

Public Document Pack

WIGTOWN DIVISIONAL LICENSING BOARD

Meeting of Monday 23rd January 2023
at 12.30 pm in Council Chambers - Stranraer. This will be a hybrid meeting.

Andrew Giusti (Convener) – Stranraer and the Rhins;
Ben Dashper – Stranraer and the Rhins;
Katie Hagmann – Mid Galloway and Wigtown West;
Chrissie Hill – Stranraer and the Rhins;
David Inglis – Mid Galloway and Wigtown West;
Jackie McCamon – Mid Galloway and Wigtown West;

VLAD VALIENTE
Clerk to the Licensing Board

Wigtown Divisional Licensing Board

Meeting of Monday 23rd January 2023
at 12.30 pm in Council Chambers - Stranraer. This will be a hybrid meeting.

1. **SEDERUNT, APOLOGIES AND CONVENER'S APPROVAL OF MEMBERS' REMOTE PARTICIPATION**
2. **DECLARATIONS OF INTEREST**
3. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A 3 - 10
- CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES - PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS**
4. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): PREMISES LICENCE REVIEW (SECTION 36) - PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB - PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS 11 - 26**
5. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A 27 - 34
- CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES - PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS**
6. **LICENSING (SCOTLAND) ACT 2005 (THE ACT): PREMISES LICENCE REVIEW (SECTION 36) - PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB - PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE - REPORT BY THE CLERK TO THE BOARDS 35 - 48**

Next Meeting Date: Friday 24 March 2023

**DUMFRIES AND GALLOWAY LICENSING BOARDS
WIGTOWN DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE**

1. Reason for Report

To advise an update on the outcome of a decision taken by the Board at its 20 January 2022 Hearing to defer consideration of a personal licence review following a request to Police Scotland that they (i) provide witness statements and evidence to substantiate their review request and (ii) also advise the outcome of a pending court case at that time.

2. Background

2.1 On 18 November 2021 the Chief Constable submitted a section 84A review request in respect of John McIntyre's personal licence (**Appendix 1**).

2.2 In response to this request, the Board held a review Hearing on 20 January 2022. At this Hearing, the Board agreed to defer consideration of the matter pending the outcome of the Section 114 alleged offence detailed in the police letter at that time. It also requested the Chief Constable to provide witness statements and evidence to substantiate alleged incidents detailed in their letter.

2.3 In response to this request, the Chief Constable submitted an update on 23 September 2022 (**Appendix 2**).

2.4 The Board held a meeting on 16 December 2022 and agreed to defer consideration of this matter to a future meeting of the Board to enable all Board Members to be present.

3. Determination

3.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

- 3.2 At its Hearing the Board *may*, after giving
- the licence holder concerned and
 - such other persons as they consider appropriate an opportunity to be heard and
 - if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order to:
 - a) revoke the licence;
 - b) suspend the licence for a maximum 6 month period as the Board considers appropriate; or
 - c) endorse the licence (an endorsement expires after five years).

3.3 It is also open to the Board to take no action in which case Mr McIntyre will continue to retain his personal licence.

3.4 If, at the Hearing, the Board is satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence then the Board must make an order revoking the licence.

4. Recommendations

4.1 Members are asked to consider whether they wish to revoke, suspend, endorse the licence or take no action; and

4.2 Note that if a determination is made that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of the licence then the Board has no discretion as to which action it wishes to take as it must, in law, revoke the licence.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

13 January 2023

18 November 2021

Your Ref: DG/W/0709

Our Ref: JM/COS

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe
Carol McGuire
Chief Superintendent

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE
8 HANOVER STREET, STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Robert John McIntyre, has acted in a manner which is inconsistent with the licensing objective(s) articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder
- Preventing Public Nuisance

History of Personal Licence Holder:

Robert McIntyre, is the owner of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

Mr McIntyre again applied for and was granted a Personal Licensed on 12 July 2021 which was opposed by Police Scotland. At this time he also became the Designated Premises Manager and premises License holder.

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The following incidents have raised concern regarding his suitability to be a personal licence holder:

Monday 12 October 2021

At 0051 hours Police were made aware of a disturbance at the door of The Pub, 3 Hanover Street, Stranraer by the CCTV operator. On their arrival Police noted a number of persons standing outside the front of the premises in a drunken state however nothing was ongoing.

On identifying a member of bar staff they were asked about any incidents of disorder and had stated that he had no knowledge of any altercation or incident at the premises or the identity of any persons responsible.

It was also noted at this time (about 0100 hours) that a female clearly under the influence was working behind the bar and was holding a paper towel to her jaw. She was seen by officers to hand a glass of alcohol to an unidentified male and take cash from him in return. She was asked how she sustained the injury and she stated that she had cut it on glass however could provide no further explanation due to her intoxication. At this time there were still a number of patrons within the premises consuming alcohol.

Staff were asked what time the premises was licensed to at which time they stated it was 0100 hours. The premises was only licensed until 0030 hours. It was also noted that the Designated Premises Manager, Robert McIntyre, was sitting at the bar, clearly under the influence of alcohol.

Mr McIntyre has immediately become abusive towards Police Officers present swearing at them and challenging their authority whilst actively encouraging patrons to remain drinking within the premises. He voluntarily became involved in the incident questioning police presence and their actions. Mr McIntyre followed officers outside and stated "You cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Enquiries were thereafter carried out the following day by officers who attended and spoke with Robert McIntyre who was hostile and unhelpful with their enquiries. Mr McIntyre refused to provide any statement however did verbally state that he was unaware of any altercation or disturbance out with or within the premises. He also indicated that he would not be supportive of any exclusion order of any persons involved and that it was a male member of staff who had been responsible for the running of The Pub at the time of the incident, even though he had actively become involved with the police when they arrived. Neither of the staff members present at that time were personal licence holders so the authorisation for the sale of alcohol was through the Premises manager, Mr McIntyre, who although he states was not managing the pub at that time was clearly present throughout and voluntarily intervened during police presence.

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When asked by officers to produce till receipts Mr McIntyre stated "I don't keep any till receipts". Officers have then asked to review CCTV from within the premises however Mr McIntyre stated that it was not working.

Mr McIntyre was spoken to by Sergeant Boyce in relation to his failure to comply with the licensing objectives and conditions of his licence. Mr McIntyre was offered support and guidance from Police Scotland however stated that he 'was not interested'.

Following a review of the circumstances of this incident Robert McIntyre was cautioned and charged on 23 October 2021 with:

Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Sunday 17 October 2021

At 0545 hours, Police were informed that there were a number of persons still within The Pub, Hanover Street, Stranraer consuming alcohol and drugs.

