminder was sent by email from the licensing team to all Licenced Premises in Aberdeenshire.
- 17th 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.
- 24th 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.
- 24th October, Licence Holders response confirming the following:
“Haven't checked emails for a while, thank you for contact. At the moment there is no money to pay fee I will have to get invoices out to cover this”
- 8th November, a Notice 14 was sent by email to EH Admin to send recorded delivery; On 9th November EH Admin confirmed recorded delivery sent.
- 16th November, email sent to Licence Holder, reflecting above correspondence and with copies of said letters, as tracking reflects Royal Mail attempted delivery on 9th & 10th but no answer at said address. (Please note Section 14 Notices must be issued to the

premises licence registered address)

- 30th November, visit to premises and spoke with Licence Holder; Marie explained her position and I advised I would see what I could do in terms of payments in instalments, but couldn't promise.
- 5th December, communication Martin Ingram, in respect Financial Hardship and permitting instalments; undertaking by myself to keep track of payments and communicate with licensing Admin.
- 6th December (AM) visit, no one available, sent email asking to call LSO.
- Same date, call Licence Holder x 2 – no answer, left voicemail ref outstanding fee.
- 7th December (AM) visit, confirmed with Licence Holder that agreement to permit instalments.
- 13th December, call Licence Holder, left voicemail ref outstanding fee.
- 18th December, call Licence Holder, left voicemail ref outstanding fee.
- 20th December, call Licence Holder, left voicemail ref outstanding fee.
- *22nd December, email from Licensing confirming First payment by £65.00 21.12.2023.*
- 3rd January, email from EH Admin confirming recorded delivery Notice was unsuccessful in terms of delivery.
- 4th January, call Licence Holder, left voicemail ref outstanding fee.
- 11th January, call Licence Holder, left voicemail ref outstanding fee.
- 19th January, call Licence Holder, left voicemail ref outstanding fee.
- 8th February, visit to premises, Licence Holder not present, spoke to partner.
- 8th February, email to Licence Holder following visit - confirming sum outstanding. Offer of full sum by Cash, but confirmed and double checked with Jenny Mearns that we were unable to accept Cash payment. Email confirms details of conversation and instructions for outstanding payment of £155.00, overdue.

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.

Yours sincerely,

Sarah Ward
Civic Licensing Standards Officer

Enc.

Fiona Stewart

From: Sarah Ward
Sent: 24 October 2023 08:17
To: Marie Charles; [REDACTED]
Subject: ACTION LICENCE HOLDER ref Outstanding Annual Fee - Non compliant letter - Plough Inn, Macduff AB-N-P061
Attachments: IDOX EDRMS: 'Email to Me'; Plough Inn, Macduff Annual Fees Non Complaint Letter 2023.pdf
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
Economic Development & Protective Services
St Leonards, Sandyhill Road, Banff. AB45 1SD

Contactable by: [REDACTED]
Guidance / Application forms.

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

Our Ref: SMW / LAPREM/00183/22
Ask for: Sarah Ward
Direct Dial: [REDACTED]
Email: [REDACTED]

Licence Holder – Marie Charles
5 Reidhaven Crescent
Findochty
AB56 4QG

24.10.2023

Dear Licence Holder,

**Licensing (Scotland) Act 2005, Annual Fee Payment
Plough Inn, Macduff, AB-N-P061**

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 £220.00, 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 applications to vary * or Transfer, that may be required. * Note matters still outstanding ref Change of Address of Premises Licence Holder /DPM.

PLEASE SEE PAYMENT OPTIONS IN ATTACHED LETTER.

Should you wish to make representation to my line manager (Keith Simpson, Senior Licensing Standards Officer, Viewmount, Arduthie Road, Stonehaven, AB39 2DQ. [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,



Sarah Ward
Civic Licensing Standards Officer

Enc. Copy of letter reminder letter.

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


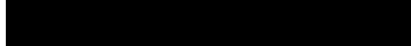
Fiona Stewart

From: Marie Charles [REDACTED]
Sent: 24 October 2023 08:22
To: Sarah Ward
Subject: Re: ACTION LICENCE HOLDER ref Outstanding Annual Fee - Non compliant letter - Plough Inn, Macduff AB-N-P061

Haven't checked emails for a while, thank you for contact. At the moment there is no money to pay fee I will have to get invoices out to cover this.

Marie



Our Ref: SMW/ LAPREM/00183/22
Ask for: Sarah Ward
Direct Dial: 
Email: 

Infrastructure Services

Environmental Health

St Leonards

Sandyhill Road

Banff

AB45 1SD

www.aberdeenshire.gov.uk

Ms Marie Charles – Premises Licence Holder
5 Reidhaven Crescent
Findochty
AB56 4QG

8 November 2023

Dear Licence Holder

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

The Plough Inn, Macduff AB-N-P061

Further to our letters by email dated 29th August and reminders dated 17th & 24th October, our records show the payment of £220.00 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

**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:	Ms Marie Charles AB-N-P061
Premises Subject to Notice:	Plough Inn 13-15 Skene Street Macduff AB44 1RL
Date & Time Issued:	08.11.2023 Office hours
Premises Manager Details:	Ms Marie Charles
Manner of service:	By Post (Recorded)
Details to Whom Issued:	Premises Licence Holder – Ms Marie Charles
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 - £220.00 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,			
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Fiona Stewart

From: Martin Ingram
Sent: 05 December 2023 15:25
To: Sarah Ward; Fiona Stewart; [REDACTED]
Cc: Lauren Cowie
Subject: RE: ACTION Licensing Sols Team: Consideration request for Annual Fee Payment in Instalments - Plough Inn, Macduff AB-N-P061

Good afternoon, Sarah.

Lauren and I chatted about this earlier today and we agreed that if we can help this premises licence holder by allowing her to pay in instalments then we should.

I understand that the onus would be on us to check with Finance Income Management whether the payments are being maintained so, while we may be able to entertain this in situations of financial hardship, there would be an impact on resource at our end so to consider the longer term implications of doing this if other premises licence holders sought to pay by instalments in future.

Happy to discuss.

Thanks
Martin

Martin Ingram
Principal Solicitor (Governance) & Elections Coordinator
Legal & People
Corporate Services
Aberdeenshire Council
Woodhill House
Westburn Road
Aberdeen
AB16 5GB

[REDACTED]

The Legal Service is operating a new case management system. If you follow this [AskLegal](#) link you will be taken to the AskLegal Portal where you can submit a request for help. Using the portal will automatically create a new matter in the system and will allow the work to be allocated quickly.

