

## **EAST AYRSHIRE LICENSING BOARD**

**Minute of the virtual Meeting of East Ayrshire Licensing Board, held digitally through Microsoft Teams, on Tuesday 18 May 2021 at 10am.**

**SEDERUNT:** Councillor Tom Cook (Chair), Councillor John Campbell, Councillor William Crawford, Councillor Ian Grant, Councillor Claire Leitch, Councillor George Mair and Councillor Jacqui Todd.

**ATTENDING:** Stuart McCall (Depute Clerk to the Licensing Board), Chief Inspector N Calderwood, Sergeant S Barrie and Sergeant I Farmer (Police Scotland), Mrs C McEwan and Mr I Hiles (Licensing Standards Officers), Mrs P Duncan and Ms S Duncan (Licensing Board Administrators).

**APOLOGIES :** Councillor Fiona Campbell, Councillor Drew Filson and Councillor Lillian Jones.

### **1. SEDERUNT**

Noted.

#### **1.1 Exclusion of Press and public**

The Licensing Board resolved that the press and public be excluded from the meeting for the following items of business on the grounds that if members of the public were present, there would be a real and substantial risk to public health due to infection or contamination with coronavirus.

### **2. MINUTE OF MEETING**

2.1 The minute of the meeting of East Ayrshire Licensing Board held on 20 April 2021 was agreed and noted.

### **3. APPLICATIONS CONSIDERED UNDER DELEGATED AUTHORITY**

The Chair noted the applications discharged under delegated authority by the Clerk to the Licensing Board between 8 April and 9 May 2021:-

Minor Variation	:	4
S33 Transfer	:	4
Grant of Personal Licence	:	11
Renewal of Personal Licence	:	3
Small Society Lottery Renewals	:	7

The number of Occasional Licence applications considered had not been included in this report as, due to the COVID-19 restrictions, many Occasional Licence applications were withdrawn or could not be granted.

The Chair noted that as of the date of the Report there were 1176 Personal Licences and 300 Premises Licences in force.

The Board Members agreed to note the Report.

#### **4. APPLICATIONS**

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

#### **5. PREMISES LICENCE REVIEW**

Councillor Todd joined the meeting.

Review of premises licence for premises known as The Masons Arms, 10 Henrietta Street, Galston following receipt of Premises Licence Review Applications in terms of Section 36(3)(b) of the Licensing (Scotland) Act 2005 from Police Scotland.

**The Depute Clerk advised that a Premises Licence Review Hearing had been requested in respect of premises known as The Masons Arms, 10 Henrietta Street, Galston following receipt of a premises licence review application from Police Scotland.**

**Mr MacIver, Solicitor, joined the meeting on behalf of the licence holders, together with Michael McGowan, Lease Holder of the premises.**

**Police Scotland was represented at the Review Hearing by Chief Inspector Nathan Calderwood.**

**The Depute Clerk confirmed that Mr MacIver had no preliminary matters to raise and the hearing proceeded in accordance with the agreed procedure for hearings.**

**In support of the review application, Chief Inspector Calderwood, reported as follows:-**

**The premises are licensed to trade in alcohol for consumption on and off the premises and their permitted trading hours are as follows:**

**On Sale - Sunday to Wednesday from 11am until 12 Midnight and Thursday to Saturday from 11am until 1am**

**Off Sale – Sunday to Saturday from 11am until 10pm**

**The application for review is made in terms of Section 36(3) (b) on grounds relevant to one or more of the licensing objectives as articulated at Section a(1) of the 2005 Act, namely:**

- **Preventing Crime and Disorder**
- **Securing Public Safety**
- **Preventing Public Nuisance**
- **Protecting Children and Young Persons From Harm**