Police attended and observed a number of persons standing at the bar within drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door of the premises all persons within appeared to be alarmed and attempted to hide. After a short period of time the door of the premises was answered by a female member of staff who allowed officers entry to the premises. On entry a number of persons were observed trying to leave the premises by the side door and following a search of the premises another male was found hiding within.

Statements were obtained from witnesses who confirmed that they had bought alcohol after the terminal hour of 0030 hours.

The member of staff was advised by officers and advised of the licensing conditions however was very hostile and uncooperative. This was the same female that had been present during the previous incident. This female was not a personal licence holder and Mr McIntyre later provided records which suggested that he as DPM had provided her with the appropriate training on the 12 October 2021.

Robert McIntyre attended at the premises about 0600 hours, on 17 October 2021, following the activation of the premises alarm which was triggered on persons leaving via the rear door. On his attendance Mr McIntyre was again uncooperative with officers on being asked who was in charge of the premises he stated

"You know who it was, she was here when you went in".

Between 19 and 23 October 2021 numerous attempts were made to trace Mr McIntyre and speak with him in relation to the incident. This included personal

OFFICIAL

attendance at his home address, telephone calls and calling cards being left but no response was received.

Mr McIntyre was eventually traced by Police on 24 October 2021 and was again hostile towards officers and refused to provide a statement in relation to the incident that had happened on 17 October 2021. He was asked to provide CCTV from within the premises at which time he again stated there is no CCTV at the premises.

In summary there have been two incidents within a short period of time at this licensed premises. In the first incident Mr McIntyre was present and was again extremely obstructive, actively encouraging persons within the premises to continue consuming alcohol out with the licensed hours. He provided that he was not managing the premises at that time but he has voluntarily intervened and involved himself in the situation challenging police. In the second incident although Mr McIntyre was not initially present he was again uncooperative and did not engage with or assist officers from Police Scotland in their enquiries.

On both occasions following these two incidents Mr McIntyre has been requested to provide CCTV from the premises to Police. On one occasion he stated that the CCTV was not working however on being asked again following the second incident he stated that the premises does not have CCTV.

Mr McIntyre was offered help and guidance from Police following the first incident to make sure that he was adhering to the licensing objectives and to prevent any further incidents. He stated to Police that 'he was not interested'.

It is clear that since obtaining his Personal Licence in July 2021 that Mr McIntyre is continuing with a course of conduct that has previously seen him having to go before and be sanctioned by Wigtownshire Licensing Board.

In terms of Section 83(5)(a) and (b) of the Licensing (Scotland) Act 2005 and having regard to preventing crime and disorder and preventing public nuisance objectives Police Scotland recommend that the Licensing Board take appropriate action towards Mr McIntyre's Personal License status.

In signing this report, I confirm that this report is made under the authority of the Chief Constable of Police Service of Scotland:

Signed:

Carol McGuire
Chief Superintendent

23 September 2022

Your Ref: DG/W/0709

Our Ref: CC/COS



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Keeping people safe

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Carol McGuire
Chief Superintendent

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE, 8 HANOVER STREET,
STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

With reference the above subject The Board requested that they be advised of the outcome of Mr McIntyre's pending case, Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Police Scotland can now confirm that the case has been marked No Proceedings by the Procurator Fiscal.

Yours faithfully

Carol McGuire
Chief Superintendent

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
WIGTOWN DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE ACT)
PREMISES LICENCE REVIEW (SECTION 36)
PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE**

1. Reason for Report

To advise an update on the outcome of a decision taken by the Board at its 20 January 2022 Hearing to defer consideration of a premises licence review following a request to Police Scotland that they provide evidence to substantiate their review request and also advise the outcome of a pending court case at that time.

2. Background

2.1 On 1 December 2021, the Chief Constable submitted a request for review of a premises licence in respect of the above named premises (**Appendix 1**).

2.2 In response to this request, the Board held a review Hearing on 20 January 2022. At this Hearing, the Board agreed to defer consideration of the matter pending the outcome of the Section 114 alleged offence detailed in the police letter at that time. It also requested the Chief Constable to provide evidence to substantiate alleged incidents detailed in their letter.

2.3 In response to this request, the Chief Constable submitted an update on 23 September 2022 (**Appendix 2**).

2.4 The statutory LSO report that the Board is legally obliged to take into account is detailed at **Appendix 3**.

2.5 The Board held a meeting on 16 December 2022 and agreed to defer consideration of this matter to a future meeting of the Board to enable all Board Members to be present.

3. Determination

3.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

3.2. Grounds for Review

The Board must be satisfied that a ground of review is established and the grounds for review are:

- 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;
- that one or more of the conditions to which the Premises Licence is subject has been breached; or
- any other ground relevant to one or more of the Licensing Objectives (those Objectives being):
 - (a) Preventing Crime and Disorder

- (b) Securing Public Safety
- (c) Preventing Public Nuisance
- (d) Protecting and Improving Public Health
- (e) Protecting Children and Young Persons from Harm.

3.3. Board's Powers on Review

At a Review Hearing, if the Board is satisfied that a ground for review has been established (whether or not on the basis of any circumstances alleged in the Premises Licence Review Application) the Board may take any of the following steps as are considered necessary or appropriate for the purposes of any of the Licensing Objectives.

3.4 The steps that the Board may take are to:-

- issue a written warning to the licence holder;
- make a variation of the licence (the Board can provide that the variation applies for a certain time period only);
- suspend the licence for such period as the Board may determine
- revoke the licence.

3.5 The above steps take immediate effect.

3.6 It is also open to the Board to take no action even if a ground for review is established.

3.7 Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied 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 then the Board must revoke the licence.

3.8 This revocation takes effect after a 28 day period beginning with the day on which the Board makes the decision unless, during that 28 day period:

- the premises licence holder makes an application to transfer the licence and the Board grants that transfer; or
- a variation application is made which seeks to vary the licence and the Board considers that the variation, if granted, would remove the ground on which the licence was revoked.

3.9 If the Board receives either of the above applications and grants that application, then the Board must recall its revocation.

3.10 The Board also retains the power to extend the 28 day period pending determination of either a transfer or variation application.

4. Recommendations

4.1 Members are asked to consider

- (i) whether a ground of review exists; and
- (ii) if a ground of review is established, which discretionary steps (if any) it wishes to take as per paragraphs 3. 4 and 3.6 above;

4.2 If no ground of review is established, then no order can be made.

4.3 If a ground of review is established, then an order may or may not be made.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

13 January 2023

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1 December 2021

Your Ref:

Our Ref: 20942

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



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Dumfries & Galloway Division
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Cornwall Mount
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DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER,
DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE, 17/10/1975**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the Wigtownshire Licensing Board for a review of the premises licence in respect of the premises known as The Pub, 3 Hanover Street, Stranraer, DG9 7SB.