From: Sarah Ward [REDACTED]
Sent: Monday, December 4, 2023 3:20 PM
To: Fiona Stewart [REDACTED] Martin Ingram
[REDACTED]
Cc: Lauren Cowie [REDACTED]
Subject: ACTION Licensing Sols Team: Consideration request for Annual Fee Payment in Instalments - Plough Inn, Macduff AB-N-P061

Good Afternoon All,

Please may you consider if anyway possible to allow said premises to pay their Annual Fee in instalments – if is possible to permit / provide remission under the financial hardship with the circumstances the Licence Holder finds herself in.

She has communicated with me, putting all her cards on the table, confirming she is hoping to raise some revenue over the festive period, but recently it has been a uphill struggle.



I explained the process in terms of non payment of Annual Fees, she's totally aware and I said I'd see if the board will consider taking a Fee in instalments with the view that the total sum is fully paid beginning of January, otherwise will need to go to a licensing board meeting in February, as Section 14 Notice already issued.

I said I could not guarantee the request for Instalments. Obviously instalments would be based on how much she could afford weekly until sum paid off – she indicated that she'd try to pay as much as possible, and even if we get a payment each week between now and end of the year, by telephone payment: sum due is Category 2 £220.00.



Thanks in Advance,

Sarah

Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council
Economic Development & Protective Services
St Leonards, Sandyhill Road, Banff. AB45 1SD

Contactable by
Guidance / App

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

Fiona Stewart

From: Sarah Ward
Sent: 05 December 2023 15:58
To: Martin Ingram
Cc: Lauren Cowie; [REDACTED] Fiona Stewart; [REDACTED]
Subject: Thanks - ref Licensing Sols Team: Agreement for Annual Fee Payment in Instalments - Plough Inn, Macduff AB-N-P061
Attachments: RE: ACTION Licensing Sols Team: Consideration request for Annual Fee Payment in Instalments - Plough Inn, Macduff AB-N-P061
Follow Up Flag: Follow up
Flag Status: Flagged

Hello Martin.

I am happy to liaise and manage this with the premises, to confirm arrangements for instalment(s), confirming dates of payments and who she should call to arrange for Card payment – I can liaise with licensing Admin on this.

Arrangements will be confirmed by email, with specific dates / instructions and I can keep tabs / set dates in IVA / Uniform.

I will make it very clear, this is only on the basis that the Fee is paid in full , by beginning of January, otherwise I will request a hearing of the board.

Many Thanks,

Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council
Economic Development & Protective Services
St Leonards, Sandyhill Road, Banff. AB45 1SD

Contactable by: [REDACTED]
Guidance / Application forms:
[Licensing - Aberdeenshire Council](#) [Environmental Health - Aberdeenshire Council](#)

Fiona Stewart

From: Beatrice Hay
Sent: 22 December 2023 14:07
To: Sarah Ward
Subject: The Plough Inn Macduff - paid £65 on 21 Dec 2023

Hi Sarah

First payment made on 21 Dec 2023 of £65.

Cheers
Beat

Beatrice A Hay
Administrator (Licensing)

Legal & People | Business Services | Town House | 34 Low Street | Banff | AB45 1AN

www.aberdeenshire.gov.uk

Days of work: Monday - Friday

The following applications can be submitted and paid for online through our website:-

Occasional Licence [Occasional licence to sell alcohol - Aberdeenshire Council](#)

Personal Licence Grant and Renewal [Personal licence to sell alcohol - Aberdeenshire Council](#)

Taxi & Private Hire Driver Grant and Renewal [Taxi and private hire licence - Aberdeenshire Council](#)

Taxi & Private Hire Vehicle Grant and Renewal [Taxi and private hire licence - Aberdeenshire Council](#)

Lottery Grant [Registration of small society lotteries - Aberdeenshire Council](#)

Lottery Renewal [Renewal of small society lotteries - Aberdeenshire Council](#)

You recently used Aberdeenshire Council's Licensing Service and we hope that you had a positive experience. Please can you spare a few minutes to complete this [Customer Feedback Survey](#) in order to help us gain valuable insight as to how we can improve our service to you.


Fiona Stewart

From: Anne McLaren
Sent: 03 January 2024 11:39
To: Sarah Ward
Subject: UNDELIVERED MAIL
Attachments: Undelivered Letter - The Plough Inn, Macduff.pdf

Kind Regards

Anne McLaren

Anne McLaren
Admin Assistant
Environmental Health
Infrastructure Services



Fiona Stewart

From: Sarah Ward
Sent: 08 February 2024 14:16
To: [REDACTED] Marie Charles
Subject: ACTION URGENT ref OUTSTANDING ANNUAL FEE PAYMENT £155 - PLOUGH INN

Importance: High

Follow Up Flag: Follow up
Flag Status: Completed

Good Afternoon Marie,

Following a visit to the premises today, and speaking with your partner – I'm sorry we can't accept cash.

Please arrange to make outstanding payment no later than Monday 12th February, otherwise a review of the premises licence will be considered by the licensing board at the next meeting at the end of February; it will be for the board to determine if you will be permitted to keep selling alcohol or if they will suspend the licence until outstanding fee is paid.

Number to call is Beatrice Hay on [REDACTED]

Regards,
Sarah Ward
Civic Licensing Standards Officer
Aberdeenshire Council
Economic Development & Protective Services
St Leonards, Sandyhill Road, Banff. AB45 1SD

Contactable by: [REDACTED]

Guidance / Application forms:

 [Licensing - Aberdeenshire Council](#)  [Environmental Health - Aberdeenshire Council](#)

APPENDIX 2

Copy Premises Licence

Licensing Hours**ON SALES**

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	12:00	01:00
Tuesday	12:00	01:00
Wednesday	12:00	01:00
Thursday	12:00	01:00
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	01:00

OFF SALES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	12:00	22:00
Tuesday	12:00	22:00
Wednesday	12:00	22:00
Thursday	12:00	22:00
Friday	11:00	22:00
Saturday	11:00	22:00
Sunday	11:00	22:00

NOTES:

ABERDEENSHIRE LICENSING BOARD

PREMISES LICENCE

Issued by – Aberdeenshire Licensing Board – under the terms and conditions of the Licensing (Scotland) Act 2005

Premises licence number: AB-N-P061

Date of commencement of licence: 1 September 2009

Postal address of premises:

**The Plough Inn
Plough Inn
13 - 15 Skene Street
Macduff
Aberdeenshire
AB44 1RL**

Description of premises:

The premises comprise of a Public Bar Function Room and are located in a mainly residential part of town.