**Rosemount Inns Ltd (Company No.SC523077) have held the Premises Licence for The Masons Arms, 10 Henrietta Street, Galston since 1 September 2009. The Designated Premises Manager for the premises is Lynette Malcolm, Personal Licence number is EA/PL/1807/17. Her licence was granted by East Ayrshire Council on 5 September 2017. The lease holder of the premises is Michael McGowan. Mr McGowan is not a Personal Licence holder however holds a Highfield Qualification No. R35504, Certificate No. PLH22606675. Date of award 3 November 2018. To date he has not applied for a Personal Licence.**

**The premises consist of two bars, a pool room and an outside beer garden to the rear.**

**The premises licence states that children and young persons are not allowed entry to the premises.**

**The following information has not yet been heard before a court and as such can be treated as 'sub judice'.**

**It is alleged that during the evening of 19 October 2019 there were a number of patrons within the premises. At an unknown time during the evening an argument took place involving three males within the premises. The lease holder of the premises, Michael McGowan, was on duty at that time with one other female member of staff.**

**About 0120 hours on 20 October 2019 the premises was in the process of closing and was busy with patrons. About that time a number of patrons began leaving the premises through the front door, some of which were holding bottles and cans. They began congregating on the footpath and roadway directly outside the premises on Henrietta Street.**

**About 0127 hours patrons were still leaving the premises. At that time a male was standing in the roadway outside the premises when a male ran towards him and punched him to the face. This resulted in the male losing three teeth. The male responsible for this assault was later found to be 17 years of age and had been within the premises. Due to this assault taking place a number of other males became involved and a large scale disturbance took place on the roadway outside the premises. During this disturbance another male was punched multiple times to the face and collapsed to the ground. Another male involved also ended up lying on the ground and was kicked to the face by one of the other accused males, who then made off from the incident.**

**The foregoing events were captured by the East Ayrshire Council CCTV camera situated at the junction of Henrietta Street and Wallace Street. A short time after the disturbance took place, staff within CCTV control at East Ayrshire Council became aware and contacted police. At no time during the disorder did any staff member contact police. Staff member Michael McGowan was observed exiting the premises onto the street and made attempts to separate a group involved in the disorder.**

**Police officers attended and noted that some patrons were heavily intoxicated. They obtained details from persons involved and carried out enquiries to identify those responsible. At the conclusion of the enquiry one male was reported for assault to severe injury and one male reported for assault. The male responsible for the assault to severe injury was 17 years of age at the time of the offence.**

**On 4 December 2019 the enquiry officer contacted the Licensing Department at Kilmarnock and arrangements were made for PC Kerr to attend at Galston Police office on 12 December 2019 in order to view CCTV footage of the incident captured from the East Ayrshire Council public space CCTV camera on Henrietta Street.**

**On 7 December 2019 the DPM Lynette Malcolm was on duty within the premises. It is alleged that about 0030 hours on 8 December three male friends were within the Masons Arms. A short time before, an argument took place between groups of males within. At 0030 hours staff called last orders and all three friends (witnesses) left via the rear door and stood on the waste ground to the side of the premises. A disturbance took place resulting in all three male witnesses being assaulted by a male (suspect) who had also been within the premises. Staff were aware of the incident however did not contact police. The incident was reported to police later on 8 December 2019 by a member of the public and is subject to an ongoing enquiry.**

**On 9 December 2019 the Divisional Licensing Department, Kilmarnock Police Office received an email from East Ayrshire Council Licensing Department. The email outlined concerns from a member of the public regarding crime and disorder in relation to the premises. The same member of the public contacted the Divisional Licensing Department, Kilmarnock Police Office by phone later the same day, again stating their concerns regarding the premises.**

**On 10 December, PC Kerr contacted the DPM for the premises, Lynette Malcolm and arranged a meeting at the premises on 12 December 2019 to discuss the incidents**