This application for review is made in terms of the grounds set out at Section 36(3) (a) relevant to the conditions of the premises licence and Section 36(3)(b) any other ground relevant to one or more of the licensing objectives as articulated at Section 4(1) of the 2005 Act, namely:

- Preventing Crime and Disorder
- Preventing Public Nuisance

In support of this application, and in terms of Section 36(5A), the following information is provided for your consideration:

The premises core "on sales" hours are Monday to Wednesday 1100 hours until 0030 hours, Thursday to Saturday 1100 hours until 0100 hours and Sunday 1200 hours until 0030 hours (trading days thereof).

The Premises Licence in respect of the above premises is held by Robert John McIntyre, 8 Hanover Street, Stranraer. Mr McIntyre is also the Designated Premises Manager. He holds a Personal Licence, granted by Wigtownshire Licensing Board on 2 June 2021, which is due to expire on 1 June 2031. His licence number is DG/W/0709.

Background

Robert McIntyre, is the owner of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

Between 2015 and 2020 the official premise management, in terms of the Premises License Holder and Designated Premises Manager changed on three occasions. It was clear that throughout this time Mr McIntyre retained an active role in the running of the premises and had the ability to influence and overrule the holders of these posts with regards the running of the business.

After revocation it was apparent that Mr McIntyre continued to influence the management of The Pub and his conduct continued to present concerns regards his suitability as a fit and proper person to hold a personal license.

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 which was opposed by Police Scotland. At this time he also became the Designated Premises Manager and premises License holder.

Information in support of application

The premises licence for the pub was issued by Wigtown Divisional Licensing Board under the terms and conditions of the Licensing (Scotland) Act 2005 on the 1st of September 2009. Premises licence number 0127W refers. Outlined within the Premises licence are the licensed hours for On Sales.

Section 2(1) of the mandatory conditions of the license clearly states that alcohol is to be sold on the premises only in accordance with the operating plan contained within the license.

Section 2(1) of the Premises Licence– Licensed hours for ON SALES

Monday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return.

At this time it was after 0100 hours, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He has proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, he instead acted in the completely opposite manner negatively affecting the situation, actively encouraging patrons to remain drinking within the premises.

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'.

Sunday 17 October 2021

About 0545 hours, on Sunday 17 October 2021, Police Scotland were made aware of a number of persons still within The Pub, 3 Hanover Street, Stranraer consuming alcohol.

Officers attended and observed a number of persons standing at the bar within the premises drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door all persons within appeared to be alarmed and attempted to hide.

After a short period of time the door of the premises was answered by a female who identified herself as a member of staff and allowed officers entry into the premises.

Whilst speaking with the member of staff a number of persons were observed trying to leave by the side door. Details of these persons were obtained and following a search of the premises another male was found hiding within. The member of staff was spoken to by officers and advised of the premises licence conditions however she was very hostile and uncooperative towards them.

Statements have then been obtained from a number of patrons who were traced leaving the premises on the arrival of Police.

The witnesses speak to being within The Pub and consuming alcohol after 0030 hours along with other patrons. They paid for these alcoholic drinks by both cash and apple pay, with the last known transaction provided as being about 0259 hours.

The Licence Holder Robert McIntyre was not present on this occasion however attended at the premises at 0600 hours, following the activation of the premises alarm which was triggered on persons leaving via the fire exit. On his attendance Mr McIntyre was again uncooperative with officers although confirmed that the female member of staff had been in charge of the premises at the material time.

The female member of staff was the same on both dates. According to the training records provided by Mr McIntyre, relative to the female member of staff, she was trained by him on Sunday 11 October, the date of the first incident.

Sunday 21 November 2021

Around 0145 hours, Police noted that the lights were still on within The Pub, the door open and people standing outside as though they had just left the premises.

Due to officers being aware that the premises did not hold a licence to trade after 0100 hours they attended and observed a female working behind the bar with two other males still within consuming what was believed to be alcohol.

The female working behind the bar informed Officers that she was a member of staff and was tidying up however could not provide any reasonable explanation for the other two males still being within the premises.

One of the males was identified as another member of staff who had been present during the incident reported on Monday 12 October 2021. He was clearly under the influence of alcohol and stated "I don't need to leave, I'm having a staff meeting".

The other male refused to leave the premises and stated "I'll finish my drink first". This male had to be removed from the premises and received a recorded Police warning for failing to quit a licensed premises.

The behaviour of these staff members has yet again fallen below what is reasonably expected of them. In this Mr McIntyre, as the Premises Licence holder, must bear a level of responsibility.

The male member of staff was later traced on Sunday 28 November 2021 and again displayed a poor attitude towards Police stating that he had not been working within the premises on the night of 21 November however had been within consuming alcohol.

Numerous attempts have been made to trace both the female member of staff on duty that evening and Mr McIntyre in relation to this incident. Enquiries are still ongoing as all efforts to date have been negative.

Summary

During a period of 7 weeks there has been three incidents where the premises were found to be serving alcohol out with the licensing hour conditions of their licence. During the first incident Mr McIntyre was present and again proved to be extremely obstructive by actively encouraging persons within the premises to continue consuming alcohol out with the licensed hours. In the second incident although Mr McIntyre was not present or overtly hostile he has not engaged or assisted officers from Police Scotland in their enquiries.

The two staff members involved in the first two incidents did not appear to be aware of the licensing hours of the premises and it is suggested that they require further training in order to fully understand the licensing objectives and their responsibilities in respect of the management and control of the premises. The training provided to these two members of staff by the DPM, Mr McIntyre, has clearly been insufficient or incorrect.

The female member of staff was fully aware of Police involvement at the premises following the incident on 12th October 2021 and had only received her training from Mr McIntyre that day. The same female member of staff was left in charge of the premises by the DPM, Mr McIntyre, on the 17th October 2021 at which time the conditions of the premises licence in relation to core hours were again breached, by a substantial period of time.

The male member of staff was also fully aware of Police involvement at the premises following the incident on 12th October 2021 and was again within the premises on the 21st of November when the conditions of the premises licence in relation to the core hours was again breached, by a substantial period of time.

It is suggested that no internal action has been taken to ensure that the premises abided by the conditions of their licence in respect of licensing hours after the first incident, and they refused any assistance from the police.

