

The Highland Licensing Board

Meeting - 7 October 2014

Agenda Item	11.1
Report No	HLB/131/14

Personal Licence – Section 84 Hearing

Licence Holder: Marek Kreics

Licence Number: HC/INBS/PERS/11/1189

Report by the Clerk of the Licensing Board

Summary

A Section 84 notice has been received from Perth and Kinross Licensing Board of their finding that the personal licence holder has acted in a manner inconsistent with the licensing objectives and recommending that the licence be revoked.

The Board must hold a Hearing to consider the report.

1 Background

- 1.1 In terms of section 84 of the Licensing (Scotland) Act 2005 where, in the course of a review hearing in respect of a premises licence, a Licensing Board finds that a personal licence holder who was working in the licensed premises has acted in a manner which is inconsistent with any of the licensing objectives, the Board may notify the Licensing Board which issued the personal licence of the finding and recommend that the personal licence should be revoked, suspended or endorsed.
- 1.2 Upon receipt of such a notice and recommendation the Licensing Board which issued the personal Licence must hold a Hearing.

2 Report submitted under Section 84

- 2.1 Marek Kreics was issued with personal licence No. HC/INBS/PERS/11/1189 by Highland Licensing Board.
- 2.2 A Section 84 finding and recommendation has been received from Perth and Kinross Licensing Board in respect of Mr Kreics and is attached to this Report at Appendix 1.

Perth and Kinross Licensing Board have made a finding that Mr Kreics, while working at the Quality Hotel, 1 Leonard Street, Perth PH2 8HE, acted in a manner which was inconsistent with the following licensing objectives:

- preventing crime and disorder, and
- protecting and improving public health.

Perth and Kinross Licensing Board have recommended that Mr Kreics' personal licence be revoked.

3 Hearing

- 3.1** Having received the finding and recommendation, this Board must hold a Hearing.
- 3.2** A copy of this Report and the finding and recommendation have been sent to Mr Kreics and Police Scotland who have been invited to attend and/or be represented at the Hearing.
- 3.3** The Hearing will not re-hear the evidence led at the original Hearing. This Board must accept the findings in fact of the Perth and Kinross Licensing Board's Hearing. The Hearing will only concern itself with the disposal of the finding and recommendation and whether this Board should order, revocation, suspension or endorsement of Mr Kreics' personal licence.

4 Board's powers

- 4.1** This 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 for such period, not exceeding 6 months, as the Board considers appropriate, or
 - (c) endorsing,
- the personal licence held by Mr Kreics.

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

5. Recommendation

The Board is invited to hear from the personal licence holder and such other persons as they consider appropriate and then determine whether or not to make any order revoking, suspending or endorsing the personal licence.

Author: Clerk to the Board
Date: 29 August 2014

Background Papers: Licensing (Scotland) Act 2005.

Appendix 1: Finding and recommendation from Perth and Kinross Licensing Board dated 20 August 2014.

**Delayed Office Opening for
Employee Training**

This Office will be closed from 8.45 am
– 11.00 am on the first Thursday of each
month



**PERTH &
KINROSS
COUNCIL**

Chief Executive's
Service

RECEIVED
26 AUG 2014

**The Clerk to the Highland Licensing Board
Highland Council
Town House
INVERNESS
IV1 1JJ**

LEGAL

Head of Service **Ian Innes**

2 High Street, PERTH. PH1 5PH

LP-16 PERTH

Telephone: 01738 475115 Fax: 01738 475545

Web: www.pkc.gov.uk

Contact: **Mr C Elliott**
Direct Dial 01738 475131
Email: cdelliott@pkc.gov.uk

Our Ref: CE/CS

Your Ref:

Date Received:

Date: 20 August 2014

Dear Sir/Madam,

**SECTION 84 FINDING AND RECOMMENDATION BY PERTH AND KINROSS
LICENSING BOARD
PERSONAL LICENCE HOLDER: MAREK KREICS
PERSONAL LICENCE NUMBER: HC/INBS/PER/11/1189**

On 30 May 2014 Perth and Kinross Licensing Board held a premises licence review hearing in relation to the Quality Hotel, Perth. A Section 84 finding was made in respect of a personal licence holder, Marek Kreics. Mr Kreics no longer works at the Quality Hotel, Perth. It is our understanding he no longer works within the Perth and Kinross area.

As Highland Licensing Board is the issuing Board for Mr Kreics' personal licence, please find enclosed details of the Section 84 finding and recommendation made by Perth and Kinross Licensing Board together with a copy of the papers that were before Perth and Kinross Licensing Board on 30 May 2014. Also enclosed for your information is a copy of the Statement of Reasons pertaining to the premises licence holders for the Quality Hotel, Supportico Ltd. The decisions in relation to the Premises Licence Holders have been appealed with the suspension being recalled in the interim.

Should you require any further information, please do not hesitate to contact me.

I/

I have copied this letter and the Section 84 finding and recommendation to Police Scotland for their information.

Yours faithfully

Solicitor

Enc.

Cc Bruce Kerr, Licensing Supervisor, Police Scotland, Tayside Divisional
Headquarters, Barrack Street, Perth, PH1 5SF

SECTION 84 FINDING AND RECOMMENDATION TO ISSUING BOARD

PERSONAL LICENCE HOLDER – MAREK KREICS

PERSONAL LICENCE NUMBER HC/INBS/PERS/11/1189

1. Name and address of Licensing Board

Perth and Kinross Licensing Board
Council Building
2 High Street
Perth
PH1 5PH

2. Date of Licensing Board meeting

30 May 2014

3. Name and address of applicant/agent * (*delete as appropriate)

Chief Constable
Police Scotland
Tayside Divisional Headquarters
Barrack Street
Perth
PH1 5SF

4. Name and address of premises (if applicable)

Quality Hotel Perth
Leonard Street
Perth
PH2 8HE

5. Materials before the Board and parties present

Materials:-

- Police Scotland premises licence review application dated 10 March 2014
- Licensing Standards Officer's report dated 19 March 2014
- Copy ground floor layout plan (1&2) for the Quality Hotel, Perth
- Suggested additional local conditions document, undated – given to the Depute Clerk to the Board by Paul Trodden, solicitor for the Premises Licence Holders on 30 May 2014 and referred to in proceedings

Parties present:-

- Bruce Kerr, Licensing Supervisor, Police Scotland
- Harry Dunn, Licensing Standards Officer
- Paul Trodden, Solicitor for the Premises Licence Holders
- Mahesh Kotecha, Director of Supportico Limited, Premises Licence Holders
- Agata Kisicka, Director of Supportico Limited, Premises Licence Holders
- Daniel Stewart, Designated Premises Manager, Quality Hotel, Perth

6. Type of application

Premises Licence Review Application

7. Names and addresses of all parties present

Bruce Kerr, Licensing Supervisor, Police Scotland, Tayside Divisional Headquarters, Barrack Street, Perth, PH1 5SF;

Harry Dunn, Licensing Standards Officer, Council Building, 2 High Street, Perth, PH1 5PH;

Paul Trodden, Solicitor, McCash & Hunter, 25 South Methven Street, Perth, PH1 5PE (on behalf of Supportico Limited, Premises Licence Holders);

Mahesh Kotecha, Director, Supportico Limited, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Premises Licence Holder);

Agata Kisicka, Director of Supportico Limited, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Premises Licence Holder);

Daniel Stewart, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Designated Premises Manager).

8. Preliminary issues (for example, pleas to the competency or relevancy of objections)

The Depute Clerk to the Licensing Board stated:-

- ❖ Mr Mahesh Kotecha is no longer the Designated Premises Manager on the Premises Licence. As of 20 May 2014 the new Designated Premises Manager is Mr Daniel Stewart.
- ❖ Mr Mahesh Kotecha has surrendered his personal licence. Given that the personal licence does not exist anymore, the Section 84A request by Police Scotland in relation to Mr Kotecha set out in their premises licence review application dated 10 March 2014 will no longer proceed.
- ❖ As regards Mareks Kreics, barman and personal licence holder referred to in the premises licence review application by Police Scotland, attempts had been made by Board officials to contact Mr

Kreics to request that he attend today's hearing given the possibility of a Section 84 finding on his personal licence, however, he has left his employment at the Quality Hotel Perth and the personal licence issuing Board (Highland Licence Board) only has an old address prior to Mr Kreics being employed in Perth. No forwarding address for Mr Kreics is available.

Paul Trodden, Solicitor for the Premises Licence Holders stated:-

- ❖ Daniel Stewart was appointed manager of the Quality Hotel in April 2014. He is now the Designated Premises Manager on the licence and resides at the hotel.
- ❖ To be of assistance, the Premises Licence Holders believe that there are grounds to establish for review, however, there are facts in relation to the police letter which are not agreed and will be clarified. Given the 26 January and 7 February incidents, there are grounds for review.

9. Summary of submissions made

Bruce Kerr, Licensing Supervisor, Police Scotland submitted as follows:-

- ❖ To explain Police Scotland's attitude to reporting matters, in almost all instances they attempt to work with premises licence holders and others to promote a problem solving approach. Only in instances where there are issues are of a serious nature and deemed not suitable for engagement or intervention has failed is the matter reported to a licensing board. Such a decision is not taken lightly.
- ❖ This review centres on the two licensing objectives, preventing crime and disorder and protecting and improving public health.
- ❖ The focus is on the supply of alcohol to 16 and 17 year olds, some of whom were clearly under the influence; a number were clearly intoxicated due to the consumption of alcohol; inept management allowing young persons to consume alcohol; breach of mandatory condition 9A – Challenge 25 policy; and breach of mandatory condition 9 – charging for tap water.
- ❖ Mr Kerr then proceeded to read the Police Scotland premises licence review application letter dated 10 March 2014, commencing from page 2, paragraph 6 "About 22.54 hours Saturday 25 January 2014".
- ❖ Whilst reading out the Police Scotland letter, Mr Kerr commented that this event had a serious operational impact on the Police at the high demand part of the weekend. He did comment in respect of page 5, paragraph 2 that that is what he would have expected any reasonable person to do taking such a booking. Further, Mr Kerr commented that the issues give Police Scotland serious cause for concern although they are now aware that there is a new designated premises manager in place.

In response to questions by Board members, Mr Kerr responded as follows:-

- ❖ There were former pupils as well as pupils present.