**At 1210 hours on 12 December 2019, PC Allan Kerr and police staff member Dawn Hastings, Divisional Licensing, Kilmarnock attended at the premises and met with DPM Lynette Malcolm and the Lease Holder of the premises, Michael McGowan. The incidents on the 20 October and 8 December 2019 were discussed. The DPM confirmed that staff did not contact police for either incident and could offer no reasonable explanation why they did not. It was explained to the DPM that the management of the premises could be improved upon. PC Kerr informed the DPM that one of the males involved in the assault to severe injury on 20 October was found to be 17 years of age at the time of the offence. Again, no reasonable explanation could be given as to why the challenge 25 policy was not implemented. The training records held on the premises showed no evidence that staff had been given training in relation to age verification. One staff member mentioned, Saphron Hall did not have a training record on the premises. The DPM assured police that the training had taken place and that she had carried out the training. There was no incident/refusal book held on the premises.**

**The DPM was also informed that from public space CCTV a number of patrons were observed leaving the premises after 0120 hours on 20 October 2019 holding cans and bottles of what appeared to be alcohol. The high level of intoxication of patrons involved in this incident was brought to the attention of the DPM. Police officers who attended the incident had raised concerns regarding this.**

**There is a CCTV system within the premises with 4 cameras however this is not operational. The DPM stated that she would address this issue. The DPM was advised that given the layout of the premises it would benefit from additional cameras and a monitor situated where staff could keep observations throughout the premises. This would assist staff in the management of the premises. Additional staff at peak times was also advised.**

**During the initial review and investigation an intervention was considered however, with the frequency of incidents a review was considered appropriate.**

About 1810 hours on Monday 6 January 2020 Michael McGowan was within the premises, however he was not working at that time and was having drinks with patrons.

It is alleged at that time a male (accused) entered the premises with another male. Michael McGowan informed the accused that he was barred from the premises and requested that he leave. It is alleged that the accused started shouting abuse at Michael McGowan and then attacked him. A disturbance then took place between Michael McGowan and the accused. Patrons assisted and managed to push the accused out of the premises. The accused then punched one of the male patrons to the face and kicked another female.

The accused was prevented from re-entering the premises and continued to shout abuse at those within. Michael McGowan contacted police who attended a short time later. Whilst noting statements from witnesses within the premises police and witnesses noted a strong smell of petrol. Those present attended at the rear of the premises and discovered Michael McGowan's vehicle on fire, parked in the lane to the rear. Police evacuated the premises and requested the fire service to attend. Further enquiry was carried out which led to the arrest of the accused. He was charged with three assaults, section 38(1) Criminal Justice and Licensing (Scotland) Act 2010 and Wilful Fire Raising.

In addition to the foregoing incidents it is also alleged that at 0045 hours on Sunday 26 January 2020 a male was the victim of a serious assault within the toilets of the premises. It is alleged that he was assaulted by two males who repeatedly struck him causing facial injuries. Both male suspects left the premises after the assault. The male victim then informed staff member Christine Tait who contacted police. Police attended at the premises at 0150 hours however the premises were closed. CID officers attended at the premises at opening time on Sunday 26 January and spoke with DPM Lynette Malcolm and lease holder Michael McGowan. Both were cooperative and provided witness statements and provided the incident book, which contained information that assisted the enquiry.

The cleaner for the premises had not been informed of the incident and had cleaned the premises prior to police arrival. The CCTV system was still inoperative at the time of this incident. Further enquiry was carried out resulting in one of the males responsible being charged with serious assault.

From the circumstances outlined in the above incidents, Police Scotland have concerns regarding the way in which the premises is being run;

- Patrons leaving the premises with alcohol after permitted hours.
- Incidents of serious assaults and disorder not reported to police.
- High levels of intoxication of patrons.
- Young Person within Premises.
- No evidence of age verification training held on premises (Challenge 25)
- Training record for a staff member not held on premises.
- Premises cleaned prior to police having access to serious assault locus.

In the event that the premises are permitted to continue trading, consideration should be given to adding further conditions to the operating plan;

- CCTV system is fitted with full coverage of the premises.
- consideration to be given to reducing the core hours of the premises to midnight 7 days per week.