I am of the view that the premises licence holder Robert McIntyre, who is the holder of a Personal Licence, has acted in a manner which is inconsistent with the conditions of the premises licence by failing to ensure that the conditions of his premises licence were adhered to, on not one but two occasions in a short period of time. Mr McIntyre was clearly aware of his responsibilities due to discussions with the police after the first incident. He was clear that he did not want any police assistance but unfortunately it would appear that no action has been taken to ensure that the premises was managed appropriately and that the failure to adhere to the conditions was rectified.

I request that the Licensing Board considers the aforementioned grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

A letter has also been submitted for your attention under terms of Section 84A of the Act, in respect of the Personal License held by Robert McIntyre.

Yours faithfully

Carol McGuire
Chief Superintendent

APPENDIX 2

23 September 2022

Your Ref: 0127W

Our Ref: CC/COS



**POLICE
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Keeping people safe

Carol McGuire
Chief Superintendent

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
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DG1 1PZ

Democratic Services Manager
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE, 17/10/1975**

With reference to the above subject, the Board requested that they be advised of the outcome of Mr McIntyre's pending case, Section 114 of the Licensing (Scotland) Act 2005 – Any responsible person in relation to any relevant premises who is drunk while on the premises commits an offence in relation to this incident.

Police Scotland can now confirm that the case has been marked No Proceedings by the Procurator Fiscal.

Yours faithfully

Carol McGuire
Chief Superintendent

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**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

LICENSING (SCOTLAND) ACT 2005**PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER DG9 7SB****LICENCE HOLDER : ROBERT J. McINTYRE****1. Background**

1.1 Mr McIntyre has held the licence for these premises from November 2007 to February 2016 and then again from 2 June 2021 to present.

1.2 The Pub is described in the Premises Licence as a pub/diner including off sales in an off town centre location

1.3 The on-sale operating hours for the premises are

- Monday to Wednesday 11am to 12.30am
- Thursday to Saturday 11am to 1am
- Sunday 12 noon to 12.30am.
- Off-sale hours are 11am to 10pm Monday to Sunday.

1.4 The occupant capacity of the premises is 115 persons.

1.5 The layout of the premises is such that the bar and seating area is on one level, with a smaller raised seating area. It does not have an outdoor drinking area.

2. Previous Reviews

2.1 While Mr McIntyre was Premises Licence holder, two Premises Licence Review applications were heard in relation to these premises, The Pub, 3 Hanover Street, Stranraer.

2.2 29 July 2011 - review application received from a Licensing Standards Officer. The grounds for review were based on (1) breach of mandatory condition 6, failing to produce staff training records and (2) licence holder failing to assist and being abusive towards a Licensing Standards Officer.

2.2.1 A Review Hearing took place on 9 September 2011 at which time the grounds for Review were established.

2.2.2 The Board agreed that it was necessary or appropriate to take further steps for the purposes of the licensing objectives. Accordingly, a written warning was issued to the licence holder regarding his future conduct.

2.3 14 August 2015 – review application received from the Chief Constable. The grounds for review were (a) Preventing Crime and Disorder, (c) Preventing Public Nuisance and (d) Protecting and Improving Public Health.

2.3.1 A Review Hearing took place on 7 October 2015 at which time the grounds for Review were established, however, the Board decided to adjourn the Hearing for a period of 6 months to allow changes at the premises to be fully implemented.

2.3.2 At the adjourned Hearing on 16 February 2015, the Board were notified that the Premises Licence had been transferred on 5 February 2016 and Mr McIntyre

was no longer Premises Licence Holder. The consequence of the transfer brought the Review proceedings to an end.

3. Premises Visits

3. No routine visits to the premises have been made since the transfer of the Licence to Mr McIntyre on 2 June 2021 due to the Pandemic.

3.1 I called into the premises and spoke briefly to Mr McIntyre on 26 October 2021 to invite him to attend a Pubwatch meeting to be held on 2 November 2021.

3.2 On receipt of a copy of the Review Application, a visit to the premises was undertaken on 11 January 2022 when the following matters were discussed:-

3.2.1 Personal Licence Holders – in addition to Mr McIntyre, another staff member has a Personal Licence.

3.2.2 Signage – all statutory signage was displayed as required.

3.2.3 Staff training – training records were examined. These were written training records based on the City & Guilds staff training workbook.

- Four staff had been trained by the previous licence holder in 2019 and two staff members had been trained by the licence holder in June and October 2021.
- Mr McIntyre advises that all staff are booked on Scottish Personal Licence Holder courses to be held in the next few weeks.

3.3 A refusals book is kept on the premises and contained entries.

4. General

4.1 Mr McIntyre's first Personal Licence DG/W/0043 was revoked on 7 October 2015 for the purposes of protecting Licensing Objectives (a) Preventing Crime and Disorder and (b) Securing Public Safety, Minute excerpt attached as Appendix A.

4.2 A new Personal Licence DG/W/0709 was granted to him by the Licensing Board on 2 June 2021.

Julia Farroll
Licensing Standards Officer
11 January 2022

Excerpt from Minutes of Meeting of the Wigtown Divisional Licensing Board held on
7 October 2015

9. **LICENSING (SCOTLAND) ACT 2005: PERSONAL LICENCE REVIEW HEARING:
ROBERT MCINTYRE** - Report dated 29 September 2015 by the Clerk

Decision

The Board heard from Chief Inspector McCallum on behalf of the Chief Constable and the Licence Holder and the Licence Holder's agent and **AGREED** that the Board was satisfied that it was necessary or appropriate for the purposes of Licensing Objectives (a) Preventing Crime and Disorder and (b) Securing Public Safety to revoke Mr Robert McIntyre's Personal Licence with immediate effect.

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
WIGTOWN DIVISIONAL LICENSING BOARD**

**LICENSING (SCOTLAND) ACT 2005 (THE ACT): SECTION 84A
CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE**

1. Reason for Report

1.1 On 21 November 2022, the Chief Constable, in terms of his power under section 84A the Act, submitted to the Board a report (**Appendix**) alleging that Robert McIntyre, the holder of a personal licence, has acted in a manner which is inconsistent with the licensing objectives of Preventing Crime and Disorder, Securing Public Safety and Protecting and Improving Public Health

1.2 When the Board receives a section 84A report it must hold a Hearing.

2. Background

2.1 A Personal Licence issued by a Licensing Board authorises the licence holder to supervise or authorise the sale of alcohol.

2.2 In terms of procedure, both the Police letter and Notice of Hearing have been sent to the licence holder.

2.3 The Board held a meeting on 16 December 2022 and agreed to defer consideration of this matter to a future meeting of the Board to enable all Board Members to be present.