- ❖ It took 12 police officers approximately one hour to disperse the young people. Buses took some away but there was still mopping up. He had no record of the police receiving help from staff.
- ❖ The male who had collapsed and who was the subject of the call to the Ambulance Service was not taken to hospital. Paramedics attended to him and his father took him home. No one was hospitalised. He is aware two sets of parents came to collect their children. Others were booked overnight nearby.
- ❖ As regards whether staff were not there and did not respond, Mr Kerr replied that the police had to go looking for someone and ask who was in charge. They found Ms Kisicka. There were at least three staff on but they could not be certain how many. They did not know how many staff there were in each part of the premises.
- ❖ Mr Kerr could not confirm whether there was a police presence when the buses returned to Kinross, however, he hoped there would be. He couldn't say for definite.
- ❖ One fixed penalty was issued. No other persons were charged. None of the bar staff were charged either. It was difficult to have the young persons identify who was behind the bar due to their intoxication.
- ❖ Mr Kerr confirmed that the buses arrived at 2350 hours.
- ❖ Mr Kerr confirmed that there is CCTV in the premises. Police Scotland had difficulty downloading the images for technical reasons. Officers attempted to download the CCTV images. There were problems with the downloading. Mr Kerr had not seen the CCTV himself. He could not comment on whether the CCTV at the hotel is fit for purpose. He has been told they couldn't download the images.
- ❖ As regards the ending of the function and Ms Kisicka agreeing to end the function, Mr Kerr agreed that the police suggested the function came to an end for the safety of the young persons. Ms Kisicka agreed to that.

After submissions, Mr Kerr summed up as follows:-

- ❖ Mr Kerr submitted that it was a one off but a serious event highlighting management failures. As regards the opportunity to challenge the statements of the young adults, they were interviewed on the Monday at Kinross High School with the permission of school staff. They provided signed statements to police officers. They had nothing to hide.
- ❖ Three say that it was £2 for tap water, not mineral water. Young people are quite savvy.
- ❖ Yes, there was bad management but when the organiser came to visit, surely alarm bells should have rung and then on the day when the young people came in.

Harry Dunn, Licensing Standards Officer submitted as follows:-

- ❖ Mr Dunn referred to his report dated 19 March 2014. With regard to page 1, paragraph 3 the issues were all resolved by September 2011.
- ❖ As regards page 1, paragraph 4 the irresponsible promotion was for a one night event. It was dealt with and he was satisfied no action was required.
- ❖ With regard to page 2, paragraph 1 Ms Kisicka has no formal training.

The difficulty with the training records was that they were not in the required format. They were not signed.

- ❖ Mr Dunn said he visited again on 19 March and spoke to the purported manager, Ms Sylvia Blaszczak. The training records were all up to date by then. He is not personally a great lover of the online training but it does meet the requirements of the Licensing (Scotland) Act 2005. He was not shown any protocols or policies for the premises.
- ❖ If the circumstances are agreed Mr Dunn is also of the opinion that the licensing objectives preventing crime and disorder and protecting and improving public health have been breached. In addition, there is the lack of a Challenge 25 policy or it has been applied in a haphazard manner. That is a breach of mandatory condition 9A. Mandatory condition 9 is that tap water should be provided free of charge and other non-alcoholic drinks must be available for purchase at a reasonable charge. It is reported there was a £2 charge for tap water and it was £3 - £4 for non-alcoholic drinks. In his opinion that is excessive.

In response to questions by Board members, Mr Dunn responded as follows:-

- ❖ Mr Dunn is aware that Ms Kisicka does not have a personal licence. There was evidence of some training as there was a training record but not in the required format. She does not have any recognised training. On the back of that the required training was done although he has issues with online training.
- ❖ If the circumstances are correct, in his view one of the factors is inexperience but there are a whole host of other issues.
- ❖ As regards there not being a designated premises manager on that night or a personal licence holder present at the bar, Mr Dunn said that it is a failure of the legislation that there is no requirement for a personal licence holder to be present or a designated premises manager, but, in his experience a designated premises manager is there the majority of the time. It also depends on the role of door supervision. It is ok if staff check tickets but if staff are to put people out then they are straying into Security Industries Authority registration for door supervision.
- ❖ As regards the Premises Licence Holder demonstrating the training activity had actually been done rather than just presenting records, Mr Dunn replied that the conditions are that mandatory training is carried out in a set format. He was eventually given sight of that being in place. The same can be said for policies and procedures being in place. How they are implemented is important.

After submissions, Mr Dunn summed up as follows:-

- ❖ Mr Dunn acknowledged that some progress had been made and he looked forward to working with Mr Stewart. He wanted to highlight one common misconception with the mandatory condition on Challenge 25. He is uncomfortable with the emphasis on the actions of Mr Kreics. Responsibility ultimately lies with anyone serving alcohol. Mr Kreics might be the first point of contact but responsibility lies with those serving alcohol.

Paul Trodden on behalf of the Premises Licence Holders submitted as follows:-

- ❖ The history is that the premises were the Station, now the Quality Hotel. It was empty and run down until purchased in 2010 by Supportico, who have two directors. There has been considerable investment in the premises since then.
- ❖ Mr Kotecha was the Designated Premises Manager since 2011 when the previous DPM left. Mr Kotecha is not resident in Spain. He has family commitments so that in late 2013 a fair deal of time was spent in Spain. The intention was to transfer the DPM to Mr Marek Kreics. He had been employed for a considerable time and was experienced. He was also a personal licence holder.
- ❖ The DPM was transferred to Mr Stewart on his appointment in April. The application was made in April and granted in May. Mr Stewart is aged 51 and has extensive licensing experience. He was the DPM and manager for the Black Bull Hotel, Killin. Mr Kerr talked of cooperation with agencies which is vital and important. Mr Stewart told him (Mr Trodden) that there have been several meetings with Mr Kerr and other police, the last of which was two weeks ago at Perth police station and it appears Police Scotland are happy with the running of the premises. They comply with the 2005 Act.
- ❖ Part of the renovations has been the installation of a CCTV system. It is very sophisticated, covering bar areas and other areas, corridors. The hard drive was given to the police. It was not seized but given. It was kept by the police for three months and returned. Therefore, they had adequate time to look at it. Perhaps transferring the images is the problem. It would have given a complete picture to the police.
- ❖ The booking was for Kinross High School prom/teen ball. It was not the only booking associated with Kinross High School. Two weeks after a charity fund raiser was arranged by teachers at Kinross High School that took place at the hotel. The police and the Licensing Standards Officer were advised of this and the function passed without incident. Both bookings were made roughly the same time.
- ❖ His clients thought this function was something to do with Kinross High School. Mr Kerr said, given there are copies of booking emails, it was made very clear on 22 October 2013 by George Tucker, Conference and Events Manager that there would need to be ID and anyone consuming alcohol or anyone highly intoxicated would be asked to leave immediately. That was acknowledged by the organiser who said we will make sure only over 18s are consuming alcohol that night. His clients are not saying that is all they had to do, far from it.
- ❖ Mr Kerr took us through the 11 page report. It is like a car crash happening. From his clients point of view, 25 January was a catastrophe, perhaps of their own making to a large extent. These premises have not come to the attention of the police before that night. They had come to the attention of Mr Dunn on relatively minor matters before. It was a very serious incident on 25 January but a one off incident never to be repeated.

- ❖ On the night Mr Kreics, who had a personal licence and who was to be appointed the Designated Premises Manager, was tasked with verifying identification and once that was done, stamp the hand of that person. That is the system to take place. It is used in other licensed premises. There were failures in that. Either he didn't ask for identification or just randomly id'd these people therefore as a result it would appear a number of persons under 18 consumed alcohol that evening. It should have been known to Mr Kreics that the only forms of identification acceptable are passport, photographic driving licence or the pass card. Much of the police report is then taken up with statements by people. He (his clients) cannot challenge them. He doesn't know who they are. However, on page 7 and 8, one 17 year old male school pupil admitted drinking several 'Sourz' prior to attending the function and drinking half a bottle of vodka mixed with lemonade and half a bottle of Jack Daniels mixed with lemonade taken into the hotel by a friend. Even after that he was able to say he witnessed other 17 year olds drunk and being served at the bar. If he had drunk what he said, he would not be able to say and would be violently sick.
- ❖ Pre loading comes through. Licensees have to be very aware of this. Perhaps staff are not so aware. 12 – 14 staff were on duty that night. Mr Kerr referenced people being charged £2 for a glass of water. That is not so. Tap water was freely available. Mineral water was charged as is in any place. Soft drinks were reduced by 50p that night specifically because under 18s were present and should be drinking non-alcoholic drinks. Therefore this is untrue.
- ❖ Since that night there have been great changes in the way the hotel was being and is being run. The most visible is the appointment of Mr Stewart as manager with day to day control of the hotel. As DPM he authorises the sale of alcohol. Mr Stewart is not a fan of online training. That is a fault of the Licensing (Scotland) Act. He prefers face to face and to identify any problems and sort them there and then. Since Mr Stewart has come in all staff have been retrained. All new staff will be trained. To get them trained in two hours is nonsense. There are monthly meetings for all staff at least. If anything occurs there can be further training. All bookings are subject to final approval by Mr Stewart. If a police liaison officer was appointed, such as Sergeant Shona Beattie, he (Mr Trodden) is told there is a good relationship with Mr Stewart. There will never be a school prom held in the Quality Hotel again.
- ❖ He (Mr Trodden) has given the clerk certain proposed additional conditions for the premises licence. Mr Trodden read out the three suggested additional local conditions. For the second proposed condition, if there was a prize giving or awards ceremony, there would be no alcohol at it. For the third condition, Mr Trodden added reference to a policy for preventing serving or consumption of alcohol to persons who are drunk. Having said what they can have, it is implementation which is important.
- ❖ Mr Trodden reiterated that there are grounds for review as there were management failures. Those are admitted. The system for checking identification fell down. There were sales to underage persons. When Mr Dunn and Mr Kerr called on 7 February training records were not in the correct form or not available. That was a failure of management.

The failures have all been addressed and rectified and have not occurred again. The Board can consider revocation, suspension or written warning to the owners and premises licence holders. He (Mr Trodden) asked the Board to consider the third option. It is a well run premise. This was an aberration. Actions have been put into place to prevent this occurring again.