Licensing Hours**ON SALES**

<i>Day</i>	<i>ON Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	12:00	01:00
Tuesday	12:00	01:00
Wednesday	12:00	01:00
Thursday	12:00	01:00
Friday	11:00	01:00
Saturday	11:00	01:00
Sunday	11:00	01:00

OFF SALES

<i>Day</i>	<i>OFF Consumption</i>	
	<i>Opening Time</i>	<i>Terminal Hour</i>
Monday	12:00	22:00
Tuesday	12:00	22:00
Wednesday	12:00	22:00
Thursday	12:00	22:00
Friday	11:00	22:00
Saturday	11:00	22:00
Sunday	11:00	22:00

NOTES:

Name and postal address (or registered address if a company), telephone number and email (where relevant) of holder of premises licence:

**Ms Marie Charles
5 Reidhaven Crescent
Findochty
AB56 4QG**

Registered number of premises licence holder, e.g. company number, charity number (where applicable):

Name, postal address and telephone number of premises manager named in the operating plan:

**Ms Marie Charles
5 Reidhaven Crescent
Findochty
AB56 4QG**

Number of the personal licence held by the premises manager named in the operating plan and the name of the issuing Licensing Board:

**19/01632/PERLIC
Moray Council**

9 January 2023

.....
Depute Clerk to the Board

Mandatory Conditions for Premises Licences – Schedule 3 of the Licensing (Scotland) Act 2005 (as amended) – with effect from 1 May 2018

Interpretation

1. In these conditions, "the premises" means, in relation to any premises licence, the premises specified in the licence.

Compliance with the Operating Plan

2.
 - (1) Alcohol is to be sold on the premises only in accordance with the operating plan contained in the licence.
 - (2) Nothing in sub-paragraph (1) is to be read as preventing or restricting the doing of anything referred to in section 63(2) of the Licensing (Scotland) Act 2005.
3. Any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence.

The Premises Manager

4.
 - (1) Alcohol is not to be sold on the premises at any time when –
 - (a) There is no premises manager in respect of the premises,
 - (b) The premises manager does not hold a personal licence,
 - (c) The Personal licence held by the premises manager is suspended, or
 - (d) The licensing qualification held by the premises manager is not the appropriate licensing qualification in relation to the premises.
 - (2) In sub-paragraph (1) "appropriate licensing qualification" in relation to any licensed premises means any licensing qualification prescribes as such in relation to licensed premises of that description under Section 91(2)(d) of the Licensing (Scotland) Act 2005.
 - (3) Nothing in sub-paragraph (1) or paragraph 5 is to be read as requiring the premises manager to be present on the premises at the time any sale of alcohol is made.

Authorisation of Sales of Alcohol

5. Every sale of alcohol made on the premises must be authorised (whether generally or specifically) by –

- (a) The premises manager, or
- (b) Another person who holds a personal licence.

Training of Staff ¹

6. (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person –
- (a) Making sales of alcohol, or
 - (b) Where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person
- (2A) At any time when a person (other than a person who holds a personal licence) is working in the premises in a capacity mentioned in sub-paragraph (2), there must be kept on the premises a training record which relates to that person and is in the form set out in the Schedule to the Licensing (Mandatory Conditions No 2)(Scotland) Regulations 2007.
- (2B) A record kept on the premises under sub-paragraph (2A) must be produced to a Licensing Standards Officer on request.
- (3) Regulations under sub-paragraph (1) prescribing training requirements may, in particular –
- (a) Provide for the accreditation by the Scottish Ministers of –
 - (i) Courses of training, and
 - (ii) Persons providing such courses,
- For the purposes of the Regulations,

¹ Matters to be covered in training for staff are attached at the end. These are provided for in the Licensing (Training of Staff)(Scotland) Regulations 2007

- (b) Prescribe different training requirements in relation to different descriptions of persons,
- (c) Require that any person providing training or any particular description of training in accordance with the regulations hold a personal licence or such other qualifications as may be prescribed in the regulations, and
- (d) Require training to be undergone again at such intervals as may be prescribed in the regulations.

Pricing of Alcohol

6A

- (1) Alcohol must not be sold on the premises at a price below its minimum price.
- (2) Where alcohol is supplied together with other products or services for a single price, sub-paragraph (1) applies as if the alcohol were supplied on its own for that price.
- (3) The minimum price of alcohol is to be calculated according to the following formula—

$$\text{MPU} \times \text{S} \times \text{V} \times 100$$

Where—

MPU is the minimum price per unit,
S is the strength of the alcohol, and
V is the volume of the alcohol in litres.

- (4) The Scottish Ministers are to specify by order the minimum price per unit for the purposes of sub-paragraph (3).
- (5) For the purposes of sub-paragraph (3), where—
 - (a) the alcohol is contained in a bottle or other container, and
 - (b) the bottle or other container is marked or labelled in accordance with relevant labelling provisions,

the strength is taken to be the alcoholic strength by volume as indicated by the mark or label.

- (6) The Scottish Ministers are to specify by order the enactments which are relevant labelling provisions for the purposes of sub-paragraph (5).

6B

- (1) A package containing two or more alcoholic products (whether of the same or different kinds) may only be sold on the premises at a price equal to or greater than the sum of the prices at which each alcoholic product is for sale on the premises.
- (2) Sub-paragraph (1) applies –
 - (a) Only where each of the alcoholic products is for sale on the premises separately, and
 - (b) Regardless of whether or not the package also contains any item which is not an alcoholic product.
- (3) In this paragraph "alcoholic product" means a product containing alcohol and includes the container in which alcohol is for sale.

7. Where the price at which any alcohol sold on the premises for consumption on the premises is varied –
 - (a) The variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) No further variation of the price at which that or any other alcohol is sold on the premises for consumption on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

- 7A Where the price at which any alcohol sold on the premises for consumption off the premises is varied –
 - (a) the variation (referred to in this paragraph as "the earlier price variation") may be brought into effect only at the beginning of a period of licensed hours, and
 - (b) no further variation in the price at which that alcohol is sold on the premises may be brought into effect before the expiry of the period of 72 hours beginning with the coming into effect of the earlier price variation.

Irresponsible Drinks Promotions

8.