3. Determination

3.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

3.2 At its Hearing the Board *may*, after giving

- the licence holder concerned and
- such other persons as they consider appropriate an opportunity to be heard and
- if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order to:
 - a) revoke the licence;
 - b) suspend the licence for a maximum 6 month period as the Board considers appropriate; or
 - c) endorse the licence (an endorsement expires after five years).

3.3 It is also open to the Board to take no action in which case Mr McIntyre will continue to retain his personal licence.

3.4 If, at the Hearing, the Board is satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence then the Board must make an order revoking the licence.

4. Recommendations

4.1 Members are asked to consider whether they wish to revoke, suspend, endorse the licence or take no action; and

4.2 Note that if a determination is made that the licence holder is not a fit and proper person to be the holder of the licence then the Board has no discretion as to which action it wishes to take as it must, in law, revoke the licence.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

13 January 2023

APPENDIX

21 November 2022

Your Ref: DG/W/0709

Our Ref: CGC/COS

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84A
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES
PERSONAL LICENCE HOLDER: ROBERT JOHN MCINTYRE
8 HANOVER STREET, STRANRAER, DG9 7RZ
LICENCE NO: DG/W/0709**

The Chief Constable hereby reports to the Licensing Board in terms of Section 84A of the Licensing (Scotland) Act 2005 that Robert John McIntyre has acted in a manner which is inconsistent with the licensing objective(s) articulated at Section 4(1) of Act, namely:

- Preventing Crime and Disorder
- Securing Public Safety
- Protecting and Improving Public Health

History of Personal Licence Holder:

Robert McIntyre, is the Premises Licence Holder and Designated Premises Manager of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 following an objection by Police Scotland. At this time he also became the Designated Premises Manager and Premise License holder for The Pub, Hanover Street, Stranraer.

A request for a Personal Licence Review was sent to Wigtownshire Licensing Board on 19 November 2021 due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. The matter was deferred by Wigtownshire Licensing Board on 20 January 2022 pending the outcome of Mr McIntyre's court case. On 23 September 2022 a further letter was sent to the Licensing Board confirming that the case had been marked No Proceedings. To date no response has been received by Police Scotland in relation to that letter.

The following information is provided for the Board's consideration.

Tuesday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return. This staff member was intoxicated herself and had a minor facial injury which she stated was caused when she fell over in a drunken state.

Given it was after 0100 hours at that time, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, instead acting in the complete opposite manner negatively affecting the situation, and actively encouraging patrons to continue drinking within the premises.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'. This contravenes the objectives of Preventing Crime and Disorder and Securing Public Safety.

Sunday 21 November 2021

At 0145 hours officers passed licensed premises The Pub, Hanover Street, Stranraer and noted the doors to still be open and lights on. Upon entering the premises officers found two persons within consuming alcohol. One of those present was Mr McIntyre. Upon being instructed to leave both refused to do so with Mr McIntyre stating "I'm having a meeting". Both were noted to be intoxicated and were ejected from the premises by Police Officers.

Monday 22 November 2021

At 0130 hours officers passed licensed premises, The Pub, Hanover Street, Stranraer and noted the lights to be on but door closed. They observed three persons within, two were behind the bar and one sitting at the bar. They knocked on the door and were allowed entry. Two persons were members of staff and the third was the cousin of one the staff. Police were told that a taxi had been called for the cousin when they closed at 0030 hours however it had still not arrived and they did not want her to leave on her own. Police contacted the taxi company who said they had received no such phone call. One of the members of staff accused Police of targeting the premises.

Thursday 1 September 2022

Between 0100 hours and 0530 hours several unknown persons were seen entering and exiting The Pub, Hanover Street, Stranraer. Persons were captured on Stranraer Town Centre CCTV.

Monday 12 September 2022

Officers attended at 0200 hours due to CCTV observing persons entering after licensed hours. Officers could hear music and people using the pool table. On looking through the window unknown persons could be seen ducking behind the bar area. No alcohol could be seen from the officers' position. There was no answer at the door.

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Wednesday 14 September 2022.**

At 0038 hours Police attended the premises, gaining entry a few minutes later. On entering four people were found inside, one identified himself as the assistant manager. They were playing pool with drinks on the table. Initially people refused to provide their details but eventually did so. The assistant manager was spoken with and advised that due to the premises terminal hour being 0030 hours people needed to leave. He stated that he was sick of people staying drinking and was advised regarding his responsibilities. Mr McIntyre attended at the premises at 0046 hours after being alerted to the Police presence. The matter was explained to Mr McIntyre. From the response and reaction received, it was the opinion of attending officers that if they had not entered the premises persons would have continued consuming alcohol within.

Friday 7 October 2022

At 2250 hours Police Scotland executed a Misuse of Drugs Act warrant at several addresses in Stranraer including The Pub, Hanover Street and Mr McIntyre's home address of 8 Hanover Street, Stranraer. On executing the warrant at The Pub Mr McIntyre was found to be on the premises with a member of bar staff and both were present whilst a search was carried out. A systematic search was carried out and within the kitchen of the premises officers found white powder laid out on the worktop along with a bank card in the name of Robert McIntyre. A self-seal bag of white powder was also found on a shelf within the kitchen. On this occasion, the member of staff was assessed as not being involved in any drug activity within the premises. This staff member formally denied any connection to the drugs seized by Police and was found to have had no access to them.

During the search, No active drugs policy was visible within the premises.

Presumptive tests carried out by two suitably trained officers at a later date showed the powder on the kitchen worktop and the powder on the kitchen shelf as cocaine.

On Thursday 27 October 2022 Mr McIntyre was arrested and charged with Section 5(2) of the Misuse of Drugs Act 1971, Possession of a Class A Drug, Cocaine.

CCTV enquiries were carried out by Police and relevant observations made from same. However, it was not retained as it was not evidential and the privacy of those recorded on it is necessary and proportionate.

In conclusion, it is clear that since obtaining his personal licence in July 2021 Mr McIntyre is continuing with a course of conduct that has previously seen him go before and be sanctioned by the Wigtownshire Licensing Board. There is a continued concern that Mr McIntyre appears to be either unwilling or unable to uphold the licensing objectives.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Dumfries and Galloway Local Policing Plan 2020-2023 is based on public opinion, our people and our partners views and a strategic assessment. As such the supply of and harm caused by controlled drugs has been identified as one of Police Scotland's six operational priorities which is reciprocated in divisional priorities. This misuse of controlled drugs and the problematic use of alcohol can affect all communities and influence the quality of life across the region.

In light of the above, it is considered that the actions of Mr McIntyre do not support the licensing objectives of preventing crime and disorder, securing public safety and protecting and improving public health.

