



Partnership and Performance

Kilncraigs, Greenside Street, Alloa, FK10 1EB

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**THIS PAPER RELATES TO
ITEM 5
ON THE AGENDA**

Memo

To: **The Clerk to the Licensing Board
Kilncraigs
Greenside Street
Alloa**

From: **Paul Fair
Licensing Standards Officer**

Extension: **2091**

Email: **pfair@clacks.gov.uk**

Our Ref: **PF/LSO/S84/CC994**

Your Ref:

Date: **27 January 2025**

Subject: **Licensing (Scotland) Act, 2005. Section 84
Finding of Conduct Inconsistent with the Licensing Objectives
Personal Licence Holder – Marypuspa Dishanth CC994**

1. This report is provided only as a summary of events leading to a hearing to consider the appropriate disposal by the licensing Board of a finding made under section 84(2).
2. The finding was made by Clackmannanshire Licensing Board during a premises licence review hearing which took place on 5 November, 2024.
3. During that hearing the Board were asked to consider the content of a premises licence review application made by the Licensing Standards Officer.
4. At paragraphs 62-70 in that report the licensing standards officer suggested that there was evidence to support a claim that Marypuspa Dishanth had falsified training records relating to staff training at the premises.
5. In particular the claim related to the training record of Joju Noel (**Appendix A**) who personally confirmed that he had not received the appropriate licensing training on the date recorded on the certificate (10 September, 2024).
6. His memory was clear as the training certificate was dated only 2 days before he was spoken to on 12 September, 2024.
7. The Board agreed, on balance of probability, with the suggestion that the certificate had been falsified and found that Marypuspa Dishanth was responsible for the falsification of the document and that this amounted to conduct that was inconsistent with the licensing objectives.
8. The finding recorded in the minute of the Licensing Board meeting was made.
9. The Board must now allow Marypuspa Dishanth the opportunity to address them in relation to this finding and thereafter make a decision as to what if any action is necessary.
10. The options for the Board are found in Section 84(6A) of the 2005 Act, and they are set out in **appendix B** for their assistance.
11. I am happy to answer any questions the Board may have surrounding the training requirements and the importance of training for staff selling or serving alcohol.

Paul Fair Licensing Standards Officer.

Appendix A

SCHEDULE - FORM OF TRAINING RECORD

LICENSING (SCOTLAND) ACT 2005 - SCHEDULE 3, PARAGRAPH 6

Training of Staff - Training Record

Member of Staff JOJU WOEL

The Act - Schedule 3

6. (1) No person (other than a person who holds a personal licence) is to work in the premises in the capacity mentioned in sub-paragraph (2) unless that person has complied with such requirements as to the training of staff as may be prescribed for the purposes of this paragraph.
- (2) That is a capacity (whether paid or unpaid) which involves the person -
- (a) making sales of alcohol, or
 - (b) where alcohol is sold on the premises for consumption on the premises, serving such alcohol to any person.

DECLARATION

TRAINEE

I JOJU WOEL confirm that I have received the training required by the Licensing (Training of Staff) (Scotland) Regulations 2007.

Signature [Redacted]

TRAINER

I Maryaspa Dsmandh confirm that I have provided the above named member of staff with the training required under the Licensing (Training of Staff) (Scotland) Regulations 2007 on 10/09/2024.

Signature [Redacted]

Where signatory is the holder of a Personal Licence issued under the Licensing (Scotland) Act 2005, please insert the number and the name of Licensing Board which issued the licence here Clarkmannshire Licence Board.

Where signatory is a person other than the holder of a Personal Licence described above, please provide details of the qualification held and accredited by the Scottish Qualifications Authority for the purposes of regulation 2(b) of the Licensing (Training of Staff) (Scotland) Regulations 2007. The name of any company by which the person is employed to provide training should also be given.

Qualification

Name of Company

Appendix B

Licensing (Scotland) Act, 2005

Section 84 Conduct inconsistent with the licensing objectives

(1) This section applies where, in the course of a review hearing in respect of any premises licence, a Licensing Board makes a finding such as is mentioned in subsection (2) in relation to any personal licence holder who is or was working in the licensed premises in respect of which the premises licence was issued (“the licensed premises concerned”).

(2) That finding is a finding that the licence holder concerned, while working as mentioned in subsection (1), acted in a manner which was inconsistent with any of the licensing objectives.

(3) The Licensing Board making the finding must—

(a) if the licence holder concerned is, at the time of the finding, working in licensed premises (whether the licensed premises concerned or other licensed premises) in that Board's area, hold a hearing,

(b) in any other case, give notice to the relevant Licensing Board of their finding together with a recommendation as to whether the personal licence held by the licence holder concerned should be revoked, suspended or endorsed.

(4) In subsection (3)(b), “relevant Licensing Board” means—

(a) if the Licensing Board making the finding referred to in subsection (1) has reason to believe that the licence holder concerned is working at licensed premises situated in the area of another Licensing Board, that other Licensing Board,

(b) in any other case, the Licensing Board which issued the personal licence held by the licence holder concerned.

(5) Where a Licensing Board receives a notice and recommendation under subsection (3)(b), the Board must hold a hearing.

(6) At a hearing under subsection (3)(a) or (5), the Licensing Board may—

(a) after giving—

(i) the licence holder concerned, and

(ii) such other persons as they consider appropriate,

an opportunity to be heard, and

(b) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives,

make an order under subsection (7).

(6A) Subsection (6) is subject to subsection (7A).

(7) That is an order—

(a) revoking,

(b) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or

(c) endorsing,

the personal licence held by the licence holder concerned.

(7A) Where, at the hearing, 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 personal licence, the Board must make an order revoking the licence.

(8) Where the Licensing Board makes an order under subsection (7) [F3or (7A)] , the Board must give—

(a) the licence holder concerned,

(b) where the hearing was held in pursuance of a notice given under subsection (3)(b), the Licensing Board which gave the notice, and

(c) if different, the Licensing Board which issued the personal licence,

notice of the order and of the reasons for making it.