By reducing the core hours this will limit the chance of alcohol related disorder and minimise the impact on the local community.

**In addition to the above, it is recommended that all staff members should receive comprehensive Age Verification Training.**

**Chief Inspector Calderwood reminded Members that the premises review application was made by Police Scotland in respect of the above in February 2020, however the review was thereafter interrupted by the current Coronavirus pandemic. He then continued to detail a further incident that had taken place within the premises since the original premises licence review application had been lodged. He reported that on Monday 6 July 2020 Scottish Government guidelines allowed for outdoor drinking areas of licensed premises to reopen.**

**On Friday 10 July 2020 Michael McGowan sought advice from Licensing Standards Officer, Carolyn McEwan who provided guidance and information on the Scottish Government guidelines prior to reopening the outdoor drinking area next day. A maximum capacity of 5 patrons was advised.**

**On Saturday 11 July 2020 a police visit to the premises was carried out and found a number issues: Outdoor area - overcrowding (15 patrons), no social distancing and no signage. Indoor area –no signage, no management of toilets and minimal hand sanitising availability. Mr McGowan thereafter closed the premises.**

**Subsequent police visits have shown a marked improvement in the management of the premises in relation to Scottish Government guidelines.**

**Chief Inspector Calderwood concluded that the Licensing Board should consider 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.**

**Mr MacIver had no questions for Chief Inspector Calderwood.**

**The Depute Clerk reminded Board Members that in terms of Section 38(4)(a) of the Licensing (Scotland) Act 2005 it is a statutory requirement for Licensing Standards Officers to submit a report in respect of a premises licence review.**

**Mrs McEwan, Licensing Standards Officer, reported that the Premises Licence in respect of these premises was granted to Rosemount Scotland LLP, 5 Fitzroy Place, Glasgow in July 2008 and became effective on 1 September 2009. The Premises Licence thereafter transferred on 22 February 2017 to Rosemount Inns of the same address, following a restructuring of the company.**

**Several tenants had occupied the premises since the Licence became effective in 2009. The current Premises Manager was Natalie Thomson, and she had been the premises manager since 28 July 2020. Lynette Malcolm, the former designated premises manager, managed the premises between 14 September 2017 until 28 July 2020, when Natalie Thomson took over as manager. The other individual named in the Police Report, namely Michael McGowan, was the Premises Manager within the premises from 14 May 2015 until his Personal Licence was revoked by North Ayrshire Council on 24 January 2017, due to him not notifying North Ayrshire Licensing Board that he had undertaken refresher training.**

**As a result, the premises operated between 24 January 2017 and 14 September 2017 with no Premises Manager, in contravention of Condition 4 of the Premises Licence which requires that alcohol is not to be sold on the premises at any time when there is no Premises Manager in respect of the premises.**

**Mrs McEwan further reported that since 2009, nine licensing inspections had been carried out within the premises. During these inspections the Premises Licence has not been available for inspection on 3 occasions, despite the Licence Holder having been notified of the requirement to produce this document, or a certified copy of the document, in terms of Section 52 of the Act. Staff had been unable to produce either their Personal Licence or Training Record on three separate occasions. Following each inspection the Licence Holder was advised of the requirement for staff to produce either their Personal Licence or Training Record to a Licensing Standards Officer on request, as required by Condition 6 of the Mandatory Conditions of the Premises Licence. Statutory Notices were not displayed during two visits to the premises and replacement Notices were provided for display within the premises to ensure compliance with Section 110 of the Act.**

**As best practice, it is expected that refusals to sell alcohol are logged by staff, in an effort to prove that all is being done to prevent illegal sales of alcohol, and that all reasonable precautions are being taken. A refusals book was provided to Michael McGowan for this purpose during a visit in 2015, however during the following two inspections staff were unable to produce the refusals book. The Licence Holder and staff had been reminded to log refusals on several occasions over the years. During two inspections while Lynette Malcolm was working within the premises, she was unable to produce a Refusals Book due to it being in the upstairs flat on one occasion and on the second occasion advised it was locked in the safe, to which she did not have access.**