In signing this report, I confirm that this report is made under the authority of the Chief Constable of Police Service of Scotland:

Signed:

Carol McGuire
Chief Superintendent

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**DUMFRIES AND GALLOWAY LICENSING BOARDS
WIGTOWN DIVISIONAL LICENSING BOARD**

LICENSING (SCOTLAND) ACT 2005 (THE ACT)

PREMISES LICENCE REVIEW (SECTION 36)

PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB

PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE

1. Reason for Report

As the Board has received a premises licence review application and the Convener has determined that the application should not be rejected, the Board must hold a Hearing.

2. Background

2.1 The Board received a letter dated 21 November 2022 from the Chief Constable requesting review of the above named premises (**Appendix 1**).

2.2 Where the Board receives an application for a Premises Licence Review it must hold a Review Hearing within 42 days of the date of the application, unless the Board rejects the application as being vexatious or frivolous or does not disclose any matter relevant to any ground for review.

2.3 The Convener has determined that the application should not be rejected.

2.4 The statutory LSO report that the Board is legally obliged to take into account is detailed at **Appendix 2**.

2.5 The Board held a meeting on 16 December 2022 and agreed to defer consideration of this matter to a future meeting of the Board to enable all Board Members to be present

3. Determination

3.1 As democratically elected individuals, ultimate decision making power rests with elected Members and not Council Officers. Whilst Officers can give advice, they cannot clearly make decisions at Hearings. Ultimately, the Board must come to a lawful decision taking into account the following:

3.2. Grounds for Review

Any person may apply to the Board for review of a premises licence on any grounds for review and those grounds are:

- 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;
- that one or more of the conditions to which the Premises Licence is subject has been breached; or
- any other ground relevant to one or more of the Licensing Objectives (those Objectives being):
 - (a) Preventing Crime and Disorder
 - (b) Securing Public Safety
 - (c) Preventing Public Nuisance
 - (d) Protecting and Improving Public Health
 - (e) Protecting Children and Young Persons from Harm.

3.3. Board's Powers on Review

At a Review Hearing, if the Board is satisfied that a ground for review has been established (whether or not on the basis of any circumstances alleged in the Premises Licence Review Application) the Board may take any of the following steps as are considered necessary or appropriate for the purposes of any of the Licensing Objectives.

3.4 The steps that the Board may take are to:-

- issue a written warning to the licence holder;
- make a variation of the licence (the Board can provide that the variation applies for a certain time period only);
- suspend the licence for such period as the Board may determine
- revoke the licence.

3.5 The above steps take immediate effect.

3.6 It is also open to the Board to take no action even if a ground for review is established.

3.7 Where, at a review hearing in relation to any premises licence, the Licensing Board are satisfied 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 then the Board must revoke the licence.

3.8 This revocation takes effect after a 28 day period beginning with the day on which the Board makes the decision unless, during that 28 day period:

- the premises licence holder makes an application to transfer the licence and the Board grants that transfer; or
- a variation application is made which seeks to vary the licence and the Board considers that the variation, if granted, would remove the ground on which the licence was revoked.

3.9 If the Board receives either of the above applications and grants that application, then the Board must recall its revocation.

3.10 The Board also retains the power to extend the 28 day period pending determination of either a transfer or variation application.

4. Recommendations

4.1 Members are asked to consider

- (i) whether a ground for review exists; and
- (ii) if a ground for review is established, which discretionary steps (if any) it wishes to take as per paragraphs 3. 4 and 3.6 above;

4.2 If no ground for review is established then no order can be made.

Vlad Valiente
Clerk to the Licensing Boards
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD

13 January 2023

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OFFICIAL SENSITIVE: POLICE AND PARTNERS

APPENDIX 1

21 November 2022

Your Ref: 20942

Our Ref: CGC/COS/20942

Head of Democratic Services
Wigtown Divisional Licensing
Municipal Chambers
Buccleuch Street
Dumfries
DG1 2AD



**POLICE
SCOTLAND**

Keeping people safe

Carol McGuire
Chief Superintendent

Dumfries & Galloway Division
Police Headquarters
Cornwall Mount
Dumfries
DG1 1PZ

Dear Sir/Madam,

**LICENSING (SCOTLAND) ACT 2005 - SECTION 36(1)
PREMISES LICENCE REVIEW APPLICATION
LICENCE NO: 0127W
PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.
PREMISES LICENCE HOLDER: ROBERT JOHN MCINTYRE**

In terms of section 36(1) of the Licensing (Scotland) Act 2005 I hereby make application to the Wigtownshire Licensing Board for a review of the premises licence in respect of the premises known as THE PUB, 3 HANOVER STREET, STRANRAER, DG9 7SB.

The grounds for review relate to the licensing objectives of

- Preventing Crime and Disorder
- Securing Public Safety
- Preventing Public Nuisance
- Protecting and Improving Public Health
- Protecting Children and young Persons from Harm

As part of his application for review, the Chief Constable would refer to the following facts:

OFFICIAL SENSITIVE: POLICE AND PARTNERS**Premises:**

The Pub is a licensed premises in an off town centre location within Stranraer. The premises core "on sales" hours are Monday to Wednesday 1100 hours until 0030 hours, Thursday to Saturday 1100 hours until 0100 hours and Sunday 1200 hours until 0030 hours (trading days thereof). In line with similar premises within Stranraer town centre the terms under which Young Persons are permitted entry is during core hours unaccompanied. As a result activity within The Pub as documented below, has a direct influence on Young Persons and is therefore in contradiction on the objective of Protecting Children and Young Persons from Harm.

Police Scotland have previously requested a review of the premises licence in 2015 as well as 2021. On each occasion the actions of Premises Licence Holder Mr McIntyre have been a contributory factor.

History of Premises Licence Holder:

Robert McIntyre, is the Premises Licence Holder and Designated Premises Manager of The Pub, Hanover Street, Stranraer.

Mr McIntyre previously held a Personal License that was revoked by the Wigtownshire Licensing Board in October 2015. This revocation occurred after a review request by Police Scotland due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. At that time a Premises Licence Review was requested but later dropped when the premises licence was transferred to another party.

Mr McIntyre again applied for and was granted a Personal License on 12 July 2021 following an objection by Police Scotland. At this time he also became the Designated Premises Manager and Premise License holder for The Pub, Hanover Street, Stranraer.

A request for a Personal Licence Review and Premises Licence review was sent to Wigtownshire Licensing Board on 19 November 2021 due to Mr McIntyre conducting himself in a manner inconsistent with the licensing objectives. The matter was deferred by Wigtownshire Licensing Board on 20 January 2022 pending the outcome Mr McIntyre's court case. On 23 September 2022 a further letter was sent to the Licensing Board confirming that the case had been marked No Proceedings.

