

WEST DUNBARTONSHIRE LICENSING BOARD

Report by the Clerk to the Licensing Board

16 April 2012

Subject: Review of Personal Licence – Mr Mohammad Afzal, 269 Nithsdale Road, Glasgow

1. Purpose

- 1.1** This report provides information to assist the Board in considering the Review of the Personal Licence held by Mr Mohammad Afzal given the decision of the Board at its meeting on 25 October 2011 to hold a Hearing to review the Personal Licence held by Mr Afzal in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005.
- 1.2** At the meeting of the Licensing Board held on 14 February 2012, the Board considered a report given the findings that Mr Afzal's conduct had been inconsistent with the crime and disorder objective. During the course of the Hearing, Mr Knighton was heard in answer to questions concerning the presence of a blank training record at the premises in October 2011 which had been signed by a Personal Licence Holder unconnected to the premises.
- 1.3** It was agreed that the Hearing would be continued to the next meeting of the Licensing Board to enable Mr Afzal, the other employees at the premises and Mrs Gallagher, a Personal Licence Holder unconnected with the premises who had provided training to staff at the premises, to be invited to attend the meeting.

2. Background

- 2.1** At the meeting of the Licensing Board held on 25 October 2011, the Board considered an Application for Review of a Premises Licence from the Chief Constable of Strathclyde Police in relation the premises licence held by Mrs Waheed, the licence holder in respect of Linnvale Grocers, 131 Livingstone Street, Clydebank (a copy of the Police letter is attached as Appendix 1).
- 2.2** During the course of the Premises Licence Review Hearing on 25 October 2011, the Board also heard from Lawrence Knighton, Licensing Standards Officer, in terms of his report dated 5 October 2011 (a copy of which is attached as Appendix 2).
- 2.3** At the Hearing on 25 October 2011, the Board agreed:-
 - (i) that the premises licence be suspended for a period of 4 weeks;

- (ii) that Licensing Standards Officers be instructed to work with the premises licence holder to ensure that the premises become compliant with the Board's Licensing Policy Statement; and
- (iii) that the Board make a finding under Section 84 of the Licensing (Scotland) Act 2005 that Mr Mohammad Afzal, the Designated Premises Manager, whilst working at the premises, acted in a manner inconsistent with the licensing objective of preventing crime and disorder. This would require a Hearing to be held before West Dunbartonshire Licensing Board to consider the Personal Licence held by Mr Afzal.

2.4 A copy of the Excerpt Minutes of Meeting of the Licensing Board held on 25 October 2011, detailing the decision of the Board, is also provided for information and is attached as Appendix 3.

3. Main Issues

3.1 In view of the decision of the Board, in terms of Section 84(3)(a) of the Licensing (Scotland) Act 2005, to hold a Hearing to consider the Personal Licence held by Mr Afzal, he, the other employees at the premises, Mrs Gallagher and a representative of the Police authority have been invited to attend the meeting of the Board held on 16 April 2012.

3.2 At the Special Meeting of the Board held on 7 December 2011, it was reported that the Licensing Standards Officers had investigated the circumstances surrounding a blank signed training records held at the premises and had interviewed the Personal Licence Holder responsible for training at the premises, who in turn had advised that the Designated Premises Manager was responsible for the blank training records. It was therefore noted that this would be included in the grounds for review of the Personal Licence held by Mr Afzal.

3.3 A report by the Licensing Standards Officer, updating Members on the compliance history of the premises since the Premises Licence Review held on 25 November 2011, is attached as Appendix 4.

3.4.1 At the meeting of the Licensing Board held on 14 February 2012, Mr Knighton was heard in response to questions concerning refresher training and advised the Board that there was a lack of evidence to suggest refresher training had been carried out at the premises since the initial training. A copy of the Excerpt Minutes of Meeting of the Licensing Board held on 14 February 2012, detailing the decision of the Board, is also provided for information and is attached as Appendix 5.

3.4.2 As the situation appeared confusing on 14 February 2012, the main issues can be summarised as:-

- the test purchase failure; and
- in late 2011 the LSO saw two training records signed by Mrs Gallacher, being one for Mr Syed and one blank record. Mrs

Gallacher confirmed that she had trained a shorter individual (probably Mr Syed) but no-one else. On 14 February 2012 the LSO saw two training records signed by Mrs Gallacher, being one for Mr Syed and one for Mr Arshad. The blank signed form was no longer available. The issue is whether Mrs Gallacher trained Mr Arshad as well as Mr Sayed and where the blank signed form has gone to. Mrs Gallacher has been cited to the Board to provide evidence.

3.5 The Licensing (Scotland) Act 2005, Section 142: Guidance for Licensing Boards and Local Authorities states that if following a hearing, the Licensing Board considers that a sanction is required against the personal licence holder then, depending on the circumstances, it can take one of the following actions:-

- Revoke the licence;
- Suspend the licence for such period, not exceeding 6 months, as the Board considers appropriate; or
- Endorse the personal licence

4. People Implications

4.1 There are no personnel issues.

5. Financial Implications

5.1 There are no financial implications.

6. Risk Analysis

6.1 There is no increased risk to the Council associated with the contents of this report.

7. Equalities Impact Assessment (EIA)

7.1 No issues were identified in the screening for potential impact of this report.

8. Strategic Assessment

8.1 There are no strategic implications.

9. Conclusions and Recommendation

9.1 It is recommended that the Board hold a hearing to review the Personal Licence held by Mr Afzal.

Andrew Fraser
Clerk to the Licensing Board

Date: 4 April 2012

Person to Contact: Andrew Fraser, Clerk to the Licensing Board, West Dunbartonshire Licensing Board, Council Offices, Garshake Road, Dumbarton G82

Appendices: Appendix 1 – Letter dated 19 September 2011 from the Chief Superintendent, Strathclyde Police, 'L' Division Headquarters, Stirling Road, Dumbarton.

Appendix 2 – Report by Licensing Standards Officer dated 25 October 2011- considered at meeting of Licensing Board held on 25 October 2011

Appendix 3 – Excerpt of Minutes of Meeting of the Licensing Board held on 25 October 2011.

Appendix 4 – Report by Licensing Standards Officer dated 2 February 2012

Appendix 5 – Excerpt of Minutes of Meeting of the Licensing Board held on 14 February 2012

Background Papers: Licensing (Scotland) Act 2005, Section 142: Guidance for Licensing Boards and Local Authorities

Wards Affected: Ward 5 – Clydebank Central.