**During a joint visit to the premises with an Environmental Health Officer on 17 October 2018, Michael McGowan was in sole charge of the premises. Mr McGowan was abusive to Officers and refused to co-operate by refusing to provide the relevant paperwork for inspection when requested to do so by the Licensing Standards Officer, as required by Section 52 of the Act and Condition 6 of the Mandatory Conditions.**

**Following this visit the Depute Clerk wrote to the Premises Manager, Lynette Malcom, advising her of the unacceptable conduct of Mr McGowan towards Officers and advising that any repeat behaviour would be reported to Police Scotland for the necessary action to be taken. Ms Malcolm was advised that this could potentially lead to a Premises Licence Review request being made if established that any of the licensing objectives had been breached.**

**During an inspection on 28 May 2019 Lynette Malcolm's granddaughter was present within the premises. As the Operating Plan does not allow for children within the premises guidance was provided in this respect. It was noted during this visit that the CCTV system within the premises was not operational.**

**Following receipt of the Divisional Commander's Premises Licence Review request a further inspection of the premises was carried out on Tuesday 3 March**

**2020 at which time both Lynette Malcolm and Michael McGowan were present. A certified copy of the Premises Licence was available for inspection and the Summary and Statutory Notices were displayed. Training Records were found to be in order and Lynette Malcolm's Personal Licence was available within the premises. There was a written Age Verification Policy which had been signed by all members of staff.**

**The CCTV system was operational at the time of the inspection, with cameras covering the main bar, lounge and small lounge. Lynette Malcolm advised that further CCTV equipment had been ordered and would be installed within the pool room, beer garden and an area outside the front of the premises. Ms Malcolm also advised that the fire exit door in the pool room had now been alarmed to alert staff if this door was opened, in an effort to monitor who was entering the premises. The alarm was in working order at the time of the inspection.**

**A refusals/incident book was on the premises which contained recent entries. Lynette Malcolm advised that staff had been instructed to update this book following any incidents within the premises, refusals to sell alcohol and details of individuals who had been barred.**

**Mrs McEwan further reported that on Monday 6 January 2020 Scottish Government guidelines allowed for outdoor drinking areas to open.**

**On Friday 10 July 2020 Michael McGowan contacted the Licensing Section and enquired as to the number of persons permitted to be in the beer garden as he intended to invite 14 customers on Saturday 11 July. Mr McGowan was advised that due to the limited space available within the licensed external area, entry should be restricted to a maximum of 5 persons at any one time, in order to ensure social distancing requirements between customers.**

**A visit was made by Licensing and Environmental Officers on 15 July. Michael McGowan was present and guidance was provided in relation to various matters in order to ensure compliance with the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020.**

**Licensing Standards Officers were not present and did not witness the incidents outlined in the Divisional Commander's report and as such cannot make comment.**

**Mrs McEwan completed her Report by stating that the above information which provided details on the Licensing Standards Officer's involvement with the premises had been provided for the purpose of assisting Members when determining what action should be taken, if any, when considering the Premises Licence Review request submitted by the Divisional Commander.**

**Mr Hiles, LSO, reported that as part of the Covid guidance visits, he and Sergeant Scott Barrie visited The Masons Arms, Galston at approximately 1430hrs on Monday 17 May 2021. It was an unannounced visit. Present during the visit were Michael McGowan the lease holder and Natalie Thomson, the Designated Premises Manager. Mr Hiles reported that on inspection of the premises it was**



found that Covid procedures were in place. Numerous signage present at the front door on entry and as well as inside the premises. Track/Trace records were being correctly taken and customers were observed to be socially distanced within the premises. Hand sanitising products were available and doors were open to allow increased ventilation within. Toilets were also checked and found to be compliant with Covid guidelines namely restriction on amount of persons who could go in and toilets/sinks blocked off as required. Mr Hiles stated there were no concerns with the premises.