The following information is provided for the Board's consideration.

Tuesday 12 October 2021

Around 0051 hours, Police were made aware by the CCTV operator of a disturbance outside The Pub, 3 Hanover Street, Stranraer. On Police arrival a number of persons were noted standing outside the front of the premises heavily intoxicated.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

Police identified and approached a member of staff however he denied any knowledge of any altercation or the identity of those involved.

Officers have at this time also observed numerous persons within the bar still in possession of drinks. Another female member of staff was noted to be working behind the bar and was observed to hand a glass of what was believed to be alcohol to an unidentified male and take cash from him in return. This staff member was intoxicated herself and had a minor facial injury which she stated was caused when she fell over in a drunken state.

Given it was after 0100 hours at that time, the member of staff was asked what time the premises was licensed to at which time he stated 0100 hours. The actual premises licensing hours from Monday to Wednesday are 1100 hours until 0030 hours.

The License holder Robert McIntyre was observed sitting at the end of the bar and appeared to be heavily intoxicated. He was observed by officers to drink what appeared to be beer or lager from a glass and could be heard slurring his words whilst talking to other patrons.

On hearing the Police ask for the premises to be closed Mr McIntyre has voluntarily become involved in the discussions regarding the premises, challenging the authority of the Police. He proceeded to be abusive towards officers shouting and swearing at them and did not make any attempts to assist, instead acting in the complete opposite manner negatively affecting the situation, and actively encouraging patrons to continue drinking within the premises.

On police leaving the premises Mr McIntyre followed them outside and stated "You Cunts are all the same, you are no happy that I have a license". Mr McIntyre was warned regarding his behaviour.

Mr McIntyre was spoken to by Sergeant Boyce who warned him in relation to his failure to comply with the conditions of the premises license. Mr McIntyre was offered support and guidance from Police Scotland however stated that 'he was not interested'. This contravenes the objectives of Preventing Crime and Disorder and Securing Public Safety.

Sunday 17 October 2021

About 0545 hours, on Sunday 17 October 2021, Police Scotland were made aware of a number of persons still within The Pub, 3 Hanover Street, Stranraer consuming alcohol.

Officers attended and observed a number of persons standing at the bar within the premises drinking what appeared to be pints of beer and other alcoholic drinks. On knocking on the door all persons within appeared to be alarmed and attempted to hide.

OFFICIAL SENSITIVE: POLICE AND PARTNERS

After a short time the door of the premises was answered by a female who identified herself as a member of staff and allowed officers entry into the premises.

Whilst speaking with this member of staff a number of persons were observed trying to leave by the side door. Details of these persons were obtained and following a search of the premises another male was found hiding within. The member of staff was spoken to by officers and advised of the premise's licence conditions however she was very hostile and uncooperative towards them.

Statements were obtained from a number of patrons who were traced leaving the premises on the arrival of Police. These witnesses speak to being within The Pub and consuming alcohol after 0030 hours along with other patrons. They paid for these alcoholic drinks by both cash and apple pay, with the last known transaction provided as being about 0259 hours.

The Licence Holder Robert McIntyre was not present on this occasion however attended at the premises at 0600 hours, following the activation of the premises alarm which was triggered on persons leaving via the fire exit. On his attendance Mr McIntyre was again uncooperative with officers although confirmed that the female member of staff had been in charge of the premises at the material time.

The female member of staff was the same on both dates. She does not have a personal licence. However, according to the training records provided by Mr McIntyre, relative to the female member of staff, she was trained by him on Monday 11 October 2021.

Sunday 21 November 2021

At 0145 hours officers passed licensed premises The Pub, Hanover Street, Stranraer and noted the doors to still be open and lights on. Upon entering the premises officers found two persons within consuming alcohol. One of those present was Mr McIntyre. Upon being instructed to leave both refused to do so with Mr McIntyre stating "I'm having a meeting". Both were noted to be intoxicated and were ejected from the premises by Police Officers.

Both the above noted incidents show a disregard to the objectives of Securing Public Safety and Improving Public Health, whereby alcohol is freely available for consumption outwith policy hours. It also highlights a disregard for legal process. It does not promote the objective of Preventing Crime and Disorder by acting in a manner that flouts licensing objectives and policy.

Monday 22 November 2021

At 0130 hours officers passed licensed premises, The Pub, Hanover Street, Stranraer and noted the lights to be on but door closed. They observed three persons within, two were behind the bar and one sitting at the bar. They knocked on the door and were allowed entry. Two persons were members of staff and the third was the cousin of one the staff. Police were told that a taxi had been called for

OFFICIAL SENSITIVE: POLICE AND PARTNERS

the cousin when they closed at 0030 hours however it had still not arrived and they did not want her to leave on her own. Police contacted the taxi company who said they had received no such phone call. One of the members of staff accused Police of targeting the premises.

The objective of Securing Public Safety is ignored, alleging a taxi had been called to convey persons under the influence of alcohol home when in fact no taxi had been called. This could have resulted in an intoxicated person being left to their own devices to make their way home after allowing them to stay on the premises drinking after policy hours.

Thursday 1 September 2022

Between 0100 hours and 0530 hours several unknown persons were seen entering and exiting The Pub, Hanover Street, Stranraer. Persons were captured on Stranraer Town Centre CCTV.

Monday 12 September 2022

Officers attended at 0200 hours due to CCTV again observing persons entering after licensed hours. Officers could hear music and people using the pool table. On looking through the window unknown persons could be seen ducking behind the bar area. No alcohol could be seen from the officers' position. There was no answer at the door.

Wednesday 14 September 2022.

At 0038 hours Police attended the premises, gaining entry a few minutes later. On entering four people were found inside, one identified himself as the assistant manager. They were playing pool with drinks on the table. Initially people refused to provide their details but eventually did so. The assistant manager was spoken with and advised that due to the premises terminal hour being 0030 hours people needed to leave. He stated that he was sick of people staying drinking and was advised regarding his responsibilities. Mr McIntyre attended at the premises at 0046 hours after being alerted to the Police presence. The matter was explained to Mr McIntyre. It was the opinion of attending officers that if they had not entered the premises persons would have continued consuming alcohol within.

Again, the actions and behaviour of both Mr McIntyre and his staff are inconsistent with the licensing objectives of preventing crime and disorder and securing public safety. Encouraging and allowing the continued consumption of alcohol after policy hours, extending the available time of drinking is incompatible with protecting and improving public health.