In response to questions by Board members, Mr Trodden responded as follows:-

- ❖ Mr Trodden said he was not inferring that the organisers of the event were somewhat partly responsible. He was saying that the organisers were told and assurances were given. That didn't happen but it does not absolve the responsibility to check on the night that people were under 18 or over 18. That was the failure.
- ❖ When asked whether there was a difference between a school prom where the majority would be under 18 compared to an event for former pupils, Mr Trodden replied that that may well be. There were a number of over 18s. Tickets were sold to school pupils and others. It was naivety on those taking the booking to take it on face value.
- ❖ Mr Trodden confirmed that ownership of the hotel did not change when the booking was taken. Ownership changed around 2010/2011. It was difficult to tell who they were dealing with by email but the girl came up to visit the premises. They are not shirking responsibility here.
- ❖ As regards the second booking and whether they were aware that was for adults, Mr Trodden replied that teachers turned up at that.
- ❖ Mr Trodden stated that a single drink per person was allowed. It is difficult to challenge what is said in the statements, even if they were interviewed late on, what is their recollection? It got completely out of hand. It is acknowledged under 18s consumed alcohol at the hotel. It has to be acknowledged under 18s were served alcohol. However, alcohol was not served to intoxicated persons.
- ❖ When it was pointed out there was evidence from 12 police officers, 2 ambulance staff and written statements of youngsters that there was clear reference to having consumed too much alcohol such that some were sick in and out of the premises, Mr Trodden replied that where they got the drink is something else. The statement on page 2 (of the police letter) for the 17 year old, the chap that phoned up, there was nothing there in that to say this 17 year old did anything to drink on the hotel. Instead, the caller said they had drunk prior to that.
- ❖ When asked again whether the premises licence holders acknowledged that alcohol had been served to intoxicated persons there was a pause while Mr Trodden discussed the matter with his clients. Mr Trodden replied that whether pre-loaded or brought in doesn't matter, the answer is yes.
- ❖ As regards the steps taken at the time, when the police arrived, by hotel staff management, Mr Trodden stated that there were 12 staff for the function that evening. They were attempting to run the function as smoothly as possible. Obviously there were great failures that evening. When the police arrived all members of staff did try to assist when the event was finally cancelled. People were escorted from the premises.
- ❖ When it was pointed out that there was a degree of evidence that the

event was getting into difficulty and what steps staff and management took prior to the arrival of the ambulance and the police to issue more water and help when people were staggering around, being sick and there was a fracas in the car park, Mr Trodden replied that not all of that was happening prior to that. The fracas was after the police arrived.

- ❖ The event was organised by an Ellie Cunningham, Co-ordinator of Kinross students. Before the police arrived it was discussed with her that the event should come to a close.
- ❖ When asked what was done before the arrival of the police if the hotel staff management had concerns, what steps were taken to prevent further problems, Mr Trodden replied that the bar was not closed at that point. 12 staff were going around and checking people and that is it. Mr Trodden agreed that apart from a discussion with the organiser no pro-active steps were taken. That was also one of the failures that evening.
- ❖ When asked whether the staffing was adequate that night for 200+ persons Mr Trodden replied that personally, obviously not. The event got away from the staff. There should have perhaps been more.
- ❖ When asked whether Mr Stewart would have been appointed anyway Mr Trodden replied yes. Mr Kreics was to be appointed but he failed. Mr Kotecha, for family reasons, was away in Spain. Mr Stewart should have been appointed earlier.
- ❖ When asked how many of the 12 staff were in the bar and how many stewards there were Mr Trodden replied there was no requirement for stewards that evening. If such an event were ever to be held again, there would be, but that would be voluntary. There is nothing in the operating plan to require this. There were four staff in the bar. They were trained. There were inadequate records of training, however. There are aspects of training requirements that not all premises licence holder are aware of such as keeping up to date training records.
- ❖ Ms Kosicka was asked what procedures were put in place for operating and when did she notice there was a problem. She replied that, in honesty, she noticed before the first drinks were served around 7.30pm. Even before they opened the bar the first guests of the party came into the hotel there was already an incident involving the police. A girl under 18 was assaulted by a guy well over 18. He was very drunk. Apparently, he was part of the event. She thought she was in the bar at the time giving instructions to bar staff and she was called to the incident at reception. The girl was really quite hysterical. The guy was very violent. He was quite drunk. One of the organisers, a young guy called the police who came and removed the guy and left. The guy disappeared into the toilets. The police eventually came and removed him. That took about an hour. It took her attention away from others. Therefore other issues were not at that point monitored as well as should have been.
- ❖ When asked whether a lot were intoxicated at the beginning, Ms Kosicka replied that she was aware a lot brought drink in. She believed at that point there was a system for checking under 18s. The policy was one drink per person. She didn't believe there was a problem serving under 18s but a lot was brought to the hotel. She spent a lot of time pouring drink down the toilets which was on camera. A lot came

- ❖ in intoxicated. She took alcohol from just the ladies. She instructed one of her colleagues, a gentleman, to go into the gents toilets.
- ❖ When asked whether she instructed bar staff not to serve anyone under the influence, Ms Kosicka replied that they were not just instructed on that night but other times. That was not just for legal reasons but practical reasons. People can become drunk and violent. The problem was what was brought in.
- ❖ When asked whether it was fair to say there was not enough staff on to control the event, Ms Kosicka replied that if someone told us under 18s had got drunk there would probably be 25 on each door. This event was for 200+ around 18. The other event was for 300, most from Kinross High School. There were more young persons at that event and they had absolutely no problems. The whole event was misrepresented to them. She spoke to the organiser and was not told it was a prom. She asked to go over the event to go over who was attending. The organiser told her that it was the last year of school, first year of university. She told her half the people expected were from university. Only six staff were at the other event and that was sufficient. They had 12 for this event and that was not sufficient.
- ❖ When asked whether the responsibility lay with the premises licence holders and that it was of concern only six staff were on for the other event Ms Kosicka replied that it was their responsibility and that the other event was a charity event.
- ❖ When asked what she had learned, Ms Kosicka replied that firstly, they had not checked properly for passport and driving licence and, secondly, at the first signs of trouble she should have just shut the event. She had spoken to staff about that in the future.
- ❖ When asked about the first conversation with the Events Manager, Mr Tucker, Ms Kosicka replied that after the event he was no longer involved. Mr Trodden added that all events now have to be approved by Mr Stewart.
- ❖ When asked about Mr Kreics being told to check identification and who had communicated this, Ms Kosicka replied that it was communicated by herself. She had a staff meeting beforehand. Marek Kreics had to check identification and the way to go was to use stamps.
- ❖ When it was pointed out that Ms Kosicka was not totally aware of acceptable forms of identification but Mr Kreics had passed his personal licence, Mr Trodden replied that he did have a personal licence and should have known as a personal licence holder. He was the only staff member that night with a personal licence.
- ❖ When asked if a member of the Board had gone to the bar and asked for water what they would get, Ms Kosicka replied they would have got a glass of water. If they had asked for a bottle they would have got mineral water.

After submissions, Mr Trodden summed up as follows:-

- ❖ Mr Trodden stated it is accepted responsibility for Challenge 25 lies with those serving alcohol.
- ❖ When Ellie Cunningham was interviewed by the police that evening, she advised she was 18. She wasn't.
- ❖ There were management failures. They have to learn and have

learned. He asked the Board to confine any outcome to a warning which would be heeded.

Note: After grounds were review were established, the premises licence holders were given the opportunity to make submissions on the options available to the Board. Mr Trodden stated on behalf of the premises licence holders that he had nothing to add to previous submissions.

10. Decision(s) taken

The personal licence holder, Mareks Kreics acted in a manner inconsistent with the licensing objectives:

- (a) preventing crime and disorder,
- (d) protecting and improving public health.

On the basis that it is necessary to do so for the purposes of the licensing objectives:

- (a) preventing crime and disorder,
- (d) protecting and improving public health

Perth and Kinross Licensing Board agreed to recommend to the issuing Licensing Board that the personal licence of Mareks Kreics is revoked.

10a. Reasons for decision

The Quality Hotel, Leonard Street, Perth is subject to a premises licence regulating the sale and consumption of alcohol under the Licensing (Scotland) Act 2005. Since March 2010 the Premises Licence Holders have been Supportico Ltd. The two directors of that company are Mahesh Kotecha and Agata Kisicka. The Designated Premises Manager was Mahesh Kotecha from the latter part of 2011 until 20 May 2014 when Daniel Stewart was substituted as DPM having been employed as manager at the Quality Hotel in April 2014. Marek Kreics was employed as a barman at the Quality Hotel for some time prior to Saturday 25 January 2014 and was present that evening. He has a personal licence issued by Highland Licensing Board on 2 July 2011.

Marek Kreics is no longer employed at the Quality Hotel. Unsuccessful attempts were made to trace him to request he attend this premises licence review. Although very aware that Mr Kreics was not present at the premises licence review to put forward his own submissions, the responsibility of advising the issuing licensing board of a change of address lies with the personal licence holder. Mr Kreics failed to advise of a change of address therefore he could not be requested to attend the premises licence review. The Board proceeded on the basis of the information before it.

The Board took into account the submissions made and the papers before it. The Board placed reliance upon and gave strong weight to the Police Scotland premises licence review application dated 10 March 2014,

particularly the summary of statements obtained. Although the Premises Licence Holders suggested there was doubt over the recollection of the persons who gave the statements, and disputed whether tap water had been charged for and whether non-alcoholic drinks had not been reasonably priced (which relate to mandatory conditions of the premises licence), the information provided by Police Scotland and the summaries of the 12 statements obtained as set out in the review application dated 10 March 2014 were generally consistent as to the events that occurred on Saturday 25 January 2014. Other than doubting the recollection of those providing statements, disputing whether tap water had been charged for and disputing whether non-alcoholic drinks were not reasonably priced, the Premises Licence Holders did not dispute nor offer a significantly different version of events from that given in the Police Scotland review application. Further, the Premises Licence Holders admitted that there were failures in identifying which persons attending the prom/teen ball function were 18 or not; admitted that the checking of identification fell down; admitted that there were management failures; admitted that there were sales to persons under the age of 18; and admitted that there had been consumption of alcohol by persons under the age of 18 at the hotel. Initially, the Premises Licence Holders denied that alcohol had been sold to drunk persons, however, after questioning that was also admitted. By making such admissions, the Premises Licence Holders thereby did not significantly dispute the content of the Police Scotland review application in terms of the licensing objectives.

The Board held that there was a failure in the Premises Licence Holder's own system for checking whether persons attending the function on Saturday 25 January 2014 were aged at least 18 and therefore able to purchase and consume alcohol on the premises. Just before the function took place, Agata Kisicka, Director of the Premises Licence Holders and the person in charge that evening, instructed a member of staff, Marek Kreics to check for identification as to proof of age. To instruct only one member of staff to check for identification as persons attending the function arrived was insufficient given the number of persons who attended. Ms Kisicka did not know what forms of identification would be acceptable given that according to her, hotel policy was to accept student ID as proof of age but not passport or driving licence. However, that is the responsibility of Ms Kisicka and the Premises Licence Holders, not Mr Kreics as a personal licence holder.