- (1) An irresponsible drinks promotion must not be carried on in or in connection with the premises.
- (2) Subject to sub-paragraph (3), a drinks promotion is irresponsible if it –
 - (a) Relates specifically to an alcoholic drink likely to appeal largely to persons under the age of 18
 - (b) Involves the supply of an alcoholic drink free of charge or at a reduced price on the purchase of one or more drinks (whether or not alcoholic drinks),
 - (c) Involves the supply free of charge or at a reduced price of one or more extra measures of an alcoholic drink on the purchase of one or more measures of the drink,
 - (d) Involves the supply of unlimited amounts of alcohol for a fixed charge (including any charge for entry to the premises),
 - (e) Encourages, or seeks to encourage, a person to buy or consume a large measure of alcohol than the person had otherwise intended to buy or consume,
 - (f) Is based on the strength of any alcohol,
 - (g) Rewards or encourages, or seeks to reward or encourage, drinking alcohol quickly, or
 - (h) Offers alcohol as a reward or prize, unless the alcohol is in a sealed container and consumed off the premises.
- (3) Paragraphs (c) to (e) of sub-paragraph (2) apply only to a drinks promotion carried on in relation to alcohol sold for consumption on the premises.
- (4) The Scottish Ministers may by regulations modify sub-paragraph (2) or (3) so as to –
 - (a) Add further descriptions of drinks promotions,
 - (b) Modify any of the descriptions of drinks promotions for the time being listed in it, or
 - (c) Extend or restrict the application of any of those descriptions of drinks promotions.
- (5) In this paragraph “drinks promotion” means, in relation to any premises, any activity which promotes, or seeks to promote, the buying or consumption of any alcohol on the premises.

Provision of non-alcoholic drinks

9.

- (1) The conditions specified in this paragraph apply only to the extent that the premises licence authorises the sale of alcohol for consumption on the premises.
- (2) Tap water fit for drinking must be provided free of charge on request.
- (3) Other non-alcoholic drinks must be available for purchase at a reasonable price.

Requirement for Age Verification Policy

9A

- (1) There must be an age verification policy in relation to the sale of alcohol on the premises.
- (2) An "age verification policy" is a policy that steps are to be taken to establish the age of a person attempting to buy alcohol on the premises ("the customer") if it appears to the person selling the alcohol that the customer may be less than 25 years of age (or such older age as may be specified in the policy).
- (3) The condition specified in this paragraph does not apply in relation to any sale of alcohol which takes place on the premises merely by virtue of being treated, by Section 139 of the Licensing (Scotland) Act 2005, as taking place on the premises.

Payment of annual or recurring Fees

10.

- (1) The condition specified in sub-paragraph (2) applies only in relation to a premises licence in respect of which an annual or other recurring fee is to be paid by virtue of regulations under Section 136(1) of the Licensing (Scotland) Act 2005.
- (2) The fee must be paid as required by the Regulations.

Notices – Admission of Persons under 18

11.

- (1) The condition specified in this paragraph applies only in the case of premises on which alcohol is sold for consumption on the premises.
- (2) There is to be displayed so that it is reasonably visible to customers entering the premises a sign of at least A4 size which –
 - (a) States that person under the age of 18 are not permitted on the premises; or
 - (b) States that such persons are permitted on the premises or on such parts of the premises as are specified on the sign.

Baby Changing Facilities

12.

- (1) The condition specified in this paragraph applies only in the case of premises –
 - (a) Which are not –
 - (i) A vehicle;
 - (ii) A vessel;
 - (iii) A moveable structure; or
 - (iv) Used wholly or mainly for the purposes referred to in Section 125(1) of the Licensing (Scotland) Act 2005;
 - (b) On which alcohol is sold for consumption on the premises; and
 - (c) To which children under the age of 5 are to be admitted.
- (2) There are to be on the premises facilities for baby changing which are to be accessible to persons of either gender.

Display, or Promotion of the sale, of Alcohol for Consumption off the Premises

13.

- (1) Alcohol which is for sale only for consumption off the premises may be displayed only in one or both of the following –
 - (a) A single area of the premises agreed between the Licensing Board and the holder of the licence; or
 - (b) A single are of the premises which is inaccessible to the public.

- (1A) Sub-paragraphs (1B) to (1D) apply where the premises, in so far as they are used for the sale of alcohol, are so used only or primarily for the sale of alcohol for consumption off the premises.
- (1B) Any drinks promotion on the premises may take place only in any one or more of the following –
- (a) an area referred to in sub-paragraph (1)(a) and (b),
 - (b) a room on the premises which is used for offering the tasting of any alcohol sold on the premises (for consumption off the premises) and the resulting tasting and is separate from those areas.
- (1C) A drinks promotion in connection with the premises may not take place in the vicinity of the premises.
- (1D) For the purposes of sub-paragraph (1C), the “vicinity” means the area extending 200 metres from the boundary of the premises (as shown on the layout plan)
- (2) In an area agreed in terms of sub-paragraph (1)(a), a product other than alcohol may be displayed only if it is –
- (a) A non-alcoholic drink; or
 - (b) Packaged with, and may be purchased only along with, alcohol.
 - (c) A branded non-alcoholic products, or
 - (d) A newspaper, magazine or other publication.
- (2A) Sub-paragraph (2) is without prejudice to sub-paragraph (1B).
- (3) This paragraph does not apply in respect of premises -
- (a) whose main function is to provide a visitor attraction, and
 - (b) where -
 - (i) the premises form part of a larger site which is used principally for the production of alcoholic drinks, or
 - (ii) the visitor attraction is used principally to provide information about and promote the history and attributes of a particular alcoholic drink or a particular category of alcoholic drink.
- (4) In this paragraph –
- “branded non-alcoholic product” means a product which does not consist of or contain alcohol and which –
- (a) bears a name or image of, or
 - (b) is an image of,
- an alcoholic product (namely, a product consisting of, or containing alcohol)

“drinks promotion” means any activity which promotes, or seeks to promote, the buying of any alcohol sold on the premises for consumption off the premises but does not include the display of any product which is –

- (a) a branded non-alcoholic product for sale on the premises, or
- (b) a newspaper, magazine or other publication –
 - (i) for the sale on the premises, or
 - (ii) if not for sale on the premises, which does not relate only or primarily to alcohol.

Late Opening Conditions

NOTES

1. Paragraph 1. below **applies to all premises** open for a continuous period beginning on one day and ending after 1.00a.m on the following day.
2. Paragraphs 2 – 6 below **apply to premises** with a capacity of which is at least 250 people and which –
 - (a) Will regularly provide at any time in the period between 1.00a.m. and 5.00a.m.
 - (i) Live or recorded music with a decibel level exceeding 85dB;
 - (ii) Facilities for dancing; or
 - (iii) Adult entertainment; or
 - (b) When fully occupied, are likely to have more customers standing than seated.
3. Paragraphs 2-6 below **do not apply to premises** –
 - (a) The primary function of which is the service of food;
 - (b) Which include, or are part of large premises which include, at least 6 letting bedrooms;
 - (c) In respect of which a licence under section 12 of the Theatres Act 1968 or section 1 of the Cinemas Act 1985 is in force; or
 - (d) Which are, or are part of, an art gallery.