Friday 7 October 2022

At 2250 hours Police Scotland executed a Misuse of Drugs Act warrant at several addresses in Stranraer including The Pub, Hanover Street and Mr McIntyre's home address of 8 Hanover Street, Stranraer. On executing the warrant at The Pub Mr

OFFICIAL SENSITIVE: POLICE AND PARTNERS

McIntyre was found to be on the premises with a member of bar staff and both were present whilst a search was carried out. A systematic search was carried out and within the kitchen of the premises officers found white powder laid out on the worktop along with a bank card in the name of Robert McIntyre. A self-seal bag of white powder was also found on a shelf within the kitchen. On this occasion, the member of staff was assessed as not being involved in any drug activity, and formally denied any connection to the drugs seized by Police. The staff member had no access to the drugs found by Police.

During the search, No active drugs Police was visible within the premises.

Presumptive tests carried out by two suitably trained officers at a later date showed the powder on the kitchen worktop and the powder on the kitchen shelf as cocaine.

On Thursday 27 October 2022 Mr McIntyre was arrested and charged with Section 5(2) of the Misuse of Drugs Act 1971, Possession of a Class A Drug, Cocaine. This demonstrates a disregard of the objectives of Protecting and Improving Health, Securing Public Safety and Protecting Children and Young Persons from Harm.

It is clear that since obtaining his personal licence in July 2021 Mr McIntyre is continuing with a course of conduct that has previously seen him before and be sanctioned by the Wigtownshire Licensing Board. It would appear that the licensed premises is actively used for criminal behaviour and there is a continued concern that Mr McIntyre appears to be either unwilling or unable to uphold the licensing objectives.

CCTV enquiries were carried out by Police and relevant observations made from same. However, it was not retained as it was not evidential and the privacy of those recorded on it is necessary and proportionate.

Dumfries and Galloway Local Policing Plan 2020-2023 is based on public opinion, our people and our partners views and a strategic assessment. As such the supply of and harm caused by controlled drugs has been identified as one of Police Scotland's six operational priorities which is reciprocated in divisional priorities. This misuse of controlled drugs and the problematic use of alcohol can affect all communities and influence the quality of life across the region.

I request that the Licensing Board considers the aforementioned grounds for review and takes such steps as it considers necessary or appropriate for the purposes of the Licensing Objectives under the terms of Section 39(2) or 39(2A) of the Act.

Yours faithfully

Carol McGuire
Chief Superintendent

**DUMFRIES & GALLOWAY LICENSING BOARDS
LICENSING STANDARDS OFFICER REPORT**

LICENSING (SCOTLAND) ACT 2005**PREMISES: THE PUB, 3 HANOVER STREET, STRANRAER DG9 7SB****LICENCE HOLDER : ROBERT J. McINTYRE****1. Background**

1.1 Mr McIntyre has held the licence for these premises from November 2007 to February 2016 and then again from 2 June 2021 to present.

1.2 The Pub is described in the Premises Licence as a pub/diner including off sales in an off town centre location

1.3 The on-sale operating hours for the premises are

- Monday to Wednesday 11am to 12.30am
- Thursday to Saturday 11am to 1am
- Sunday 12 noon to 12.30am.
- Off-sale hours are 11am to 10pm Monday to Sunday.

1.4 The occupant capacity of the premises is 115 persons.

1.5 The layout of the premises is such that the bar and seating area is on one level, with a smaller raised seating area. It does not have an outdoor drinking area.

2. Previous Reviews

2.1 Including this one, four Premises Licence Review applications have been lodged in relation to these premises while under the control of Mr McIntyre.

2.2 29 July 2011 - Review application received from a Licensing Standards Officer. The grounds for review were based on (1) breach of mandatory condition 6, failing to produce staff training records and (2) licence holder failing to assist and being abusive towards a Licensing Standards Officer.

2.2.1 A Review Hearing took place on 9 September 2011 at which time the grounds for Review were established.

2.2.2 The Board agreed that it was necessary or appropriate to take further steps for the purposes of the licensing objectives. Accordingly, a written warning was issued to the licence holder regarding his future conduct.

2.3 14 August 2015 – Review application received from the Chief Constable. The grounds for review were (a) Preventing Crime and Disorder, (c) Preventing Public Nuisance and (d) Protecting and Improving Public Health.

2.3.1 A Review Hearing took place on 7 October 2015 at which time the grounds for review were established, however, the Board decided to adjourn the Hearing for a period of 6 months to allow changes at the premises to be fully implemented.

2.3.2 At the adjourned Hearing on 16 February 2015, the Board were notified that the Premises Licence had been transferred on 5 February 2016 and Mr McIntyre was no longer Premises Licence Holder. The consequence of the transfer brought the Review proceedings to an end.

2.4 1 December 2021 – Review application received from the Chief Constable. The grounds for review were (a) Preventing Crime and Disorder and (c) Preventing Public Nuisance.

2.4.1 A Review Hearing took place on 20 January 2022 at which time the Board decided to defer consideration of the Review, pending the outcome of court proceedings.

2.4.2 The deferred Review Hearing will take place on 16 December 2022.

3. Premises Visits

3.1 A visit was made on 11 January 2022 to check statutory signage, staff training records and compliance with layout plan.

3.1.1 Signage – all statutory signage was displayed as required.

3.1.2 Staff training – training records were examined. These were written training records based on the City & Guilds staff training workbook.

- Four staff had been trained by the previous licence holder in 2019 and two staff members had been trained by the licence holder in June and October 2021.
- Mr McIntyre advised that all staff were booked on Scottish Personal Licence Holder courses.

3.1.3 A refusals book is kept on the premises and contained entries.

3.2 A joint visit with Police was made on 9 February 2022 to discuss results of the recent cocaine detection exercise carried out by Police Scotland in various town centre premises.

3.2.1 At that time an update was given on progress of the staff Personal Licence training courses. One staff member had been dismissed and another 2 were working through the course.

3.3 A visit on 7 December 2022 was undertaken at which time all statutory signage was displayed.

3.3.1 The staff member who was on duty holds a Personal Licence and Mr McIntyre advised the only other staff member has completed the Scottish Personal Licence Holder qualification and is applying for his Personal Licence.

3.3.2 Mr McIntyre confirmed that he normally closes up at the end of trading. Last orders are called 15 minutes before end of licensed hours, with all drinks being cleared 30 minutes later, at the end of drinking-up time.

3.3.3 Mr McIntyre confirmed that all staff are aware of the licensed hours in the Operating Plan.

4. Recommendation

That the Board have regard to the information provided in reaching its decision on the Premises Licence Review.

Julia Farroll
Licensing Standards Officer
07 December 2022

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