Marek Kreics, as a personal licence holder, should have known the forms of acceptable identification. However, according to most of the persons who provided statements to Police Scotland who were under 18, he was either not at the entrance as people arrived, or accepted the word of the person entering that they were 18 without insisting upon identification being produced or consistently failed to ask for identification and stamped the hands of persons attending the function to signify they were 18 or over when they were not.

As a personal licence holder, Mr Kreics would be aware that the responsibility to ensure a person under 18 is not served alcohol and to exercise due diligence in making a sale of alcohol lies with the person making that sale rather than when the person enters the premises. However, Mr Kreics would have been aware that the purpose of the hand stamping system operated that evening was to inform other members of staff who was 18 and who was not

18. He would have known that his decisions would have been relied upon at least to some extent by other members of staff. Whilst Mr Kreics may have considered that he did not have sufficient time to check for proof of age from all persons entering the hotel for the function, it was his responsibility to either make sure that he took time in order that the checking was carried out properly or that he requested more assistance from his management.

The Board also held that alcohol was sold by members of staff at the Quality Hotel to persons under the age of 18. Around six of those who provided statements to the police who were under 18 either admitted purchasing alcohol or witnessing others under 18 purchasing alcohol. The Premises Licence Holders admitted alcohol was served to persons under 18. Selling alcohol to a young person is an offence under the Licensing (Scotland) Act, Section 102. With the failure of the hand stamping system and the failure of staff serving alcohol to ask for identification of proof of age, due diligence was not exercised. One of those members of staff was Marek Kreics. He was employed as a barman. He was identified by the 17 year old organiser of the function who made the booking as being behind the bar at various periods throughout the night. It was therefore reasonable to conclude that Mr Kreics sold alcohol to persons under the age of 18 without exercising due diligence. He made sales of alcohol knowing that he had failed to carry out the hand stamping system properly and did not check properly for proof of age at the point of sale.

These failures by Mr Kreics directly contributed to the events that took place later that evening. Alcohol was also consumed by young persons on the premises contrary to the Licensing (Scotland) Act 2005, Section 106(1). Three persons under 18 gave statements to the police that they had consumed alcohol bought for them on the premises. Two of those three also admitted consuming alcohol on the premises that had been brought into the premises. The Premises Licence Holders admitted alcohol was consumed on the premises by persons under 18. It is an offence under the Licensing (Scotland) Act 2005, Section 106(1) for a young person to consume alcohol on any relevant premises such as the Quality Hotel. Other persons under 18 who gave statements to the police admitted purchasing alcohol at the premises. With those persons purchasing alcohol and police officers seeing large numbers of persons they considered to be under 18 in the outside area and in the function suite of the premises consuming or having consumed alcohol, it is reasonable to conclude that there was widespread consumption of alcohol by persons under 18 on the premises and in full view of members of staff. The Board recognised that Mr Kreics was not responsible for every instance of consumption of alcohol on the premises by persons under 18, however, he knew of his failure to carry out the hand stamping system properly and he was present in the bar where consumption by young persons would have taken place. He was in the bar for various periods. He would therefore have been elsewhere in the hotel at other periods that evening and would have been aware of the widespread consumption of alcohol by persons under 18 that evening. As a responsible person he therefore allowed young persons to consume alcohol on the premises contrary to the Licensing (Scotland) Act 2005, Section 106(2).

At the point of dispersal, it proved difficult to disperse those attending the

function due to their drunken condition, unruly behaviour, breaches of the peace and fighting. Although not directly responsible for all of this, Mr Kreics shared a collective responsibility with the management and other staff of the premises. Mr Kreics served persons under the age of 18 and allowed the consumption of alcohol by persons under 18 on the premises.

The Board therefore concluded that the personal licence holder, Mareks Kreics acted in a manner inconsistent with the licensing objective:

(a) preventing crime and disorder.

Further, by serving persons under the age of 18 and allowing the consumption of alcohol by persons under the age of 18 on the premises, Mr Kreics would have been aware that this was a clear disregard for the health of young persons, a clear disregard for protecting the health of young persons. Mr Kreics would also have been aware that at least some of the young persons were drunk, some were drunk and incapable on the premises, and some had vomited but he took no action in relation to this.

The Board therefore concluded that the personal licence holder, Mareks Kreics acted in a manner inconsistent with the licensing objective:

(d) protecting and improving public health.

Recommendation

With Mr Kreics no longer working at the Quality Hotel, Perth and Kinross Licensing Board could not impose a step on Mr Kreics' personal licence. The Board therefore considered what step to recommend to Highland Licensing Board, the issuing board.

The Board took into account that what happened occurred on one evening only; that responsibility lay not only with Mr Kreics but with the premises licence holders and the other staff at the Quality Hotel; and that Mr Kreics no longer works at the hotel to be involved in a possible repeat at the hotel of what occurred on 25 January 2014, however, in relation to Mr Kreics' personal licence, his failures that evening were serious. Although no young person was hospitalised, the consequences that evening could have been worse. No personal licence holder acting in a reasonable, competent manner should have acted in the way he did. He should have operated the hand stamping system properly. He should not have sold alcohol to persons under the age of 18. As a responsible person, he should not have allowed consumption of alcohol on the premises by persons under 18. He would also have been aware that at least some of the young persons were drunk, some were drunk and incapable on the premises, and some had vomited but he took no action in relation to this. His actions and failures go to the root of the responsibilities of a personal licence holder. The Board therefore decided to recommend that the personal licence of Marek Kreics is revoked on the basis it is necessary to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.

11. Legal powers used to come to decision

Licensing (Scotland) Act 2005, Section 84

12. Date statement of reasons issued

20 August 2014

Name Clerk/Representative of Clerk* *(Delete as appropriate)	Date
Print Name Colin Elliott	20 August 2014

CHIEF CONSTABLE
Stephen House QPM



POLICE
SCOTLAND
Keeping people safe

Clerk to the Licensing Board
Perth & Kinross Council
2 High Street
Perth
PH1 5PH

Our Ref: BK

Your Ref:

Date: 10 March 2014

Dear Sir

LICENSING (SCOTLAND) ACT 2005
APPLICATION FOR REVIEW OF PREMISES LICENCE
PREMISES: QUALITY HOTEL, 1 LEONARD STREET, PERTH PH2 8HE
PREMISES LICENCE HOLDER: SUPPORTICO LTD, 1 LEONARD STREET PERTH
PH2 8HE.

In terms of section 36(1) of the Licensing (Scotland) Act 2005 the Chief Constable hereby makes application to the Licensing Board for a review of the premises licence in respect of the premises known as The Quality Hotel, 1 Leonard Street, Perth, PH2 8HE.

The Chief Constable makes application in terms of Section 36(3) (b) of the Act, on grounds relevant to the licensing objectives articulated at Section 4(1) of the 2005 Act, namely:

- **Preventing Crime and Disorder**
- **Protecting and Improving Public Health**

The Premises Licence Holder is the company trading as Supportico Ltd, 1 Leonard Street, Perth, PH2 8HE.

The Premises Licence number 73 was issued by Perth and Kinross Council on 1 September 2009.

This report clearly brings into question the conduct of the Personal Licence Holder Mahesh Kotecha and I am also reporting this to the Licensing Board in terms of Section 84A of the Act as his conduct is deemed inconsistent with the above objectives.

In support of this application, the following information is provided for your consideration.

Supportico/

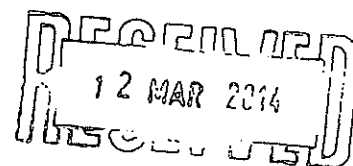
scotland.police.uk



@PoliceScotland



PoliceScotland



POLICE SCOTLAND, TAYSIDE DIVISIONAL HEADQUARTERS
(Perth and Kinross Local Policing Area) Barrack Street • Perth • PH1 5SF
Telephone 101, Fax 01738 892529

Supportico Ltd was registered at Companies House Edinburgh on 3 February 2010.

There are two directors namely Mahesh Kumar Kotecha and his then partner Agata Anna Kisicka both residing in London.

The Designated Premises Manger of the premises is the said Mahesh Kotecha who is the holder of a Personal Licence No PK1476 issued by Perth and Kinross Council on 11 August 2011.

Mareks Kreics is employed at the Hotel as a bar person.

He is the holder of a Personal Licence no HC/INBS/PERS/11/1189 issued by Highland Licensing Board on 2 July, 2011

About 22.54 hours Saturday 25 January 2014 Police Scotland were informed by the Scottish Ambulance Service that they were attending at the Quality Hotel, Leonard Street, Perth in response to call that a 17 year old male was unconscious due to the over consumption of alcohol.

This telephone call was made by a 17 year old former pupil who was extremely concerned over the condition of his 17 year old friend who is an S5 pupil at the school. When interviewed by Police he described the condition of his friend as unresponsive, his breathing was shallow, his face was blue and that he was clearly in a bad way due to over consumption of alcohol.

He also stated that he and his friend had been drinking alcohol prior to attending the event and that they were not asked for identification on entering the premises.

Several police officers attended there immediately and found a large number of teenagers standing on the unlit grass area to the side of the building. Almost all of these young persons were consuming alcohol from glasses or bottles. The officers also saw that the area was strewn with empty and half full glasses and bottles of alcohol. This area is included in the operating plan for the premises. There was no sign of any of the hotel staff at this time.

The attending officers entered the premises and made their way to the function suite where they formed the opinion that that the majority of patrons were under the age of 18 years and that the majority were heavily under the influence of alcohol. Two police officers identified a 17 year old male who was lying unconscious on a chair within the bar area having vomited on himself several times and attended to him along with paramedics who had arrived.

At no time did any member of staff make themselves known to the police officers or come to the assistance of the unconscious youth.

A police officer attended at the bar area and asked a member of staff to identify who was in charge of the premises. During this conversation the officer saw a female who looked under the age of 18 years remove a bottle of vodka from her handbag and pour some of this into a glass at the bar in full view of other members of bar staff who took no action.

The officer also saw that the bar area was littered with full and half full glasses and bottles.

At this point Miss Kisicka arrived and informed the officer that the event in question was a pre booked event by pupils of Kinross High School known as The High School Prom/Teen Ball.