CONDITIONS

1. A person trained to the satisfaction of the Licensing Board in administering first aid must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of
 - (a) The time at which the premises next close; and

- (b) 5.00a.m.
- 2. A designated person who is the holder of a personal licence must be present on the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of –
 - (a) The time at which the premises next close; and
 - (b) 5.00a.m. or such other time as the Licensing Board may specify.
- 3. There must be written policies in existence concerning
 - (a) The evacuation of the premises; and
 - (b) The prevent of the misuse of drugs on the premises.
- 4. A CCTV system must be installed on the premises to the satisfaction of the appropriate Chief Constable and must be kept in good working order.
- 5. There must be persons responsible for checking on the safety and wellbeing of persons using any toilet facilities on the premises.
- 6. A person who holds a licence granted under Section 8 of the Private Security Industry Act 2001 must be positioned at every entrance to the premises from 1.00a.m. (on any day when the premises are open at that time) until whichever is the earlier of –
 - (a) The time at which the premises next close; and
 - (b) 5.00a.m. or such other time as the Licensing Board may specify.

Matters to be Covered in Staff Training

"Relevant training" means training of at least 2 hours' duration which covers each of the matters listed below.

1. The legal basis of the requirement for training of staff under paragraph 6 of Schedule 3 to the Act.
2. The Licensing Objectives
3. The definition of "alcohol" in the Act.
4. What constitutes an unlicensed sale.
5. The functions of Licensing Standards Officers, including their powers of entry.
6. The nature of an operating plan and its place in the licensing system.
7. The different types of premises licence conditions under Section 27 of the Act.
8. Special provisions for clubs under Section 125 of the Act.
9. Licensed hours under Part 5 of the Act.
10. Offences under the Act, particularly those involving persons under the age of 18/
11. Proof of age under Sections 102 and 108 of the Act and the Sale of Alcohol to Children and Young Persons (Scotland) Regulations 2007.
12. Test Purchasing of alcohol under Section 105(2) of the Act.
13. Best practice as regards standards of service and refusing service.
14. Units of alcohol and the relationship between units and the strength of different alcoholic drinks.
15. The sensible drinking limits for males and females recommended by the British Medical Association.
16. Good practice in managing conflict situations.

Training to staff can only be delivered by a person who holds a personal licence or a qualification accredited for the purpose by the Scottish Qualifications Authority.

Appendix 2

Local Conditions

1. The provisions relating to management of licensed premises contained within the Board's current policy statement, particularly Appendix 1 thereto, must be complied with.
2. Premises Licence Holders must ensure that the premises, internally and externally, are maintained in good, clean and tidy condition at all times.
3. Premises Licence Holders must ensure that Refusal Registers and Daily Incident logs are accessible for inspection by Police and Licensing Standards Officers
4. The Licence Holder must ensure that any general authorisation for the sale of alcohol required within the premises is -
 - in writing
 - available for inspections by Police and Licensing Standards Officers
 - brought to the attention of and signed by all parties; and
 - enforced by the premises manager
5. Noise from amplified and non-amplified music, singing and speech sourced from licensed premises shall not be audible in adjoining properties after 11.00 p.m.
6. All alcohol not on display within the premises must be kept within a designated lockfast store on the premises, and shown on the layout plan attached to the premises licence.
7. Children under the age of twelve years, shall not have direct access to pool tables, darts boards or gaming machines in any part of the premises to which they have access or are allowed entry.
8. The Licence Holder shall provide safe high chairs for the use of young children
9. The Licence Holder shall provide heating facilities for baby/toddler's food at no cost to the customer.
10. The Licence Holder shall provide containers for the disposal of soiled nappies
11. The Licence Holder shall ensure that heating sources are adequately protected.
18. Children and young persons are not permitted to attend any event involving adult entertainment.
19. The Licence Holder must have in place a duty of care policy to ensure a standard approach is taken when any patron appears to be displaying signs of excessive intoxication.

The Licence Holder must ensure that all staff have additional training in identifying signs of excessive intoxication and an enhanced awareness of vulnerability through intoxication.

The Licence Holder shall ensure that staff training records are made accessible for inspection by Police Scotland and Licensing Standards Officers.
20. The Premises Licence Holder must ensure that sufficient numbers of Security Industry Authority licensed stewards are on duty to ensure a safe and responsibly run premises. Such persons must be easily identifiable as such to persons present, display the appropriate identification, and should be made aware of their duties, policies and practices, by the Premises Licence Holder. They must be responsible, capable, aware of

their duties and not drink alcoholic liquor for the duration of their active employment. Their duties are to:

- a. Confirm that persons who seek access to the premises have paid for admission or have appropriate passes/invitations;
- b. Identify and refuse entry to drunken persons
- c. Identify and refuse entry to any persons banned through pubwatch or by any other means;
- d. Actively police the premises and to perform all activities in line with their role under the Private Security Act 2001;
- e. Supervise entrance doors/access points at all times to ensure that no fire or other exits are blocked;
- f. Be aware of the fire safety precautions and procedures and all other policies and practices;
- g. Be aware of the premise's drug prevention policy;
- h. Provide assistance to patrons, including customer care, directions to facilities and health and safety;
- i. Ensure that no patron removes glasses, or open or closed vessels from the premises when exiting for any reason.
- j. Remain on the premises until the end of permitted hours and all patrons have vacated the premises, including patrolling the vicinity outside the premises to assist dispersal from the premises after the premises close;
- k. Be aware of the provisions of the Licensing (Scotland) Act 2005 which impact on the running of the premises;

21. Where a CCTV system is installed this must comply with the required standard and be maintained in working order and staff must be able to operate the system.

Images recorded on CCTV must be kept for at least seven days and must be made available to Police Scotland on request

Additional Conditions

none

APPENDIX 3

Copy Personal Licence for Designated Premises Manager



Moray Licensing Board

Legal & Democratic Services

Moray Council

Council Offices, High Street, Elgin Moray, IV30 1BX

Telephone: 01343 543030 Fax: 01343 563169

Marie Charles
5 Reidhaven Crescent
FINDOCHTY
AB56 4QG

Contact: Sean Hoath
Direct Dial: [REDACTED]
Email: [REDACTED]

www.moray.gov.uk

Your Reference:
Our Reference: 19/01632/PERLIC

1 November 2019

Dear Madam

MORAY LICENSING BOARD
LICENSING (SCOTLAND) ACT 2005
PERSONAL LICENCE APPLICATION

Please find enclosed your personal licence which was issued by the Moray Licensing Board and will remain valid for 10 years from the date of issue providing it is not suspended, revoked or surrendered. The expiry date is detailed on the licence.

Please note that as a personal licence holder you are under a duty to maintain and produce their licence for examination at any premises where you may be working, on demand by a police officer or Licensing Standards Officer.

