

## **SOUTH ABERDEENSHIRE LICENSING BOARD**

### **REPORT TO LICENSING BOARD**

#### **LICENSING (SCOTLAND) ACT 2005**

#### **PERSONAL LICENCE – JAMES SCOTT, 10 BERNHAM AVENUE, STONEHAVEN**

### **1. Purpose of Report**

- 1.1** To consider what if any action to take following the receipt of a report from the Licensing Standards Officer on the conduct of a personal licence holder.

### **2. Recommendations**

- 2.1** It is recommended that the Board considers the report lodged by the Licensing Standards Officer and any submissions made by or on behalf of the licence holder and determines whether any action should be taken in terms of section 84 of the of the Licensing (Scotland) Act 2005.

### **3. Decision Making Route**

- 3.1** In terms of Section 84B of the 2005 Act where a Licensing Standards Officer considers that any personal licence holder who is or was working in licensed premises in the Officer's area has acted in a manner which is inconsistent with any of the licensing objectives, the Officer may report the matter to the relevant Licensing Board and the Board may hold a hearing to consider the matter. The holding of a hearing to consider a personal licence is a matter reserved to the Board.
- 3.2** At the hearing the licensing board may, having regard to the conviction and after giving the personal licence holder and the Chief Constable 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 one of the following orders-
- (a) an order revoking the licence
  - (b) an order suspending the licence for such period not exceeding 6 months as the Board considers appropriate
  - (c) an order endorsing the licence
- 3.3** Where the 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 personal licence, the Board must make an order revoking the licence.

#### **4. The Licence Holder and the report from the LSO**

**4.1** James (known as “Jamie”) Scott is the holder of a personal licence which was granted on 12 March 2019. The licence will expire on 11 March 2029.

**4.2** By way of letter dated 1 November 2019 Keith Simpson, Senior Licensing Standards Officer has reported to the Board that he considers the licence holder has acted in a manner which is inconsistent with the following licensing objectives:-

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

A copy of the LSO’s letter is attached as Appendix One to this report.

#### **5. Procedure**

**5.1** The licence holder has been invited to attend the meeting.

**5.2** The LSO has been asked to attend the meeting.

**5.3** Copies of the report have been issued to the licence holder and the LSO prior to the hearing.

**5.4** Members should follow the procedure below:-

- (a) Identify whether the licence holder is present and/or represented.
- (b) Identify whether the LSO is present.
- (c) Ask the LSO if they wish to speak in support of the notice.
- (e) Offer the licence holder an opportunity to address any remarks that the LSO may make and to say anything else in relation to the matters contained in the LSO’s report
- (f) Members’ questions to all parties.
- (g) Chair should invite concluding remarks (LSO first, then licence holder).

**5.5** Members options in disposing the application are:-

- (a) to take no further action;
- (b) to endorse the personal licence;
- (c) to suspend the personal licence;
- (d) to revoke the personal licence

**5.6** When coming to a decision the Board must consider the submissions of all parties and the contents of this report. Supplementary advice and information can be made available by the Depute Clerk if required.

**6. Implications and Equalities Duty**

**6.1** If the Board determines that the personal licence should be revoked or suspended Mr Scott would still be able to work in licensed premises as a member of staff provided that he had completed the staff training required under the 2005 Act. However the applicant would not be able to supervise or authorise the sale of alcohol within the licensed premises. If the licence were to be endorsed it would be recorded on the licence.

**6.2** An Equality Impact Assessment is not needed in this case because the Board is carrying out a quasi-judicial function and there will be no differential impact on the protected characteristics of any party to the proceedings.