She/

She further stated that there were approximately 200 in attendance at the event and that she had placed a door steward at the front door of the premises to check the age of those attending, request identification/proof of age and then stamp the hand of those deemed to be 18 years of age. Miss Kisicka informed the officer that the policy of the hotel was that student ID was accepted as proof of age.

All the officers present later confirmed that almost everyone in attendance had hand stamps and a great number of them were clearly under the age of 18 years.

At this time police officers noticed that young people attending the event were freely walking throughout other areas of the hotel drinking from glasses of alcohol.

A number of these people were spoken to by police and their ages were found to be varying from 16 to 18 years of age.

Of those aged under 18 years they all freely admitted purchasing alcohol from the bar without being challenged by bar staff.

The operating plan for the premises Question 6 (b) (On sales only) clearly states

**CHILDREN AND YOUNG PERSONS STAY IN AND ATTEND EVENTS HELD IN THE HOTEL.
THEY MUST BE ACCOMPANIED BY AN ADULT AND SUPERVISED AT ALL TIMES.
CHILDREN AND YOUNG PERSONS WILL ONLY BE ALLOWED ENTRY TO THE BARS,
RESTAURANT, FUNCTION ROOMS AND BALLROOMS WHEN ACCOMPANIED BY AN
ADULT. NO ALCOHOL WILL BE SOLD OR SUPPLIED TO A CHILD OR YOUNG
PERSON.**

Question 6 (d) Times during which children and young persons will be allowed entry.

**CHILDREN AND YOUNG PERSONS WILL BE ALLOWED ENTRY TO THE ANGLERS
BAR AND THE GARDEN BAR IF THEY ARE ACCOMPANIED BY AN ADULT, BETWEEN
THE HOURS OF 11AM AND 11PM.**

Whilst there were a small number of adults attending the event, they had purchased tickets and had no responsibility for supervising the majority of attendees who were aged 17 years and under.

As the event was clearly out of control and there was the realistic possibility of further young persons becoming ill through alcohol intoxication, Miss Kisicka agreed to end the function and asked police officers present to assist in the dispersal of the young people.

This proved extremely difficult due to the drunken condition and unruly behaviour of the majority of the young people.

In addition police officers were dealing with several incidents of disorder and anti social behaviour directly outside the hotel with youths from the event fighting amongst themselves and minor breaches of the peace.

A large number of these youths were also vomiting and clearly intoxicated to a high level.

One 17 year old female was noticed by officers to be drinking from an open bottle of Budweiser and when the officers took the bottle from her it was seen that she was intoxicated and became very abusive as a result towards the officers. She was subsequently arrested for committing a breach of the peace.

It is estimated that it took approximately 1 hour, for 12 police officers to finally disperse all the young people and ensure they left the area.

A Police Inspector who was the senior officer in attendance stated that on arrival at the premises he immediately saw a large number of males and females wandering around the gardens and car park, the majority of whom had drink in their hands and most appeared under the influence of alcohol.

On entering the premises he spoke with a number of officers and described the event as an **“out of control mess”**.

He formed the view that in his opinion the manager and her staff were completely out of their depth and had absolutely no control of the party and indeed complicit in selling alcohol to the individuals present.

He further stated that it was his judgement that not a single person looked 18 and everyone present should have been questioned under the “Challenge 25” scheme.

On discussing this scheme with Miss Kisicka she appeared not to be aware of same but did state that if photographic identification was shown then that person would be given a hand stamp to allow them to be served at the bar.

Miss Kisicka was unable to exactly state what identification was requested and if it was a driving licence or passport she replied no and generalised by saying photographic identification.

The Inspector also saw that there were numerous young people walking about the hotel, heavily intoxicated carrying glasses/bottles of alcohol and clearly with no hand stamps.

The Inspector’s final comment of his report stated **“In my opinion the premises showed a blatant disregard for the safety and health of its customers and a flagrant disregard for the law and their licence conditions”**

This event had a serious operational impact on police resources at a particular high demand period of the weekend.

Two buses which had been hired by the pupils arrived and conveyed a number back to the drop off point at Kinross High School.

Others were collected by parents or were residing locally.

Due to the serious circumstances of this incident with potential breaches of the Licensing (Scotland) Act 2005, Licensing Objectives and other ancillary offences a police enquiry was instigated in relation to the event.

These enquires revealed the following.

The event which is known as the Kinross High School Prom/Teen Ball is an unofficial social event held annually and organised by pupils of S5 and S6 which is the senior school of Kinross High School, Kinross.

There are a total of 243 pupils in S5 and S6 combined out of which only 3 are aged 18 at the date of the event.

Whilst the event is known as the Kinross High Prom/Teen Ball it is not endorsed by the school as an official school function although staff are aware of its existence.

In October 2013 a 17 year old pupil of Kinross High school contacted the Quality Hotel and made enquiry regarding the hire of the ballroom for the night of Saturday 25 January 2014.

The pupil explained to the Events Manager that it was a Kinross High School party and was informed that anyone purchasing alcohol would require identification and anyone consuming alcohol under the age of 18 years or highly intoxicated would be asked to leave immediately.

The pupil made assurances that only over 18's would be consuming alcohol on the night.

The ballroom (the Grampian Room) and the Garden Bar were booked for the event.

The cost of this hire was £500 for the ballroom, £250 for sole use of the Garden Bar and £500 damage deposit.

Police Scotland have seized as productions copies of the e mail correspondence between the pupil organiser and the Hotel.

The funding of this event came through the sale of tickets at the school which were priced at £12 each and approximately 200/240 were sold.

The majority of these tickets were sold to current pupils but it was later learned that a small number of former pupils and friends were also in attendance.

The Event was booked with the hotel as The Kinross High School Teen Ball and would run from 19.00 to midnight on Saturday 25 January 2014.

Due to the large number of pupils in attendance at the event, statements were noted from a cross section of pupils aged between 16 and 17 years including the organisers of the event and others who were described as highly intoxicated.

A summary of these statements is as follows.

17 year old female school pupil

She admitted booking the Hotel and seeing approximately 10 fellow pupils all under the age of 18 being sick through alcohol consumption. She was not asked to provide any identification when entering the premises however her hand was stamped by an employee (Marek Kreics) to confirm she was 18 Years.

She purchased 4 vodkas from the bar and was not questioned regarding her age. She stated that bar staff initially only permitted patrons to buy one drink at a time however as the evening progressed the bar staff would sell individuals multiple orders but put the payments through the till individually.

She was aware of pupils being charged £2 for tap water at the bar.

She identified Miss Kisicka as one of the staff working behind the bar at various periods throughout the night as was the employee Mareks Kreics

Stated that she and her fellow organisers had sold 240 tickets in total.

17year/

17 year old male school pupil

He stated that he assisted in the organisation of the event and also saw 10 of his fellow pupils heavily intoxicated. He did not see anyone asking for identification at the entrance or at the bar.

He purchased two pints of lager.

He was at the entrance to the Hotel checking tickets when a member of staff (Mareks Kreics) suddenly appeared and stamped his hand with a stamp without asking for any identification.

He describes the event as "**getting out of hand**" with pupils being ill and damage to the hotel.

He concludes his statement that the Teen Ball was turning into a nightmare.

17 year old female school pupil

She stated that she assisted in the organisation of the event and at one point was standing at the entrance to the hotel checking pupil's tickets.

She was joined at one point by a member of staff (Mareks Kreics) who asked a few pupils for identification and then stamped their hands with a stamp.

She had her hand stamped by Mareks Kreics but was never asked for identification.

She stated that she was given a Gin purchased by a fellow 17 year old pupil and a Bacardi purchased by another 17 year pupil.

She recollects witnessing 10 people who she described as completely drunk and recognised 3 as being 17 years of age and in her year at school.

17 year old male school pupil

He stated that he assisted in organising the Teen Ball by selling tickets and collecting monies.

At no time was he asked for identification and just had his hand stamped by an employee at the hotel (Mareks Kreics).

He purchased 4 pints of Stella Artois throughout the night and was at no time asked for proof of identification.

He saw a 16 year old pupil and a 17 year old pupil being sick in the gents toilet having consumed too much alcohol.

He saw in total ten school pupils who were well intoxicated but cannot remember exactly who.

He is of the opinion that there was insufficient staff on duty for the event.

16 year/

16 year old female school pupil

She stated that she assisted in the organisation of the function, booking coach travel and sale of tickets.

She stated that she was never asked for identification and on entering the premises a member of staff (Mareks Kreics) just stamped her hand with a stamp. She did see him ask a few fellow pupils for identification but when things became busy he just stamped everyone's hand. He also stamped the hands of pupils who told him they were over the age of 18 years but had forgotten to bring identification.

She saw four 17 year old pupils who were heavily intoxicated. One of these pupils was sent home early as he had vomited on himself and had nearly passed out.

She described the remaining three pupils as paralytic and that they were sitting on seats, unable to move and did not appear to know where they were.

16 year old male school pupil

He states that he had consumed three cans of cider prior to attending the event and was feeling "tipsy" but not drunk.

On entering the premises he saw two S5 pupils checking tickets but no one asking for proof of age.

He admitted consuming a pint of Lager and a Vodka and Coke that were purchased for him.

He admitted feeling unwell and vomiting and being conveyed home by his father who collected him from the event.

17 year old male school pupil

He states that he consumed 4 or 5 bottles of Budweiser prior to attending the event.

On entering the Quality Hotel at about 20.00 hours that night he stated that there was no one at the entrance and he and his four fellow pupils just walked in.

He and his friends were purchased drinks by a 19 year old former pupil, however he did see pupils under the age of 18 from the school being served alcohol and was told by fellow pupils that you just had to tell bar staff that you were 18 and you would be served.

He was also aware that bar staff were charging £2 for a glass of tap water and it was his opinion that was not helpful to pupils who were drunk and required to "sober up".

He states that he and his friends all under the age of 18 walked freely around the hotel holding their alcoholic drinks and were never challenged by staff.

17 year old male school pupil

He/

He stated that he attended the function with friends and was not asked for identification. He admitted having drunk several "Sourz" prior to attending the functions and drinking half a bottle of vodka mixed with lemonade and half a bottle of Jack Daniels mixed with lemonade that had been taken into the hotel by a friend.

He was later violently sick in the toilets due to his consumption of alcohol.

He stated that he had consumed two pints of lager that were purchased for him by an 18 year old school pupil later that evening.

He witnessed several of his fellow 17 year old pupils drunk and being served at the bar.

17 year old male school pupil

He stated he attended the function along with fellow pupils and that apart from pupils checking tickets there was no employee of the hotel asking for identification.

He admitted to drinking prior to attending the event and also drinking from a bottle of Vodka he had taken into the Hotel.