Mr Hiles further reported that Michael McGowan advised that 17 May 2021 was the first day open after lockdown and that he was not using the outdoor drinking area except to allow persons to smoke. Mr McGowan further advised that it was his intention to close the premises at 10pm daily and 8pm on a Sunday instead of the 10.30pm currently permitted. He said that he was considering keeping the same closing times for the foreseeable future.

Mr MacIver had no questions for the LSOs.

Mr MacIver advised that the premises licence holder, Rosemount Inns Ltd., is a property company with approximately 50 premises throughout Scotland in their portfolio, all of which were operated by lease and that the lease for these premises had been issued to Michael McGowan in 2015. Mr MacIver submitted that the LSO's full record of the premises since commencement in 2009 was for historic purposes only and that there had been no issues with the operating of the premises until 2019/20.

Mr MacIver referred to the incident in the LSO's report on 17 October 2018 when the Refusals Book had not been available. Mr MacIver advised that the premises had been under refurbishment at that time but accepted that the Refusals Book should have been available.

Referring to the report of Mr McGowan's behavior, Mr MacIver explained that Mr McGowan had been emotional following the death of his wife from Cancer. He advised that this behaviour was out of character and that Mr McGowan had apologised to the Officers concerned following the incident.

Mr MacIver referred to the report by the LSO that on 28 May 2019 Ms Malcom's granddaughter was within the premises. Mr MacIver confirmed that the child had been left within the premises for a very short period of time while Ms Malcolm's daughter had gone to the chemist to collect a prescription. Mr MacIver stated that the premises had been empty at that time but acknowledged that this should not have happened and assured that it would not be repeated.

Mr MacIver referred to the lack of CCTV and confirmed that as of 17 May 2021, a state of the art CCTV system with 8 cameras covering both the inside and outside of the premises, front and rear, had been installed and was operational.

Mr MacIver pointed out that since Ms Malcolm was replaced by Ms Thomson as the DPM, the operation of the premises had improved and there was a better atmosphere within the premises. Mr MacIver stated that the Board Members

responsibility was to ensure that premises were operated correctly and not to punish past misdemeanors.

Mr MacIver referred to the incident on 19 October 2019 detailed in the Chief Inspector's report and explained that Mr McGowan had been unaware of the argument between the three men within the premises but when the incident occurred outside the premises when customers were leaving, he had become involved in attempting to stop the argument, leaving him no time to phone the Police. Mr MacIver stated that the 17 year old who was involved in the incident and who had been within the premises had come in through the back door of the premises to play pool and had not purchased any alcohol. Mr MacIver advised Board Members that Mr McGowan accepted that this should not have happened and that it was not a regular occurrence.

Mr MacIver referred to the incident on 7 December 2019 reported in the Chief Inspector's Report, that following an argument between groups of males within the premises, three males were assaulted outside the premises when customers were leaving. Mr MacIver advised that Ms Malcom, the DPM, was on duty and was unaware of the incidents which had taken place inside and outside the premises and had not contacted the Police. Mr MacIver explained that it was not until the next day that a member of the public had contacted the Licensing Section of Police Scotland to advise them of the incidents and raise concerns about the operation of the premises. Mr MacIver submitted that it was Ms Malcolm's first night as DPM and that Mr McGowan had been in the premises during the evening but had not been on duty, and had left to walk his dog when the incident outside the premises had occurred. Mr MacIver stated that at the time of the meeting with Police Scotland on 12 December 2019, Ms Malcolm was no longer employed at the premises.

Referring to the incident on 6 January 2020 detailed in the Chief Inspector's Report, Mr MacIver advised that Mr McGowan had not been on duty and that the argument had started when a customer who had entered the premises was asked leave as he was barred from the premises. Learning from the previous incidents, Mr McGowan had contacted the Police. The result of the argument had led to Mr McGowan's car being set on fire. Mr MacIver stressed that this incident should not be held against Mr McGowan.

