

**The Highland Licensing Board**

**Meeting – 14 May 2013**

Agenda Item	11.1
Report No	HLB/063/13

**PERSONAL LICENCE SECTION 84A HEARING**

**Licence Holder: Chrisanne Rutherford Dunn**

**Licence Number: HC/INBS/PERS/11/1271**

**Report by the Clerk of the Licensing Board**

**Summary**

A report has been submitted on behalf of the Chief Constable under Section 84A of the Licensing (Scotland) Act 2005 alleging that the personal licence holder has engaged in conduct inconsistent with the licensing objectives.

The Board must hold a Hearing to consider the report.

**1. Background**

In terms of section 84A of the Licensing (Scotland) Act 2005 if a Chief Constable considers that any personal licence holder has acted in a manner which is inconsistent with any of the licensing objectives, the Chief Constable may report the matter to the relevant Licensing Board.

**2. Report Submitted under Section 84A**

A report under Section 84A dated 26 March 2013 has been submitted to the Board on behalf of the Chief Constable and is attached to this Report at Appendix 1.

The report alleges that on 2 March 2013 the personal licence holder, while under the influence of alcohol, assaulted a customer at the licensed premises in Dumfries at which she was, at the time of the alleged assault, employed as premises manager. The personal licence holder was not on duty at the time of the alleged assault.

The personal licence holder has subsequently ceased to be employed at the licensed premises in Dumfries, in which the alleged assault is reported to have taken place. Consequently, in terms of Section 83 and 84A of the Act, the statutory duty to hold a hearing in response to the Chief Constable's report lies with the Highland Licensing Board (as the Board which issued the personal licence) instead of with the Licensing Board for the area in which the premises at which the personal licence holder was, at the time of the alleged conduct, employed as a premises manager, is situated.

If the Board is satisfied that this alleged conduct took place, the Board will be entitled to find that this conduct was inconsistent with the following licensing objective(s) specified in Section 4 of the Act – (a) prevention of crime and disorder and the objective of (b) securing public safety.

### **3. Hearing**

Section 84A of the Act provides that where the Board receives a report of this nature it must hold a Hearing.

A copy of this Report and the Section 84A report submitted on behalf of the Chief Constable have been sent to the Personal Licence Holder who has been invited to attend and/or be represented at the Hearing.

A representative of the Chief Constable has also been invited to attend the Hearing.

### **4. Board's powers at the hearing**

In terms of sections 84A(3) and 84(6) and (7) of the Act the Board may, after giving the licence holder and such other persons as they consider appropriate an opportunity be heard, and if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order –

- (a) revoking the personal licence held by the licence holder concerned,
- (b) suspending that personal licence for such period, not exceeding 6 months, as the Board considers appropriate, or
- (c) endorsing that personal licence

The Board may also decide to make no order if satisfied that an order is not necessary for the purposes any of the licensing objectives.

### **5. Recommendation**

The Board is invited to hear from the representative of the Chief Constable and from the Personal Licence Holder and then to determine whether to make any order revoking, suspending or endorsing the personal licence.

Author: Susan Blease, Principal Solicitor - Regulatory

Date: 9 April 2013

Background Papers: Licensing (Scotland) Act 2005.

Appendix 1: Report on behalf of the Chief Constable dated 26 March 2013

Police Headquarters  
Cornwall Mount  
Dumfries  
DG1 1PZ

[www.dg.police.uk](http://www.dg.police.uk)

Telephone: 0845 600 5701  
Textphone: 01387 250701  
Email: [john.thomson@dg.pnn.police.uk](mailto:john.thomson@dg.pnn.police.uk)

**Dumfries and Galloway  
Constabulary**



Chief Constable  
**Patrick J Shearer** QPM MA LLB

Our ref:  
Your ref:  
26 March 2013

RECEIVED

- 3 APR 2013

Highland Licensing Board  
Council Offices  
Town House  
INVERNESS  
IV1 1JJ

Dear Sir

**LICENSING (SCOTLAND) ACT 2005, SECTION 84A  
CHRISANNE RUTHERFORD DUNN, 16 CHURCHILL TOWERS, SOUTH HARBOUR  
STREET, AYR, KA7 1 JT  
PERSONAL LICENCE HOLDER - HC/INBS/PERS/11/1271**

With reference to the above and in terms of the Licensing (Scotland) Act 2005 the Chief Constable considers that the Personal Licence Holder has acted in a manner which is inconsistent with the licensing objectives. In particular the concerns relate to the licensing objections of (a) preventing crime and disorder and (b) securing public safety.

The circumstances being as follows:

About 0030 hours on Saturday, 2 March 2013, the victim was in the Queensberry Hotel, 12 English Street, Dumfries, along with her boyfriend and a female friend when the above named Ms Dunn approached them and said "I'm the Manager and you need to leave".

The victim and her friends were surprised as Ms Dunn was not in uniform and appeared to be under the influence of alcohol but they stated that they were just about to leave in any case. At this point, it is alleged that Ms Dunn has grabbed a hold of a bottle of Cider from the victim's hand and tried to take it from her. She was unsuccessful but then grabbed the victim by the hair and would not release her grip. On seeing this the victim's boyfriend has intervened, only for Ms Dunn to take a hold of his shirt, ripping it in the process.

A member of the Queensberry Hotel bar staff has noted some form of disturbance was occurring and found the off duty Manager, Ms Dunn acting in an aggressive manner and

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being abusive to the victim and her friends. She also noted that the victim was holding a clump of hair in her hand.

The member of bar staff has then apologised for the behaviour of Ms Dunn, explaining that she had been at a party in one of the hotel rooms and was not on duty.

The victim thereafter attended at Dumfries Police Station to report the incident.

Later, same date, Ms Dunn was detained and interviewed in relation to the incident, the salient points which are as follows:

- Ms Dunn stated that she had drunk a bottle (70cl) of Morgans Rum and three pints of lager and that it was just a normal night out for her.
- Stated that she normally drinks such quantities twice a month, and quite often suffers blackouts as a result.
- That she obtained the alcohol from the bar in the Queensberry Hotel, and consumed the alcohol at the bar itself.
- That she could not remember her actions from the previous evening.
- That if she had assaulted anyone, she was sorry, and that it was completely out of character for her.
- That she has held the position of Manager at the Queensberry Hotel for approximately two months.
- That at the time of the incident she was not on duty.

She was thereafter arrested and cautioned and charged with Assault to Injury and a contravention of Section 38 of the Criminal Justice and Licensing (Scotland) Act 2010 (Threatening and Abusive Behaviour) before being bailed to appear at Dumfries Sheriff Court, on 5 April 2013.

Through the actions and drunken behaviour of Ms Dunn a disturbance has occurred in a licensed premises on a Saturday morning whereby customers have been both verbally abused and assaulted. The fact that Ms Dunn has stated that she often has blackouts as a result of the amount of alcohol she drinks is also of clear concern. Such behaviour is not in keeping with what is expected of a Personal Licence holder and is certainly inconsistent with the objective of (a) prevention of crime and disorder and the objective of (b) securing public safety.

I trust these comments are of assistance to you.

Yours faithfully

Chief Inspector  
Area Commander

JRT/AEG