

FALKIRK COUNCIL LICENSING BOARD

Subject: Licensing (Scotland) Act 2005
Personal Licences – Mandatory Refresher Training Update
Meeting: Licensing Board
Date: 10 December 2014
Author: Consumer Protection Manager

1. INTRODUCTION

- 1.1 Members will recall reports which were considered at the March and October meetings of the Licensing Board updating Members of the process being undertaken by the Licensing Section resulting from the requirement for personal licenceholders to undertake refresher training in accordance with section 87 of the Licensing (Scotland) Act 2005. Copies of the reports are attached as Appendix 1.
- 1.2 This report provides an update on the number of personal licenceholders whose licences expired on 31 August 2019 who were to have undertaken refresher training on or before 31 August 2014. There is a requirement on the licenceholders to notify the Licensing Board that issued the licence no later than 1 December 2014 and to provide evidence, normally in the form of a training certificate. The report also advises members of the current situation with the Designated Premises Managers specified in the premises licences relating to licensed premises in the Falkirk Council area.

2. REVOCATION OF PERSONAL LICENCES

- 2.1 As members are aware, Section 87 of the Act requires all personal licenceholders to undertake training every 5 years and to produce to the Licensing Board that issued their licence evidence that they have done so within three months of the expiry of that period. The Board **must** revoke the personal licence should the licenceholder fail to comply with this requirement. Of the 650 personal licenceholders whose licences were due to expire on 31 August 2019, 237 (36%) were revoked in terms of Section 87 of the Act on 1 December 2014. 23 of the recorded delivery statutory notifications issued were returned to the Licensing Section marked “addressee gone away” and 35 were returned marked “not called for”. In the latter circumstances, the notification was sent out again by Royal Mail. 178 of the recorded delivery statutory notifications were not returned to the Licensing Section and therefore it is assumed that they were delivered to the intended recipient. 2 personal licenceholders indicated verbally that they wanted to surrender their personal licence and were advised to do this in writing, but they failed to do so.

3. DESIGNATED PREMISES MANAGERS

3.1 As members are aware, each licensed premises will have a premises manager who will be specified in the premises licence. A Designated Premises Manager must hold a personal licence. At the time of writing this report, there are 337 Designated Premises Managers specified in the premises licence relating to licensed premises in the Falkirk Council area, - 70% (238) of which were issued with a personal licence by Falkirk Council. In a small number of cases where the current designated premises manager had failed to carry out the mandatory refresher training, an application has been received to change the Designated Premises Manager. In 2 cases, The Corner Pocket in Falkirk and the Omar Khayyam in Denny, the premises licenceholder has notified the Board in terms of section 54(2)(d) of the Licensing (Scotland) Act 2005, that the personal licence held by the Designated Premises Manager has been revoked. An application to nominate a new Designated Premises Manager must be submitted within 6 weeks. The premises can continue to sell alcohol during this period.

3.2 From the data held in relation to premises licences, it has been ascertained that 48 of the Designated Premises Managers who hold personal licences issued by a licensing authority other than Falkirk Council were required to undertake mandatory refresher training before 1 September 2014 and notify their issuing authority before 1 December 2014. The Licensing Section has contacted these authorities to confirm that the refresher training has been undertaken and the issuing authority notified. The personal licence of 45 of the Designated Premises Managers remain in force; in 2 cases, ASDA in Stenhousemuir and Mariner Street Post Office in Camelon, the premises licenceholder has notified the Board in terms of section 54(2)(d) of the Licensing (Scotland) Act 2005, that the personal licence held by the Designated Premises Manager has been revoked. An application to nominate a new Designated Premises Manager must be submitted within 6 weeks. The premises can continue to sell alcohol during this period.

5. RECOMMENDATION

5.1 **For information.**

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pp Clerk to the Licensing Board

Date: 19 November 2014

Contact Officer: Alison Barr, Consumer Protection Manager ext. 1265

APPENDICES

Appendix 1 – Report dated 22 October 2014

BACKGROUND PAPERS

Nil

FALKIRK COUNCIL LICENSING BOARD

Subject: **Licensing (Scotland) Act 2005**
 Personal Licences – Mandatory Refresher Training Update
Meeting: **Licensing Board**
Date: **22 October 2014**
Author: **Consumer Protection Manager**

2. INTRODUCTION

1.3 Members will recall a report which was considered at the March meeting of the Licensing Board advising of the Members of the process being undertaken by the Licensing Section resulting from the requirement for personal licenceholders to undertake refresher training in accordance with section 87 of the Licensing (Scotland) Act 2005. A copy of the report is attached as Appendix 1.

1.4 This report provides an update on the number of personal licenceholders whose licences expired on 31 August 2019 who were to have undertaken refresher training on or before 31 August 2014. The licenceholders must then notify the Licensing Board that issued the licence no later than 1 December 2014 and provide evidence, normally in the form of a training certificate. The report also advises members of the current situation with the Designated Premises Managers specified in the premise licence relating to licensed premises in the Falkirk Council area.

2. CURRENT DATA

2.1 The Board is under an obligation to give each person to whom it has issued a personal licence not less than 3 months' notice of the compliance deadline. All personal licenceholders whose licences were due to expire on 31 August 2019 were sent a notification of this requirement at the start of April 2014. At the time of writing this report, of the 678 notifications sent, 351 (52%) personal licence holders have submitted their refresher training certificates or surrendered their licence, which leaves 327 (48%) still to be received. Refresher training certificates are being received daily.