He consumed two pints of beer that were purchased for him by an 18 year old pupil and was subsequently sick and then passed out due to intoxication.

He was subsequently taken home by his father who had been called to collect him.

16 year old female school pupil

Stated that she was not asked for identification nor were her fellow 16 year old pupils.

She admitted purchasing several vodka and lemonades at the bar and later in the evening she and her 16 year old friends were charged £2.00 for a glass of tap water.

She also stated that her friends aged 16 and 17 years who were in her company were also purchasing spirits and beer and at no time were asked for identification.

A number of her colleagues also purchased soft drinks which were priced between £3 and £4.

Statements were also noted from the two bus drivers who had been hired to convey pupils from Kinross to the Quality Hotel on the evening and later collect them and return them to Kinross.

Both drivers speak to arriving at the Hotel about 23.50 hours to collect the pupils and saw that the majority of the pupils were staggering about the street and car park of the hotel.

One of the drivers stated that all his 49 passengers had been drinking and were in various levels of intoxication and one pupil actually vomited on the bus during the journey.

The other driver stated that her 33 passengers in her opinion were aged between 16 and 18 years and almost all were "**absolutely minging with drink**" and "**puking all over the place**"

The driver further stated that as her passengers alighted from the bus they were described as staggering all over the place and falling down.

It is interesting to note that this driver is a trained SIA Steward and stated that due to the appearance of the age of these pupils that they would certainly not gain entry to any premises she was employed at.

As a result of the seriousness of this incident, Sgt Beattie and a member of the Licensing Department of Police Scotland attended at the Quality Hotel about 10.30 hours on Monday 27 January 2014 to speak with the Designated Premises Manager Mahesh Kotecha and the Hotel General Manager Agata Kisicka.

On arrival Police Scotland Staff were informed by a receptionist that the Hotel Manager Miss Kisicka was currently in London and that Mr Kotecha was rarely at the premises.

The receptionist knew nothing of the details of the Kinross High Teen Ball and was unable to assist with the enquiries.

During the visit Police Scotland staff noticed that there was:

No section 110 Notice displayed.

No age policy at the front door.

As a direct result of the serious incident of Saturday 25 January 2014 which is narrated in detail above and has led to this review application there has been several visits by police officers to the premises.

These visits have revealed that in addition to the above circumstances, Mr Kotecha last visited the hotel in October last year, and that Miss Kisicka attends every 2 to 3 weeks and resides for approximately 4 or 5 days.

Miss Kisicka is the general manager of the hotel and has held this position for the last three years. She admitted she has no experience of the licensing trade nor has she undergone any training in relation to same.

Officers have found the premises to be poorly managed with staff unable to provide staff training records or a copy of the relevant Operating Plan.

Police officers have recorded that in their opinion the premises are left to run with little or no management supervision. This is exacerbated by the fact that one business partner resides in London and the Designated Premises Manager in Spain.

Mr Kotecha and Miss Kisicka have since separated with Mr Kotecha returning to reside full time in Spain. Miss Kisicka continues to reside in London.

The current management of the premises gives Police Scotland serious cause for concern.

The circumstances highlighted above clearly show a contravention of the licensing objectives of:

Preventing Crime and Disorder

Protecting and Improving Public Health

The evidence in support of this is as follows:

- Statements/

- Statements of Police Officers who attended at the premises and witnessed a 17 year old unconscious due to the over consumption of alcohol.
- Large numbers of young people under the age of 18 years consuming alcohol both inside and outside the premises.
- A young person consuming alcohol from a bottle of vodka taken from her handbag in full view of staff who took no action to intervene.
- Young people directly outside the premises found to be acting in a drunk and disorderly manner resulting in an intoxicated 17 year old female being arrested for committing a breach of the peace.
- From the pupil statements noted 4 pupils aged under 18 years admitted purchasing alcohol and were not asked for identification.
- Of the pupil statements noted 9 pupils stated that they saw under 18 year old pupils consuming alcohol and 6 pupils stated that they saw several of their fellow pupils either ill or heavily intoxicated through drink.
- The statements of the two private coach drivers who described the pupils as extremely drunk, in various levels of intoxication and vomiting.
- The charging of £2.00 for tap water
- The lack of age identification procedures.

In addition Police Scotland find it unacceptable that the Designated Premises Manager Mahesh Kotecha has little or no management input to the functioning of the premises and resides almost permanently out of the country and has subsequently failed to acknowledge his responsibilities as Designated Premises Manager.

On the night of the event Mereks Kreics who is a Personal Licence Holder was present and was undertaking duties as a door steward despite not being suitably qualified.

He was also responsible for confirming the age of those attending the function as they entered and stamping the hand of those who were 18 years of age and had provided appropriate identification.

According to statements obtained, this procedure was hap hazard to say the least with people not being asked for identification, and others not even being hand stamped.

Whilst it is accepted that Mr Kreicks is only an employee at the hotel, as a Personal Licence Holder Police Scotland would have expected him to act in a professional manner and take immediate action to prevent people under the age of 18 years purchasing and consuming alcohol.

It is the position of Police Scotland that Mr Kreicks failure to address the issues highlighted above has played a pivotal role in the deterioration of the event and the intoxication of several of the pupils.

I/

I am therefore reporting Mahesh Kotecha in terms of Section 84A and requesting that Mareks Kreics conduct be considered in terms of sec 84 (1) (2) and (3)(b) of the Act.

If satisfied that grounds for review have been established, you may wish to consider appropriate action under the terms of Section 39 (2) of the Act for the purpose of securing the licensing objectives.

It is requested that due to the seriousness of this incident that consideration be given to

1. The Premises licence being revoked.
2. If a licence is to remain after the review hearing then consideration is given to the variation of the licence as follows:-
 - a) The layout plan should be varied so that only areas adjacent to the bar are licensed and not the entire hotel.
 - b) No person under 21 allowed to consume alcohol on the premises.
 - c) No person under 21 is allowed within licensed areas unless accompanied by someone 21 years or over.
 - d) All pre arranged functions must be notified to the Police not less than 7 days prior to the event.
 - e) The premises will require to employ SIA stewards to steward all pre arranged functions.
 - f) The licence holder will require to have an independent stewarding consultant carry out a stewarding risk assessment for the premises to determine the level of stewarding required in terms of e) above. The numbers required cannot be zero.
 - g) The number of stewards employed at (e) shall not be below the figure set in the stewarding risk assessment.
 - h) At all pre arranged functions the licence holder must employ staff separate from bar staff to monitor levels of drunkenness.
 - i) A personal licence holder must be present on the premises at all times during the licensed hours.
 - j) A condition is imposed that the premises are prohibited from holding under 18 events.

I submit this for your consideration

Yours faithfully

A black rectangular box redacting the signature of the Licensing Supervisor.

Licensing Supervisor

Delayed Office Opening for Employee Training
This Office will be closed from 8:45 am - 11:00 am on the first Thursday of each month



PERTH & KINROSS COUNCIL

Chief Executive's Service

RECEIVED
19 MAR 2014

**Clerk to the Licensing Board,
Perth and Kinross Council,
2 High Street,
Perth.
PH1 5PH**

LEGAL

Head of Service Ian Innes

2 High Street, PERTH. PH1 5PH
LP-16 PERTH
Telephone 01738 475115 Fax 01738 475190

Contact: **Mr. Harry Dunn**
Direct Dial [REDACTED]
Mobile [REDACTED]

Email: [REDACTED]
Web: www.pkc.gov.uk

Our Ref: HD
Your Ref:
Date Received:

Date: 19 March 2014

Dear Sir,

Licensing (Scotland) Act 2005.

Application for review of premises licence/personal licence.

Quality Hotel, 1 Leonard Street, Perth PH2 8HE/Mahesh Kotecha and Mareks Kreics.

I refer to the above application submitted on behalf of The Chief Constable, Police Scotland and have to comment as follows.

The Quality Hotel, 1 Leonard Street, Perth was granted premises licence number 73 by Perth and Kinross Licensing Board on 1 September 2009, and subsequently transferred to Supportico Ltd in March 2010. I note that both Mahesh Kotecha and Agata Kisicka are listed as sole partners/directors of that company.

I first met with Mr. Kotecha at the Quality Hotel in August 2011 and discovered that there were some issues regarding staff training and mandatory signage. As a consequence of that meeting, Mr. Kotecha subsequently became the designated premises manager of the hotel in September of that year and further visits confirmed that all previous issues had been addressed.

In November 2012, I had further occasion to speak with Mr. Kotecha at the hotel, and on that occasion regarding an irresponsible drinks promotion which took place during a function there the previous month. I was satisfied that the matter was dealt with internally and required no further action by me.

In January 2014, I learned of the circumstances narrated in the Police submission, following which Mr. Bruce Kerr, Police Scotland, and I met with Agata Kisicka at the Quality Hotel on 7 February 2014 and discussed the various issues raised.

I was concerned to learn that the designated premises manager, Mr. Mahesh Kotecha, was permanently resident in Spain and there appeared to be a distinct lack of day to day management of the hotel. Ms. Kisicka stated that she was the general manager for the hotel, but did not hold a personal licence and generally resided in the London area, visiting the hotel on a regular basis. I also discovered that the staff training records were incomplete, in that there were not in the prescribed form and had no detail of the person delivering that training.

At the conclusion of that meeting, Ms. Kisicka gave an assurance to re-train all staff involved in the sale of alcohol and ensure compliance with all aspects of the Licensing (Scotland) Act 2005. A further meeting was arranged for 2 weeks, during which time Ms. Kisicka was advised to; ensure proper management procedures were put in place, re-visit all policies and in particular regarding sale of alcohol to drunk people, ensure a robust challenge 25 policy was implemented and that proper diligence was applied to pre-booked events with full risk assessments being made where children or young people were expected to attend.

During that 2 week period, I only had one email communication from Ms. Kisicka regarding another pre-arranged function, and at which time I believed her to be in Poland.

If the circumstances of 25 January 2014 are agreed, there is in my opinion clear evidence of activity contrary to the licensing objectives;

Preventing Crime and Disorder

and

Protecting and improving public health.

It is clear from the circumstances that Challenge 25 has either been ignored or at best applied in a haphazard manner, whereby a number of young people have become intoxicated to varying degrees through alcohol purchased at the venue or by consumption of that which was brought there. Failure to apply an age verification scheme is in breach of Mandatory condition 9A of the premises licence.