Mr MacIver referred to the incident on 26 January 2020 reported by the Chief Inspector and stated that the staff had not been aware of the assault taking place within the toilets but once they had become aware, the Police were contacted. Staff had forgotten to update the cleaner who, thinking that a customer had had a nose bleed, cleaned the toilet. Mr MacIver pointed out that preservation of a crime scene was not part of the mandatory training but that all staff were now aware of this requirement.

Mr MacIver referred to the recommendation made by the Chief Inspector that a CCTV system should be fitted to provide full coverage of the premises and that the core hours be reduced to 12 Midnight, 7 days per week. Mr MacIver pointed out that a full CCTV system had now been installed within the premises and that the licensed hours had been voluntarily reduced to 10pm each day by Mr McGowan.

**Mr MacIver referred to the incident in the Chief Inspector's report that on Saturday 11 July 2020 there were 15 patrons in the external licensed area of the premises. Mr MacIver confirmed that the numbers of patrons were more than the recommended 5, but were not as many as 15. Mr MacIver confirmed that the area had not been used again until 17 May 2021.**

**Mr McGowan confirmed that there was now a fully operational CCTV system installed within the premises and that since Natalie Thomson had been appointed as the DPM, there had been an improvement in the operation of the premises. Mr McGowan further confirmed that the rear door of the premises was now alarmed to stop anyone entering from that door. Mr McGowan advised that all staff currently employed had previous licensing experience, with the youngest member of staff being 26 years old. He confirmed that all staff had been re-trained, all training records were up to date and that all staff were aware of the requirement to contact the Police in respect of any incidents which may occur within the premises. Mr McGowan advised that he had undertaken the Personal Licence Holder training and intended to apply for a Personal Licence.**

**Mr MacIver concluded his submission by requesting that the Board Members did not suspend the premises licence but issue a written warning or a variation of the premises licence as requested by the Chief Inspector.**

**Chief Inspector Calderwood had no questions for Mr MacIver.**

**The Chair asked for confirmation if the other member of staff on duty along with Mr McGowan on 19 October 2019 had been a personal licence holder. Mr MacIver confirmed that Ms Malcolm, DPM, had been on duty on that date.**

**Councillor Leitch referred to the matter of persons under the age of 18 years entering the premises from the back door to play pool and how this would now be dealt with. Mr MacIver confirmed that the Challenge 25 policy was being operated and anyone playing pool would be challenged even though they were not purchasing alcohol.**

**Mr McGowan submitted that the premises would now close at 10pm and these incidents would not happen again. Mr McGowan realised the need for change and advised that there would now only be 3 staff members employed within the premises.**

**Councillor Mair asked for confirmation of Mr McGowan's role in the premises if he was not DPM or Premises Licence holder. Mr MacIver confirmed it was Mr McGowan's business as he leased the premises from the Premises Licence Holders with a named DPM.**

**Mr McGowan stated that he would be applying for his Personal Licence and in approximately six months time would apply to be the DPM.**

**Councillor Grant asked Mr McGowan if he was confident he could successfully operate the premises given the serious nature of the incidents which had previously occurred.**

**Mr McGowan confirmed that he had learned from the incidents and was 100% confident the premises would be operated correctly.**

**The Chair referred to the installation of the new CCTV and the voluntary reduction in operating hours to 10pm and asked if it would be possible to have a Personal Licence holder on the premises at all times during opening hours. Mr McGowan stated that this would not be possible as currently out of the 3 staff, only one of them had a personal licence.**

**Chief Inspector Calderwood had nothing to add to his submission other than that the premises had been closed due to the Coronavirus pandemic and as such were untested on the improvement of operations. He confirmed that the premises would be monitored for improvement.**

**Mr MacIvor completed his submission by adding that there had been marked improvement in the operation of the premises as was confirmed in both the Chief Inspector and LSO reports. Mr MacIvor requested that the premises be allowed to continue trading subject to conditions of installation of CCTV and reduced operating hours.**