You will be required to take refresher training courses every subsequent 5 years after issue of the licence, and you must inform the relevant licensing board of any convictions (within one month of a new conviction). Similarly, you must advise the Board of any change of name or address within one month of the change.

Attached is an explanatory leaflet on personal licences.

Yours faithfully

[REDACTED]

Sean Hoath
Senior Solicitor (Licensing and Regulatory)

Enc



The Moray Licensing Board

PO Box 6760
High Street
Elgin
IV30 9BX

(Please address all communication to the Clerk to the Board)

Licensing (Scotland) Act 2005

PERSONAL LICENCE

**Issued by the Moray Licensing Board under the terms and conditions of the
Licensing (Scotland) Act 2005**

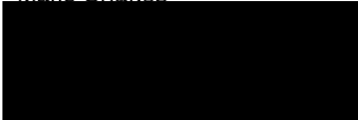
The holder of this licence is qualified and permitted to sell alcohol under the terms of the
Licensing (Scotland) Act 2005.

Licence Number:

19/01632/PERLIC

Name and address of licence holder

Marie Charles



Name of issuing Licensing Board

The Moray Licensing Board

Expiry date

1 November 2029



Training Record

ANNEX A

Personal licence number: 19/01632/PERLIC

Dates of Training	Title of Course completed	Awarding/Accrediting Body	Level attained
From: 18 June 2019	Scottish Certificate for Personal Licence Holders	BIIAB	Pass

Convictions for Relevant and Foreign Offences

ANNEX B

Personal licence number: 19/01632/PERLIC

Offence	Court	Date	Penalty

Endorsements

ANNEX C

Personal Licence Number: 19/01632/PERLIC

Reason for Endorsement	Name of Licensing Board	Date of commencement	Expiry date

Licensing (Scotland) Act 2005
Section 36 - 40
Review of Premises Licences

LEGAL TEST

The grounds for review are set out at Section 36(3) and (4) of the Act.

- (3) The **grounds for review** referred to in subsection (1) 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.**
- (4) A Licensing Standards Officer may make a premises licence review application on the ground specified in subsection (3)(a) **only if –**
- (a) in relation to the alleged ground for review, the Officer or any other Licensing Standards Officer has issued to the licence holder a notice under Section 14(2)(a)(i)¹, AND
 - (b) the licence holder has failed to take the action specified in the notice to the satisfaction of the Officer.

The legal test is set out in Section 39 of the Act.

- (1) At a review hearing in relation to any premises licence, the Licensing Board **MAY**, if **SATISFIED** that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the **STEPS** mentioned in subsection (2) as the Board considers **necessary or appropriate for the purposes of any of the licensing objectives.**
- (1A) Subsection (1) is subject to subsection (2A).
- (2) Those steps are –
- (a) **to issue a written warning to the licence holder**
 - (b) **to make a variation of the licence.**
 - (c) **to suspend the licence for such period as the Board may determine,**
 - (d) **to revoke the licence.**
- (2A) Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied that the ground for review specified in Section 36(3)(za)² is established, the Board **MUST revoke** the licence.

¹ An enforcement notice

² 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.

- (2B) Subject to Section 39B³, a revocation under subsection (2A) takes effect at the end of the period of 28 days beginning with the day on which the Board makes the decision
- (3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.

There are five licensing objectives which underpin the 2005 Act. These are:

- **Preventing crime and disorder**
- **Securing public safety**
- **Preventing public nuisance**
- **Protecting and improving public health, and**
- **Protecting children and young persons from harm.**

The Licensing Board's policy statement must promote these licensing objectives and sets out how the Board expects applicants to comply with and promote the objectives. The following parts of the policy are relevant to the consideration of applications for premises licences and provisional premises licences:

- Appendices 1 and 2 to the Main Policy Statement (Appendix 2 applies in North only)
- Supplementary Policy 3 – overprovision
- Supplementary Policy 4 – Operating Hours
- Supplementary Policy 6 – Licence Types and Board Procedures
- Supplementary Policy 7 - private members clubs
- Supplementary Policy 8 - petrol stations.

Premises Licence

1. In terms of Section 17 of the 2005 Act, a premises licence is required to authorise the sale of alcohol on premises.

There are two methods by which the Board can review a premises licence set out in terms of the Act.

Section 36 – Application for Review of a Premises licence

2. Any person may apply to the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect for a review of the licence on any of the grounds for review. Such an application is referred to as a “premises licence review application”.
3. A premises licence review application must specify the alleged ground for review, including in particular –

³ Where a Licensing Board decides to recall a revocation of a premises licence imposed under S39(2A)

- (za) where the ground is that specified in Section 36(3)(za), a summary of the information on which the applicant's view that the alleged ground applies is based
 - (a) Where the ground is that specified in Section 36(3)(a), the condition or conditions alleged to have been breached
 - (b) Where the ground is that specified in Section 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.
4. A person making a premises licence review application may include in the application any information that the applicant considers may be relevant to consideration by the Licensing Board of the alleged ground for review including, in particular, information in relation to –
- (a) the licence holder
 - (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
 - (c) any person who is an interested party in relation to the licensed premises.
5. A Licensing Board may reject a premises licence review application if the Board considers the application –
- (a) is vexatious or frivolous, or
 - (b) does not disclose any matter relevant to any ground for review and MAY recover any expenses incurred by the Board in considering the application.

Section 37 – Review of a Premises Licence on the Licensing Board's Initiative

6. The appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review. Such a proposal is referred to as a "premises licence review proposal".
7. The grounds for review set out in Section 36(3) apply to a premises licence review proposal as they do to a premises licence review application.
8. The review proposal must specify the alleged grounds for review, including in particular
- (za) where the ground is that specified in Section 36(3)(za), a summary of the information on which the Board's view that the alleged ground applies is based
 - (a) Where the ground is that specified in Section 36(3)(a), the condition or conditions alleged to have been breached
 - (b) Where the ground is that specified in Section 36(3)(b), the licensing objective or objectives to which the alleged ground of review relates.
9. A licensing Board making a premises licence review proposal may include in the proposal any information that the Board considers may be relevant to their consideration of the alleged ground for review including, in particular, information in relation to –

- (a) the licence holder
- (b) where the licence holder is neither an individual nor a council, a connected person in relation to the licence holder, or
- (c) any person who is an interested party in relation to the licensed premises.