Mandatory condition 9 of the premises licence stipulates that tap water must be provided free of charge on request, and that other non-alcoholic drinks must be available for purchase at a reasonable price. I note within the content of the Police submission, however, there are reports of young people being charged £2 for tap water at the bar and between £3 and £4 for non-alcoholic drinks and which, in my opinion, is excessive.

I carried out a further compliance visit to the hotel on 19 March 2014 and spoke with Ms.Sylvia Blaszcak, who identified herself as the receptionist and duty manager. I was advised that neither Mr. Kotecha nor Ms.Kisicka had been present at the hotel for quite some time, although no definite time scale could be applied. I further learned that Mr. Mareks Kreics have left the hotels employment some weeks earlier.

I examined the staff training records and found that all staff had been retrained by the on line provider, Personal licence Training, since my previous visit and as

promised by Ms. Kisicka. All other documents and notices were retained and prominently displayed as required.

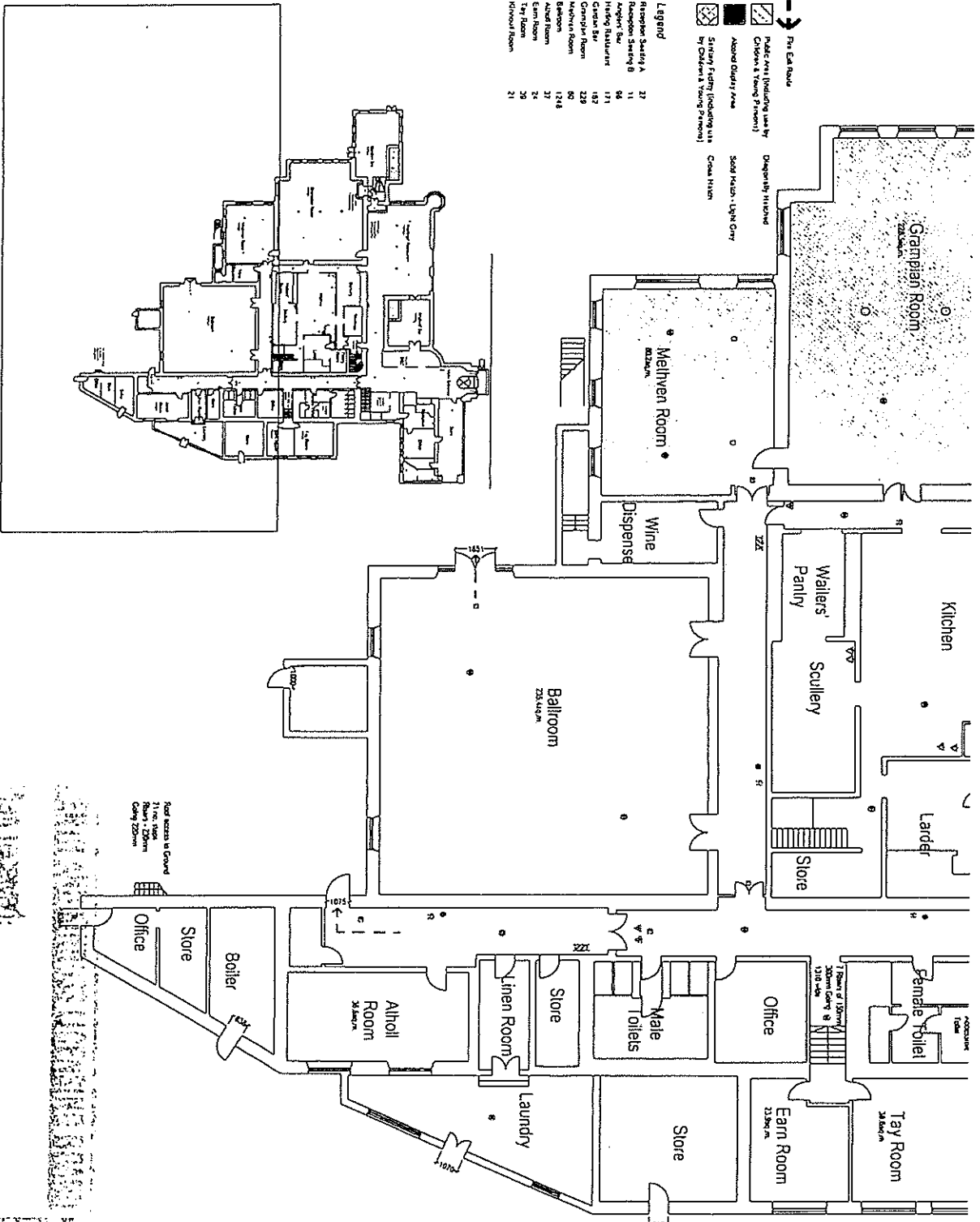
Yours faithfully



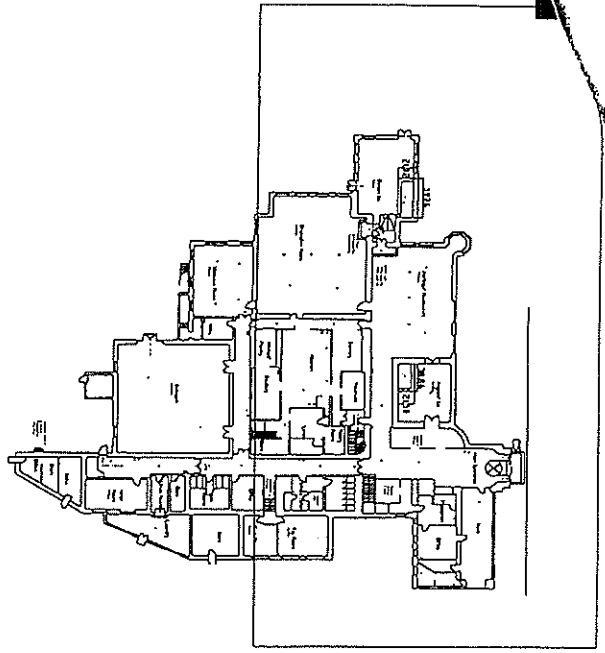
Licensing Standards Officer.

- Legend**
- FIRE PRECAUTIONS
 - Emergency Exit Flang
 - FBI Alarm Call Point
 - Acoustic Warning Device
 - Acoustic Alarm for Fire Detection Head / Smoke
 - FIRE EXIT Sign
 - Overhead FIRE EXIT Sign
 - Water Fire Extinguisher
 - Water Fire Extinguisher
 - Farm Fire Extinguisher
 - CO₂ Fire Extinguisher
 - Fire Hose

- Legend**
- Fire Exit Route
 - Public Area (Including use by Children & Young Persons)
 - Adult Only Area
 - Staff Only Area
 - Staff Only (Including use by Children & Young Persons)
- | | |
|---------------------|------|
| Reception Seating A | 21 |
| Reception Seating B | 11 |
| Reception Seating C | 11 |
| Hobby Studio | 187 |
| Children's | 229 |
| Graphic Room | 80 |
| Reception | 1248 |
| Adult Room | 37 |
| Teen Room | 24 |
| Kindergarten | 26 |
| Kindergarten | 21 |



31-03-10
S.I. Jones



Legend

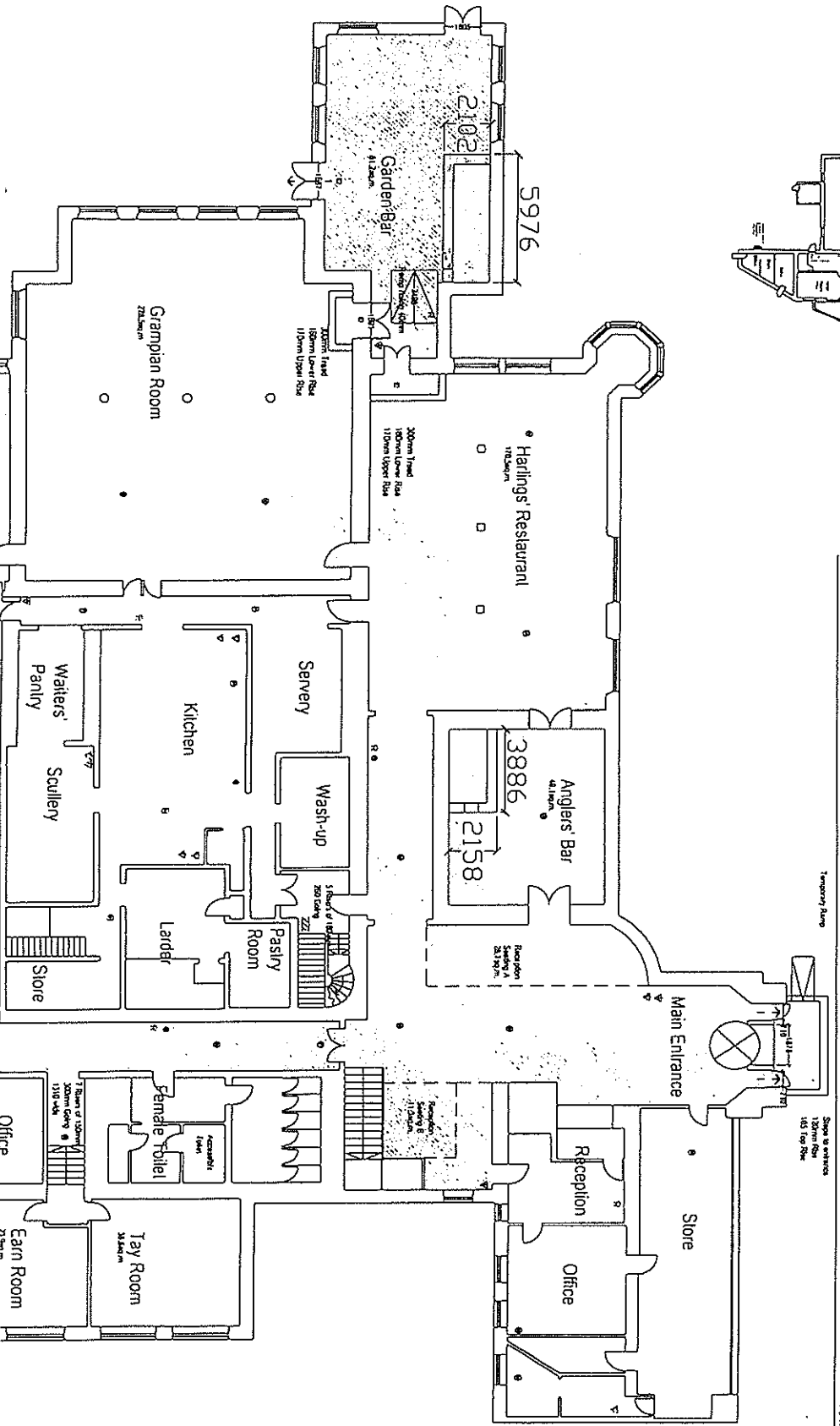
- Fire PRECAUTIONS
- Emergency Exit Route
- Fire Alarm Call Points
- Asbestos Warning Device
- Asbestos Free Declaration
- Asbestos Free Signage
- Fire Exit Sign
- Overdoor Fire Exit Sign
- View Fire Exit Sign
- From Fire Exit Sign
- CO₂ Fire Extinguisher
- Fire Hose

- Fire Exit Route
- Public Area (including use by Children & Young Persons)
- Accommodation Area
- Storage (including use by Children & Young Persons)
- Disabled Access
- Disabled Toilet
- Disabled Lift
- Disabled Ramp
- Disabled Floor

Legend

- Reception Seating A
- Reception Seating B
- Angler's Bar
- Waiting Restaurant
- Corridor Sit
- Grampian Room
- Allyton Room
- Allyton Room
- Earl Room
- Earl Room
- Reception Floor
- Reception Floor

FOR REVIEW
 APPROVED 31-03-10
 ST. James
 COST



Suggested additional local conditions regarding Premises Licence No. 73 – Quality Hotel, 1 Leonard Street, Perth, PH2 8HE.