3. DESIGNATED PREMISES MANAGERS

3.1 As members are aware, each licensed premises will have a premises manager who will be specified in the premises licence. A Designated Premises Manager must hold a personal licence. Section 19(2) of the Licensing (Scotland) Act 2005 states that an individual may not, at any one time, be the premises manager at more than one licensed premises. At the time of writing this report, there are 337 Designated Premises Managers specified in the premise licence relating to licensed premises in the Falkirk Council area; 70% (238) of which were issued with personal licence by Falkirk Council. The breakdown of Licensing Authorities granting personal licences to the Designated Premises Managers for Falkirk premises is in the table below:

Issuing Licensing Authority	Number
Falkirk Council	238
Clackmannanshire Council	4
East Dunbartonshire Council	1
East Renfrewshire Council	1
Edinburgh Council	14
Fife Council	7
Glasgow Council	16
Highland Council	1
North Ayrshire Council	1
North Lanarkshire Council	22
Renfrewshire Council	2
Scottish Borders Council	1
Stirling Council	15
South Lanarkshire Council	2
West Lothian Council	11

- 3.2 At the time of writing this report, 18 of the Designated Premises Managers who have a personal licence issued by Falkirk Council and who required to undertake mandatory refresher training before 1 September 2014 have, to date, **not** notified the Licensing Board that they have undertaken the training. Officers are aware that in a small number of cases, the Designated Premises Manager has failed to undertake the training and in these cases, an application to change the Designated Premises Manager is expected to be lodged before 1 December 2014 to allow premises to continue to trade.
- 3.3 From the data held in relation to premises licences, it has been ascertained that 50 of the 99 Designated Premises Managers who hold personal licences issued by a licensing authority other than Falkirk Council are required to undertake mandatory refresher training before 1 September 2014 and notify the issuing authority before 1 December 2014. The Licensing Standards Officers are currently contacting these Designated Premises Managers to determine where or not the refresher training has been undertaken and the issuing authority notified. Again, where the Designated Premises Manager has failed to undertake the training and notify the issuing authority, an application to change the Designated Premises Manager is expected to be lodged before 1 December 2014 to allow premises to continue to trade.

4. RECOMMENDATION

4.1 For information

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Clerk to the Licensing Board

Date: 3 October 2014

Contact Officer: Alison Barr, Consumer Protection Manager ext. 1265

APPENDICES

Appendix 1 – Report dated 4 March 2014

BACKGROUND PAPERS

Nil

AGENDA ITEM

FALKIRK COUNCIL LICENSING BOARD

Subject: Licensing (Scotland) Act 2005
Personal Licences – Requirement to undertake Refresher Training
Meeting: Licensing Board
Date: 4 March 2014
Author: Consumer Protection Manager

1. BACKGROUND

- 1.1 This report is to advise Members of the process currently being undertaken by the Licensing Section resulting from the requirement for personal licenceholders to undertake refresher training in accordance with section 87 of the Licensing (Scotland) Act 2005.
- 1.2 An application for a personal licence is submitted in terms of section 72 of the Licensing (Scotland) Act 2005 and the Personal Licence (Scotland) Regulations 2007. Applicants must submit in support of their application evidence that they have an accredited qualification. Personal licences are granted for a period of 10 years. The fee for a personal licence is prescribed and it is currently £50.
- 1.3 The Licensing Section started to process applications for personal licences during the transitional period; however licences issued during that period only came into effect at the same time as the commencement of the 2005 Act, namely 1 September 2009. The first date, therefore, that licences are due to expire is 31 August 2019.

2. PERSONAL LICENCEHOLDER'S DUTY TO UNDERTAKE REFRESHER TRAINING

- 2.2 Section 87 of the Act requires all personal licenceholders to undertake training every 5 years and to produce to the Licensing Board that issued their licence evidence that they have done so within three months of the expiry of that period. The Board **must** revoke the personal licence should the licenceholder fail to comply with this requirement. The Board is under an obligation to give each person to whom it has issued a personal licence not less than 3 months' notice of the compliance deadline.
- 2.3 All personal licenceholders whose licences are due to expire on 31 August 2019 must undertake refresher training by 31 August 2014. They must then notify the Licensing Board that issued the licence no later than 1 December 2014 and provide evidence, normally in the form of a training certificate.

2.4 To date, the Licensing Board has issued 1,461 personal licences and of these, 690 are due to expire on 31 August 2019. The processing of refresher training will now form part of the general maintenance of licences which currently includes, change of name and/or address, notification of convictions, requests for review. The notification letters to licenceholders whose licence is due to expire on 31 August 2019 require to be issued no later than 30 May 2014. It is the intention of officers to issue the letters during March 2014 to allow licenceholders a longer period to organise their refresher training.

3 **FINANCIAL IMPLICATIONS**

3.1 There is no fee set in the Act or regulations for the re-issuing of amended personal licences following notification of refresher training. The charging of a fee would be at the discretion of the Board; however, officers are not aware of any other Licensing Board charging a fee. We are, however, charging our regular fee of £25 to process an application to amend a personal licence following a change of name or address or to supply a replacement licence.

3.2 This will be an on-going expense for the Board, but it will decline over time as the number of applications made per month since 1 September 2009 decreased sharply. In 2013, there was an average of 11 applications per month. The cost of this process are primarily staff time plus the cost of recorded delivery postage for the notification letters, which in relation to the licences due to expire on 31 August 2019 will be circa £1090, stationery, printing costs etc. The biggest impact on the budget, therefore, will be in 2014/15.

4. **RECOMMENDATION**

4.1 **For information.**

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Clerk to the Licensing Board

Date: 21 February 2014

Contact Officer: Alison Barr, Consumer Protection Manager ext. 1265

LIST OF BACKGROUND PAPERS

Nil