Review Hearing

10. Where a Licensing Board –

- (a) makes a premises licence review proposal, or
- (b) receives a premises licence review application

The Board MUST hold a hearing for the purposes of considering and determining the proposal or application unless, in the case of a premises licence review application, the Board has rejected the application under Section 36(6). Such a hearing is referred to as a “review Hearing”

11. Where a review hearing is to be held, the Board MUST –

- (a) in the case of a premises licence review application, give notice of the hearing to the applicant, and
- (b) give notice of the hearing and a copy of the premises licence review proposal or application to –
 - (i) the licence holder, and
 - (ii) Any Licensing Standards Officer for the area in which the premises concerned are situated, unless, in the case of a premises licence review application, the applicant is such an Officer.

12. The Licensing Board MAY, for the purposes of the review hearing –

- (a) obtain further information from such persons, and in such manner, as the Board thinks fit. And
- (b) take the information into account.

13. In particular, the Board may –

- (a) request –
 - (i) the attendance at the review hearing of any person for the purpose of providing information, and
 - (ii) the production at the review hearing by any person of any documents in that person’s possession or under that person’s control, and
- (b) take into account any information relevant to any ground for review event though it is not relevant to any circumstances alleged in the review proposal or application under consideration.

Conduct Inconsistent with the Licensing Objectives

14. Section 84 of the Act Applies where, in the course of a review hearing in respect of any premises licence, a Licensing Board makes a finding such as is mentioned in the following paragraph, in relation to any personal licence holder who is, or was, working in the licensed premises in respect of which the premises licence was issued.
15. The Board should hold a separate hearing in respect of personal licence holders as the finding and a hearing should take place can only be made after holding a hearing to review the premises licence. Any persons licence holders that may be affected by the premises licence review that are known to the Board, should be invited to attend the premises licence review hearing so that they are fully aware of the circumstances that they may be asked to address in respect of their conduct as personal licence holders.
16. The Board can make a finding that the personal licence holder concerned, while working as mentioned in the above paragraph, acted in a manner which was inconsistent with any of the licensing objectives.
17. The Licensing Board making the finding MUST –
 - (a) If the persons licence holder concerned is, at the time of the finding, working in licensed premises (whether the licensed premises concerned or other licensing premises) in that Board's area, hold a hearing.
 - (b) In any other case, give notice to the relevant Licensing Board of their finding together with a recommendation as to whether the personal licence held by the Licence Holder concerned should be revoked, suspended or endorsed.
18. The Board should refer to the Legal Test Document on reviewing personal licences for further information.
19. The Boards' current Scheme of Delegation make the following provisions for determination of review of premises licences:-

Section 1.11	Conducting a hearing under the Act including take any of the following steps: <ol style="list-style-type: none"> (a) At a review hearing in respect of a premises licence where necessary in terms of the licensing objectives flowing from the sale of alcohol: <ol style="list-style-type: none"> (i) Issuing a written warning to the premises licence holder (ii) Revoking or suspending the premises licence, or (iii) Making a variation of 	Reserved to the Board
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	<p>the premises licence.</p> <p>(b) Such hearings will be conducted by means of written submissions in the first instance, where it is appropriate to do so.</p>	
Section 3.6	Determining whether to make a premises licence review proposal	Delegated to the Clerk to the Board or any person appointed to assist them
Section 3.7	For the purposes of a review hearing, to obtain further information, request any person to attend to provide information and/or request production of any document at a review hearing	Delegated to the Clerk to the Board or any person appointed to assist them

Statutory Guidance

20. Chapter 8 of the Scottish Government's Statutory Guidance to Licensing Authorities relates to premises licences. The Board should note that in terms of Section 142(4) of the Act, a Board deciding not to follow this guidance must give Ministers notice of that decision together with a statement of the reasons for it.

EXTRACT FROM SCOTTISH GOVERNMENT GUIDANCE TO LICENSING BOARDS RELATING TO PREMISES LICENCES

Review of a premises licence.

8.85. Sections 36 to 40 of the 2005 Act make provision for the review of a premises licence. A number of amendments have been made to the 2005 Act as enacted by the Criminal Justice and Licensing (Scotland) Act 2010 and (the majority) by the Air Weapons and Licensing (Scotland) Act 2015.

Application for a review

8.86. Any person can submit a “premises licence review application” to the relevant Board regarding a licensed premises on any of the grounds for review. The Air Weapons and Licensing (Scotland) Act 2015 amended Section 36 of the 2005 Act by adding a third ground for review. The grounds of review are:

- (1) are that one or more of the conditions to which the premises licence is subject has been breached, or
- (2) any other ground relevant to one or more of the licensing objectives or
- (3) not a “fit and proper person”

8.87. Depending on which ground for review is noted on the application, certain information must also be provided:

- (1) the condition or conditions alleged to have been breached
- (2) the licensing objective or objectives to which the alleged ground of review relates
- (3) a summary of the information on which the applicant’s view that the alleged ground applies is based.

8.88. A Licensing Standards Officer (LSO) is only able to apply for a review on the ground that there has been a breach of licence conditions if the LSO has issued a written warning about the breach and the LSO is not satisfied with the action taken by the licensing premises holder in response to the written warning.

8.89. The Air Weapons and Licensing (Scotland) Act 2015 further amended section 36 to clarify that any person who makes a premises licence review application may include any information in that application that the person considers relevant to the Licensing Board’s consideration of the alleged ground of review. This could include information relating to the licence holder, connected persons in relation to the licence holder or an interested party in relation to the licensed premises.

8.90. A Licensing Board may reject a premises licence review application if the Board considers the application:

- Is vexatious or frivolous, or
- Does not disclose any matter relevant to any ground for review.

If a Licensing Board rejects an application on one of the grounds mentioned above then it must give notice of the decision, and the reason for it to the applicant. Provision is also made for a Board to recover, from the applicant, any expenses incurred by the Board in considering a vexatious or frivolous application.

Review of premises Licence on Licensing Board's initiative

8.91. Section 37 allows for Licensing Boards to initiate reviews of premises licences themselves. The grounds for review are the same as those for applications under section 36 (discussed above). Where a Licensing Board proposes to initiate a review of a premises licence, the Board must provide a written report – known as a review proposal – setting out the grounds that it considers merits such a review of the premises licence. An Air Weapons and Licensing (Scotland) Act 2015 amendment provides that a Board's proposal may include information that the Board considers relevant to its consideration of the alleged ground of review, in relation to the licence holder, connected persons in relation to the licence holder or interested parties in relation to the licensed premises.

Review Hearing

8.92. Section 38 of the 2005 Act requires a Licensing Board to hold a review hearing and determine an application for a review of a premises licence made under section 36 (or a review proposal under section 37). As discussed above, the Board does not need to hold a review hearing if it considers the application is frivolous or vexatious or if it is not relevant to the grounds for review.