**The Depute Clerk reminded Members of the options available to them, if the grounds for review were found to be established and that any sanctions taken were not to act as a punishment but improve the operation of the premises.**

**The Board Members adjourned to consider the matter further.**

**Upon returning the Chair confirmed that after a full discussion it had been unanimously agreed that the grounds for review had been established.**

**The Chair moved that additional conditions be added to the operating plan of the premises that a fully operational CCTV system covering all areas of the premises must be installed and thereafter fully maintained. The core licensed hours were varied to Sunday to Saturday from 11am until 10pm for a period of three calendar months from 18 May 2021. All staff to receive age verification training and evidence of that training to be submitted to the Licensing Board.**

**Councillor Grant seconded the Motion.**

**There being no other Motion it was unanimously agreed to add the additional conditions.**

**The Depute Clerk advised that the Board Members were extremely disappointed in the abusive behaviour of Mr McGowan to the Licensing Standards Officer, which led to a written warning from the Depute Clerk. It was the Board Members' expectation that Mr McGowan act reasonably and co-operate at all times with Council staff. The Board Members also wished to see Mr McGowan become a Personal Licence Holder.**

**Mr McGowan asked for confirmation if all patrons were required to be out of the premises by 10.00pm and the Depute Clerk confirmed that the premises required to be cleared by 10.00pm.**

**There being no other business the meeting ended at 12.10pm**

**LICENSING (SCOTLAND) ACT 2005**  
**APPLICATION FOR VARIATION OF PREMISES LICENCE**

Ayrshire Sports Bars Limited

Shooters Pool & Sports Bar  
27A Portland Street  
Kilmarnock

Details of the variation:-

Children and young persons to be permitted access to the carpeted area within the premises (area detailed on the plan attached to the variation application) to play pool or for the consumption of a meal from 12 Noon until 10pm each day, when accompanied by an adult.

**Gary Cunningham, Director of the applicant company appeared in support of the application.**

**The Depute Clerk confirmed that there were no comments or objections in respect of the application.**

**Mr Cunningham stated that the variation was required to accommodate the coaching of pool to young players and the hosting of the Scottish Juniors Pool Singles Title. Mr Cunningham stated that young people needed somewhere to go for recreation and the premises offered this with the opportunity to consume a meal, watch football, play pool or watch the Kilmarnock Pool league. Mr Cunningham stated that children and young persons would require to be accompanied by an adult.**

**The Chair asked Mr Cunningham why there was a requirement for children and young persons to attend the premises until 10pm.**

**Mr Cunningham stated that singles tournaments could sometimes take a long time to play, but he would be agreeable to a reduction to 8pm if that was required.**

**Referring to the requirement for an adult to accompany children and young persons, Councillor Grant asked if the staff were trained to ensure this happened.**

**Mr Cunningham confirmed that the staff from Bar Luca, Kilmarnock, also worked in these premises and had 30 years experience.**

**Councillor Leitch asked for confirmation if the Challenge 25 policy would be operated, this was confirmed by Mr Cunningham.**

**The Chair moved that the application be granted with the amendment that children aged from 0 to 15 years would be permitted access to the premises until 8pm accompanied by an adult and young persons aged 16 and 17 years would be permitted to the premises until 10pm accompanied by an adult.**

**As there were no other motions, it was unanimously agreed by the Board Members to grant the application as amended.**

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GAMBLING ACT 2005

APPLICATION FOR RENEWAL OF CLUB MACHINE PERMIT

Auchinleck Talbot FC Supporters Club  
Beechwood Park  
Auchinleck

To make available for use, up to three gaming machines of Category B3A, B4, C or D (category B3A machines may not be made available for use in commercial clubs).

**The Depute Clerk advised that no objections or representations had been received in respect of this application.**

**The Board agreed unanimously to grant the permit.**

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