

EAST AYRSHIRE LICENSING BOARD

Minute of the Meeting of East Ayrshire Licensing Board held within The Council Chambers, Council Headquarters, London Road, Kilmarnock on Tuesday 12 March 2019 at 10am.

SEDERUNT: Councillor Tom Cook (Chair), Councillor Fiona Campbell, Councillor John Campbell, Councillor Drew Filson, Councillor Lillian Jones and Councillor George Mair.

ATTENDING: Mr S McCall (Depute Clerk to the Licensing Board), Sergeant D Dougan (Police Scotland) Mr I Hiles (Licensing Standards Officer) and Mrs P Duncan (Licensing Board Administrator).

APOLOGIES : Councillor William Crawford, Councillor Ian Grant, Councillor Claire Leitch and Councillor Jacqui Todd.

1. SEDERUNT

Noted.

2. MINUTE OF MEETING

2.1 The Minute of the meeting of East Ayrshire Licensing Board held on 5 February 2019 was approved and noted.

3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY

The Depute Clerk provided details on the following applications, which were discharged by the Clerk under delegated authority from 29 January 2019 until 1 March 2019 :-

Minor Variation	5
S33 Transfer	7
Grant of Personal Licence	5
Renewal of Personal Licence	37
Small Lottery – Renewals	4
Extended Hours	4
Occasional Licences	57

The Depute Clerk reported that of the 57 Occasional Licences granted, 18 were granted to Club premises, 21 to Personal Licence holders, 15 to Voluntary Organisations and 3 to Premises Licence holders.

The Board noted the content of the report for information purposes and requested that future reports be amended to include the current number of Personal Licences and the current number of Premises Licences in force.

4. APPLICATIONS

Applications considered under the Licensing (Scotland) Act 2005 – See Appendix I.

There being no further business, the meeting ended at 10.40am.

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Mary McLelland

The Depute Clerk advised that Police Scotland had reported that Ms McLelland had been convicted of a relevant offence in terms of the Licensing (Scotland) Act 2005.

Ms McLelland was present at the meeting and the Depute Clerk explained the Board's procedure for dealing with applications. Ms McLelland confirmed that she had no preliminary matters to raise.

Sergeant Dougan, representing Police Scotland, advised that Mary McLelland was convicted at Ayr Sheriff Court on 2 March 2018 of assault and of culpable and reckless conduct. Sentence was deferred in respect of both charges to 29 March 2018 when a Community Payback Order for 140 hours unpaid work was imposed, to be completed within 6 months.

Sergeant Dougan reported that the circumstances surrounding charge 1 were that on 18 November 2017 at Main Street, Auchinleck, Mary (Maureen) McLelland assaulted a 13 year old male and threw a liquid containing bleach over his head and body.

The circumstances surrounding charge 2 were that on 18 November 2017 at Main Street, Auchinleck, Mary (Maureen) McLelland culpably and recklessly sprayed bleach over a number of juveniles to the danger of their injury, with a total disregard for the consequences.

Sergeant Dougan concluded that in light of the above, the Chief Constable considered it necessary for the purpose of the securing public safety and protecting children and young persons from harm licensing objectives, that the application be refused in terms of Section 73(4) of the Licensing (Scotland) Act 2005.

Ms McLelland asked Sergeant Dougan why Police Scotland were recommending the refusal of the licence.

The Depute Clerk explained that Police Scotland were legally obliged to advise the Board if an applicant had been convicted of a relevant offence in terms of the Licensing (Scotland) Act 2005 and may make a recommendation in respect of the application.

Ms McLelland stressed that she was not a threat to children. She explained that children gathered in a bus shelter located to the front of her house and threw things at her windows, knocked her door and urinated in her garden. She advised that over the past two years she had been in contact with East Ayrshire Council to request that the bus shelter be moved and had made numerous telephone calls to Police Scotland regarding the problems.

Addressing the conviction, Ms McLelland explained that, as the children urinate in the bus shelter, she had taken bleach out to clean the shelter. One of the boys had attacked her and knocked the bleach out of her hand and it had gone over him. At that time some of the others had attempted to lift the bleach and it had gone over them.

Ms McLelland stated that she now attends her Doctor as she suffers with stress. She concluded that everyone makes mistakes and that she had made a mistake which she regrets.

The Chair asked if Ms McLelland was currently in employment and Ms McLelland confirmed that she works in an off-sales.

Councillor Mair asked if Ms McLelland had pled guilty to the offences at Court. Ms McLelland stated that she had initially pled not guilty but that her Solicitor had advised her to plead guilty.

Councillor John Campbell asked if Ms McLelland had any previous experience in the licensed trade and Ms McLelland advised that she did not have much experience in the licensed trade.

Councillor Jones asked if a Personal Licence would be a benefit to Ms McLelland in her current employment and Ms McLelland confirmed that it would be beneficial.

Councillor Filson asked how many times Ms McLelland had contacted Police Scotland to complain of the children gathering outside her house. Ms McLelland advised that she had contacted Police Scotland numerous times and continued to call them.

There being no further questions, both parties were given the opportunity to sum up.

Neither Sergeant Dougan nor Ms McLelland had anything to add to their earlier submissions.

The Board adjourned to consider the application.

Upon returning the Chair moved that the licence be granted and this was seconded by Councillor Jones.

Councillor Mair moved refusal on the basis of the Chief Constables recommendation and this was seconded by Councillor John Campbell.

The application was put to the vote. Three Members voted that the licence be refused and three Members voted that the licence be granted. As there was an equality in the votes, the Chair had a casting vote in terms of Paragraph 6(6) of Schedule 1 of the Licensing (Scotland) Act 2005. Accordingly, the licence was granted on the casting vote of the Chair.

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LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR PERSONAL LICENCE

Russell Simon Watson Abercrombie

The Depute Clerk advised that Police Scotland had reported that Mr Abercrombie had been convicted of a relevant offence in terms of the Licensing (Scotland) Act 2005. He reminded Members that this application had been continued from the last meeting of the Board as Mr Abercrombie had failed to appear at the meeting.

Mr Abercrombie was not present at the meeting, nor was he represented.

As Mr Abercrombie had again failed to appear, the Board agreed unanimously to consider the application in his absence.

Sergeant Dougan advised that Russell Simon Watson Abercrombie was convicted at Kilmarnock Court on 14 September 2018 of Fraud (Electronic Means). Sentence was deferred in respect of the charge to 11 December 2018 when a Community Payback Order was imposed, to be completed within 1 year.

Sergeant Dougan reported that the circumstances surrounding the offence was that on 7 June 2018 at Strath Crescent, Newmilns or elsewhere, Russell Abercrombie presented, by means of an electronic device, to Tesco Stores Limited, a debit card in the name of a 29 year old female and by said means pretended to said Tesco Stores Limited that he was the owner of the card and induced said Tesco Stores Limited to supply to him goods, namely a quantity of food and household items in exchange therefor and obtained goods to the value of £70.79 by fraud.

The Chair moved that the licence be refused. The Board agreed unanimously.

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