8.93 In terms of notification of a review, the Licensing Board is required:

- In the case of a premises licence review application to give notice of the hearing to the applicant, and
- Give notice of the hearing and a copy of the premises licence review proposal or application to the licence holder and any LSO for the area in which the licensed premises are located (unless in the case of a premises licence review the LSO is the applicant)

8.94 As discussed earlier in the guidance, where an LSO received a copy of a premises licence review proposal or application, the LSO must prepare and submit a report on the proposal or application to the Board before any hearing takes place. The Licensing Board must take account of this report at the hearing. Additionally, a Licensing Board is empowered to request information, the attendance at a hearing of any persons and the production of documents.

8.95 A Licensing Board has a range of sanctions that it may elect to impose on reviewing a premises licence. These are set out at Section 39 of the 2005 Act as amended by the Air Weapons and Licensing (Scotland) Act 2015. These steps are to:

- Issue a written warning to the licence holder
- Make a variation of the licence; may only apply for a period decided by the Board
- Suspend the licence for whatever period the Board may decide,
- Revoke the licence.

Section 39 also provides that where a Licensing Board is satisfied at a hearing that the licence holder fails the "fit and proper" test then the Licensing Board must revoke the premises licence. Subject to the revocation of a licence being recalled, a revocation takes effect at the end of the period of 28 days beginning with the day the Board made the decision to revoke the premises licence.

8.96 The 2005 Act as enacted has been amended by the Criminal Justice and Licensing (Scotland) Act 2010 and the Air Weapons and Licensing (Scotland) Act 2015 in relation to a Licensing Board giving notice of a decision made at a premises licence review hearing. The 2010 Act inserted a new provision (Section 39A Notification of Determinations) into the 2004 Act and this provision was subsequently amended by the 2015 Act.

8.97 The rationale for the 2010 Act amendment was to seek to improve the transparency of the premises licence review process provided for in the 2005 Act. It ensures that

- Adequate notification of a Licensing Board's decision following a review hearing is given to the Licensing holder and the person who applied for a review
- When a Licensing Board takes action against a Licence Holder following a review hearing, the Licence Holder is able to request a statement of reasons from the Board – as already happened in the case of a premises licence application.
- A statement of reasons can be requested by a person who applies for a review of the licence, whether or not any action is taken by the Board following the review hearing.

The 2015 Act textual amendments were a result of the introduction of the fit and proper person test as a ground for refusal.

8.98 The 2005 Act provides (Section 40) a mechanism by which a Licence Holder can apply to the Licensing Board to have any variation of their premises licence or the suspension of the premises licence removed. If the Board feels that the sanction in question is no longer necessary then, in the case of these two sanctions only, it may remove the relevant sanction.

Recall of revocation of licence

8.99 The 2015 Act inserted Section 39B which provides for the recall of a revocation of a licence under section 39(2A). This amendment and the amendment which inserted 28 days are linked to the "fit and proper person", also introduced by the 2015 Act. As noted during the parliamentary passage of the then Air Weapons and Licensing (Scotland) Bill, the Bill, on introduction, had provided for the immediate revocation of a premises licence on the grounds 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.

8.100 Concerns had been raised that without alternative disposal available to it, the Board might be reluctant to find that a person is not fit and proper to hold a premises licence. To address these concerns, one amendment provided that a revocation under the Licensing Board's powers of review would take effect at the end of a period of 28 days beginning on the day on which the Board makes the decision. The rationale being that this provided a short period of grace in which the Licence Holder may take action to address the problems that led to the Board making the findings.

8.101 The second and related amendment inserted a new section (Section 39B) into the 2005 Act. This section provides that when a Licensing Board has taken steps to revoke a premises licence on the ground that the licence holder is not a fit and proper person, the Board must recall the revocation if the relevant application is made within that 28 day period and the Board ultimately grants the relevant application. These provisions enable Boards to take robust action when a Licence Holder is found not to be a fit and proper person and they offer reasonable traders the opportunity to take prompt action to address the Board's concerns and retain their licence.

Procedure for remote Licensing Hearings – APPLICATIONS FOR A REVIEW OF LICENCE

- (a) Identify whether the Complainer or person requesting the review of licence and his/her advisors are present.
- (b) Identify whether Licence Holder and his/her advisors are present.
- (c) Identify whether any person with an objection or representation(s) and his/her advisors are present. [in turn]
- (d) Invite the Complainer to speak to his complaint or request to review the licence (outline to the Board why the complaint or request has been made)
- (e) Ask the Objector(s) to speak to their Objection(s) or Representation(s) [in turn]
- (f) Ask the Licence Holder to respond to the Complaint and any objections or representations made
- (g) Give the Complainer an opportunity to address any issues raised by the Licence Holder.

NOTE TO PARTIES

- **Presentation of a case may be through the use of documents (which must be provided to all parties prior to the start of the Hearing), oral submissions made at the hearing, written submissions lodged no later than 7 days in advance of the hearing, or a combination thereof;**
- **Cross Examination by the parties is not generally permitted**
- **Hearsay evidence is admissible.**

- (h) Members MAY then question all parties present.
- (i) Convenor should invite concluding remarks (Licence Holder then Complainer), but no new evidence, before considering the application.

NOTE TO PARTIES

Once you have been asked to make concluding remarks you are not entitled to speak again, unless to answer a question from a Board Member.

- (j) Members may then deliberate the application and/or ask for legal advice if required. Members can choose to deliberate the application in private, however, no decisions will be made during any adjournment to deliberate in this way.

NOTE TO PARTIES

If the Board opts to adjourn the meeting to deliberate in private, the Board Members will leave the meeting and remove to an adjournment room. The recording of the meeting will be paused. The parties should remain in the main meeting until the Board Members return. On confirming all parties/attendees are again present, the recording of the meeting will be restarted.

- (k) Thereafter, the Convenor should confirm with Members that they have sufficient evidence upon which to make a decision.
- If the Board determines that there is not sufficient evidence upon which to make a decision, the matter will be deferred to a future meeting of the Board for further evidence to be obtained.
 - If the Board determines that there is sufficient evidence upon which to make a decision, the Convenor will then:
 - (i) Call for a motion
 - (ii) Call for a seconder to the motion
 - (iii) Call for any amendment to the motion
 - (iv) Call for a seconder to any amendment proposed
 - (v) If there is no amendment, the Convenor should confirm with the Committee that the decision is unanimous. [This will be done by roll call vote for transparency purposes]
 - (vi) If there is an amendment, then there MUST be a vote. The Convenor has the casting vote.
- (l) The Depute Clerk will confirm the decision taken by the Board

NOTE TO PARTIES The parties will then be asked to leave the meeting, failing which the Depute Clerk will remove the parties from the meeting.

APPENDIX 6

WRITTEN SUBMISSIONS (IF RECEIVED)