**Karen Wiles Clerk to the Board**

**Report Prepared by: Peter Robertson, Depute Clerk to the Licensing Board**

**Date: 19 November 2019**

**Appendix**  
**Letter from LSO dated 1 November 2019**

Our Ref: KS  
Ask for: Keith Simpson  
Direct Dial: 01569 768223  
Email: keith.simpson@aberdeenshire.gov.uk

Depute Clerk to the South Aberdeenshire Licensing Board  
Business Services  
Aberdeenshire Council  
Viewmount  
Arduthie Road  
Stonehaven  
AB39 2DQ

**Infrastructure Services**

Environmental Health

Viewmount

Arduthie Road

Stonehaven

Aberdeenshire

AB39 2DQ

[www.aberdeenshire.gov.uk](http://www.aberdeenshire.gov.uk)

LP-5 STONEHAVEN

01 November 2019

Dear Sir

**LICENSING (SCOTLAND) ACT 2005 - SECTION 84B  
REPORT OF CONDUCT INCONSISTENT WITH LICENSING OBJECTIVES  
PERSONAL LICENCE HOLDER: JAMES SCOTT, 10 BERNHAM AVENUE,  
STONEHAVEN, ABERDEENSHIRE, AB39 2WD  
LICENCE NO: AB-S-PER1127**

I Keith Simpson, being the Licensing Standards Officer for Aberdeenshire South hereby report to the Licensing Board in terms of Section 84B of the Licensing (Scotland) Act 2005 that James Scott, 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
- Preventing Public Nuisance
- Protecting and Improving Public Health

**History of Personal Licence Holder:**

James Scott (aka Jamie) residing at 10 Bernham Avenue, Stonehaven was granted a personal licence by Aberdeenshire South Divisional Licensing Board on 12 March 2019 with licence number AB-S-PER1127. The application was granted with no observations from the police or LSO

**Details of Incidents Leading to review**

On 17 September 2019 an anonymous letter was received addressed to Keith Simpson, Senior Licensing Standards Officer. The purpose of the letter was to complain about an event which was run at Scallywags Soft Play at the Promenade, Stonehaven on 31 August 2019. The event was titled 'Fizz Frocks and Fancies'. The event was advertised as a charity fashion show with 'fizz' on arrival included in the £20 ticket price with cocktails to buy thereafter.

This information led the LSO to check whether there was a licence in force for this event on the date in question as all indications were that licensable activity had taken place. Checks made indicated that an Occasional Licence had not been applied for and as such unlicensed sales had occurred.

On 18 September 2019 Keith Simpson LSO attended the premises of Scallywags at the Beach Promenade Stonehaven where he introduced himself to the owner Andrew Crawford. He explained the purpose of his enquiry and Mr Crawford was able to say that the event did take place and the cocktail bar was run by a Jamie Scott who runs a 'pop up' cocktail business from home. He was described as a student who was just setting himself up in business and this was a side-line as he was still in further education. Mr Crawford indicated that he was aware alcohol was to be sold but was under the impression that Mr Scott had applied for a licence as it had been discussed. He further added however that he did not go to the next stage of asking for evidence that Mr Scott had a granted licence for the event.

Having received contact details from Mr Crawford, Keith Simpson contacted Jamie Scott by telephone and explained the purpose of his enquiry. Mr Scott confirmed that the event had taken place and that alcohol was sold. He explained that he had prepared an occasional licence application to lodge but realised he did not have the stipulated lead time for a competent application, he chose to go ahead without a licence. He further explained that he took this course of action knowing that it was wrong but did not want to let the event organisers down as it was a charity event. It was explained to Mr Scott that having identified that unlicensed sales had taken place, which was an offence, details would be passed to the police for their consideration as to whether they wished to press charges.

On 19 September 2019, Keith Simpson, LSO e-mailed Sergeant Gillian Flett Police Scotland and explained the background to this case. Sgt Flett undertook to make her own enquiries and would revert back once a decision was made on how the Police intended to proceed.

On 23 October 2019 Sgt Flett contacted Keith Simpson to advise that the Police position was that they would not take criminal proceedings and would finalise the matter with a formal warning.

This review is made to advise the Board of the actions of a Personal Licence Holder in their area. James Scott is said to have acted in a manner inconsistent with 4 of the 5 Licensing Objectives by knowingly selling alcohol without a licence. In mitigation he has stated that he did not want to let a charity down but knew it to be wrong. He has also apologised for his actions and is aware of any impending consequences.

It is the LSO's view that the Board should consider all the options open to them under Section 84(7) of the Act, however in this case a recommendation of endorsement of James Scott's Personal Licence seems appropriate given the circumstances set out in this report.

Yours faithfully

Keith Simpson  
Senior Licensing Standards Officer

**If you have difficulty reading this document, please contact  
Keith Simpson on 01569 768223**

