

Draft

**FALKIRK COUNCIL**

**Minute of special Meeting of the Licensing Board held remotely on Monday 28 March 2022 at 1.30 p.m.**

**Councillors:** David Balfour  
Lorna Binnie  
Robert Bissett (Depute Convener)  
Provost Buchanan  
John Patrick

**Officers:** Wendy Barber, Information Governance Manager  
Alison Barr, Consumer Protection Manager  
Bryan Douglas – Licensing Co-ordinator  
Jack Frawley, Team Leader – Committee Services  
Colin Moodie, Chief Governance Officer (Clerk)

**Attending:** Lindsay Fyfe, Licensing Standards Officer  
Sergeant Derek Simpson, Police Scotland

**LB79. Exclusion of Public and Determination of Form of Hearing**

The Board agreed (1) to exclude the public in terms of paragraph 12 of the schedule 1 to the Licensing (Scotland) Act 2005 for a reason connected with coronavirus; and (2) in terms of section 133 of the Act to determine that hearings should not take place in person for a reason connected with coronavirus and that the parties would be heard by video conferencing, telephone or written submissions.

**LB80. Apologies**

There were no apologies.

**LB81. Declarations of Interest**

There were no declarations of interest.

**LB82. Premises Licence Review Application  
Barrie Food Store, 40C Hawthorn Crescent, Grangemouth**

The Board considered a report by the Clerk of the Licensing Board which sought determination of a request from the Chief Constable, Police Scotland to review the premises licence in respect Barrie Food Store, 40C Hawthorn

Crescent, Grangemouth details of which were circulated as an appendix to the report. Also provided as an appendix to the report was a report to the Board of 22 June 2021 when the matter had originally been considered.

The Board determined that it would hear this request and the report of behaviour inconsistent with the Licensing Objectives, also submitted by the Chief Constable, together as they related to the same facts.

### **LB83. Report of Behaviour Inconsistent with the Licensing Objectives**

The Board considered a report by the Clerk to the Licensing Board which sought consideration of a report submitted by the Chief Constable in relation to a personal licence holder. Under section 84A of the Licensing (Scotland) Act 2005, the Chief Constable was entitled to report any actions inconsistent with any of the licensing objectives by a personal licence holder to the Board. A letter dated 27 May 2021 had been received from the Chief Constable notifying the Licensing Board that the holder of a personal licence had been convicted of a relevant offence and had failed to advise the relevant Board of the conviction. The letter narrated the circumstances of the offence. The Board had continued consideration of this matter at its meeting of 22 June 2021.

Sergeant Simpson addressed the Board.

The Board heard from the licence holder's agent, Mr Sandeman, in respect of both matters.

Board members asked questions of Mr Sandeman.

Sergeant Simpson summed up.

Mr Sandeman summed up.

The Board adjourned at 2.40pm and reconvened at 3.10pm with all members present as per the sederunt.

**In relation to the premises licence, the Board agreed that grounds for review had been established in terms of the four Licensing Objectives relied upon by the Chief Constable in his request for review. It further found that a ground for review had not been established in terms of the fit and proper person test.**

**In relation to the report of behaviour inconsistent with the licensing objectives, the Board found that personal licence holder had acted in a manner inconsistent with the four licensing objectives relied upon by the Chief Constable.**

Prior to considering its disposal Mr Sandeman had requested to address the Board on factors of mitigation relating to disposal.

The Board adjourned at 3.20pm and reconvened at 3.35pm with all members present as per the sederunt.

## **Decision**

**In relation to the premises licence, the Board agreed to issue a written warning.**

In relation to the report of behaviour inconsistent with the licensing objectives, Councillor Bissett proposed that the Board agrees it is necessary in terms of the four Licensing Objectives relied upon by the Chief Constable in his report of behaviour inconsistent with the licensing objectives to make an order endorsing the personal licence.

In relation to the report of behaviour inconsistent with the licensing objectives, Councillor Balfour proposed that the Board agrees it is necessary in terms of the four Licensing Objectives relied upon by the Chief Constable in his report of behaviour inconsistent with the licensing objectives to suspend the personal licence for a period of 3 months.

The vote was taken by roll call, there being 5 members present with voting as undernoted:-

For endorsement (4) – Provost Buchanan; and Councillors Binnie, Bissett, and Patrick.

For a 3 month suspension (1) – Councillor Balfour.

**In relation to the report of behaviour inconsistent with the licensing objectives, the Board agreed it was necessary in terms of the four Licensing Objectives relied upon by the Chief Constable in his report of behaviour inconsistent with the licensing objectives to make an order endorsing the personal licence.**