1. During licensed hours there will be a personal licence holder on duty.
2. No alcohol will be sold at any function to be held on the premises where the majority of those attending are under the age of ~~20~~ **18**
3. Policies and programmes for the premises shall be operated and maintained to the continued satisfaction of the Board:-
 - To prevent the sale, or supply, of alcohol to persons under the age of 18.
 - On the prevention and misuse of drugs within the premises.
 - On the prevention of possession of offensive weapons within the premises
 - To mitigate the effect of noise pollution from the premises
 - To mitigate the effects of patrons smoking in the premises and immediate external areas.
 - To assist in the dispersal of patrons from the premises and the immediate external area at the terminal hour.
 - For the management of litter and waste from the premises.

2. *or other evidence of alcohol by
to some state persons.*

SCHEDULE 4

Regulation 15(3)

FORM OF STATEMENT OF REASONS

LICENSING (SCOTLAND) ACT 2005 – STATEMENT OF REASONS

1. Name and address of Licensing Board

Perth and Kinross Licensing Board
Council Building
2 High Street
Perth
PH1 5PH

2. Date of Licensing Board meeting

30 May 2014

3. Name and address of applicant/agent * (*delete as appropriate)

Chief Constable
Police Scotland
Tayside Divisional Headquarters
Barrack Street
Perth
PH1 5SF

4. Name and address of premises (if applicable)

Quality Hotel Perth
Leonard Street
Perth
PH2 8HE

5. Materials before the Board and parties present

Materials:-

Police Scotland premises licence review application dated 10 March 2014;
Licensing Standards Officer's report dated 19 March 2014;
Copy ground floor layout plan (1&2) for the Quality Hotel, Perth;
Suggested additional local conditions document, undated – given to the
Depute Clerk to the Board by Paul Trodden, solicitor for the Premises Licence
Holders on 30 May 2014 and referred to in proceedings.

Parties present:-

Bruce Kerr, Licensing Supervisor, Police Scotland;
 Harry Dunn, Licensing Standards Officer;
 Paul Trodden, Solicitor for the Premises Licence Holders;
 Mahesh Kotecha, Director of Supportico Limited, Premises Licence Holders;
 Agata Kisicka, Director of Supportico Limited, Premises Licence Holders;
 Daniel Stewart, Designated Premises Manager, Quality Hotel, Perth.

6. Type of application

Premises Licence Review Application

7. Names and addresses of all parties present

Bruce Kerr, Licensing Supervisor, Police Scotland, Tayside Divisional Headquarters, Barrack Street, Perth, PH1 5SF;

Harry Dunn, Licensing Standards Officer, Council Building, 2 High Street, Perth, PH1 5PH;

Paul Trodden, Solicitor, McCash & Hunter, 25 South Methven Street, Perth, PH1 5PE (on behalf of Supportico Limited, Premises Licence Holders);

Mahesh Kotecha, Director, Supportico Limited, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Premises Licence Holder);

Agata Kisicka, Director of Supportico Limited, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Premises Licence Holder);

Daniel Stewart, Quality Hotel Perth, Leonard Street, Perth PH2 8HE (Designated Premises Manager).

8. Preliminary issues (for example, pleas to the competency or relevancy of objections)

The Depute Clerk to the Licensing Board stated:-

- ❖ Mr Mahesh Kotecha is no longer the Designated Premises Manager on the Premises Licence. As of 20 May 2014 the new Designated Premises Manager is Mr Daniel Stewart.
- ❖ Mr Mahesh Kotecha has surrendered his personal licence. Given that the personal licence does not exist anymore, the Section 84A request by Police Scotland in relation to Mr Kotecha set out in their premises licence review application dated 10 March 2014 will no longer proceed.
- ❖ As regards Mareks Kreics, barman and personal licence holder referred to in the premises licence review application by Police Scotland, attempts had been made by Board officials to contact Mr Kreics to request that he attend today's hearing given the possibility of

a Section 84 finding on his personal licence, however, he has left his employment at the Quality Hotel Perth and the personal licence issuing Board (Highland Licence Board) only has an old address prior to Mr Kreics being employed in Perth. No forwarding address for Mr Kreics is available.

Paul Trodden, Solicitor for the Premises Licence Holders stated:-

- ❖ Daniel Stewart was appointed manager of the Quality Hotel in April 2014. He is now the Designated Premises Manager on the licence and resides at the hotel.
- ❖ To be of assistance, the Premises Licence Holders believe that there are grounds to establish for review, however, there are facts in relation to the police letter which are not agreed and will be clarified. Given the 26 January and 7 February incidents, there are grounds for review.

9. Summary of submissions made

Bruce Kerr, Licensing Supervisor, Police Scotland submitted as follows:-

- ❖ To explain Police Scotland's attitude to reporting matters, in almost all instances they attempt to work with premises licence holders and others to promote a problem solving approach. Only in instances where there are issues are of a serious nature and deemed not suitable for engagement or intervention has failed is the matter reported to a licensing board. Such a decision is not taken lightly.
- ❖ This review centres on the two licensing objectives, preventing crime and disorder and protecting and improving public health.
- ❖ The focus is on the supply of alcohol to 16 and 17 year olds, some of whom were clearly under the influence; a number were clearly intoxicated due to the consumption of alcohol; inept management allowing young persons to consume alcohol; breach of mandatory condition 9A – Challenge 25 policy; and breach of mandatory condition 9 – charging for tap water.
- ❖ Mr Kerr then proceeded to read the Police Scotland premises licence review application letter dated 10 March 2014, commencing from page 2, paragraph 6 "About 22.54 hours Saturday 25 January 2014".
- ❖ Whilst reading out the Police Scotland letter, Mr Kerr commented that this event had a serious operational impact on the Police at the high demand part of the weekend. He did comment in respect of page 5, paragraph 2 that that is what he would have expected any reasonable person to do taking such a booking. Further, Mr Kerr commented that the issues give Police Scotland serious cause for concern although they are now aware that there is a new designated premises manager in place.

In response to questions by Board members, Mr Kerr responded as follows:-

- ❖ There were former pupils as well as pupils present.
- ❖ It took 12 police officers approximately one hour to disperse the young

- people. Buses took some away but there was still mopping up. He had no record of the police receiving help from staff.
- ❖ The male who had collapsed and who was the subject of the call to the Ambulance Service was not taken to hospital. Paramedics attended to him and his father took him home. No one was hospitalised. He is aware two sets of parents came to collect their children. Others were booked overnight nearby.
 - ❖ As regards whether staff were not there and did not respond, Mr Kerr replied that the police had to go looking for someone and ask who was in charge. They found Ms Kisicka. There were at least three staff on but they could not be certain how many. They did not know how many staff there were in each part of the premises.
 - ❖ Mr Kerr could not confirm whether there was a police presence when the buses returned to Kinross, however, he hoped there would be. He couldn't say for definite.
 - ❖ One fixed penalty was issued. No other persons were charged. None of the bar staff were charged either. It was difficult to have the young persons identify who was behind the bar due to their intoxication.
 - ❖ Mr Kerr confirmed that the buses arrived at 2350 hours.
 - ❖ Mr Kerr confirmed that there is CCTV in the premises. Police Scotland had difficulty downloading the images for technical reasons. Officers attempted to download the CCTV images. There were problems with the downloading. Mr Kerr had not seen the CCTV himself. He could not comment on whether the CCTV at the hotel is fit for purpose. He has been told they couldn't download the images.
 - ❖ As regards the ending of the function and Ms Kisicka agreeing to end the function, Mr Kerr agreed that the police suggested the function came to an end for the safety of the young persons. Ms Kisicka agreed to that.

After submissions, Mr Kerr summed up as follows:-

- ❖ Mr Kerr submitted that it was a one off but a serious event highlighting management failures. As regards the opportunity to challenge the statements of the young adults, they were interviewed on the Monday at Kinross High School with the permission of school staff. They provided signed statements to police officers. They had nothing to hide.
- ❖ Three say that it was £2 for tap water, not mineral water. Young people are quite savvy.
- ❖ Yes, there was bad management but when the organiser came to visit, surely alarm bells should have rung and then on the day when the young people came in.

Harry Dunn, Licensing Standards Officer submitted as follows:-

- ❖ Mr Dunn referred to his report dated 19 March 2014. With regard to page 1, paragraph 3 the issues were all resolved by September 2011.
- ❖ As regards page 1, paragraph 4 the irresponsible promotion was for a one night event. It was dealt with and he was satisfied no action was required.
- ❖ With regard to page 2, paragraph 1 Ms Kisicka has no formal training. The difficulty with the training records was that they were not in the

- required format. They were not signed.
- ❖ Mr Dunn said he visited again on 19 March and spoke to the purported manager, Ms Sylvia Blaszcak. The training records were all up to date by then. He is not personally a great lover of the online training but it does meet the requirements of the Licensing (Scotland) Act 2005. He was not shown any protocols or policies for the premises.
 - ❖ If the circumstances are agreed Mr Dunn is also of the opinion that the licensing objectives preventing crime and disorder and protecting and improving public health have been breached. In addition, there is the lack of a Challenge 25 policy or it has been applied in a haphazard manner. That is a breach of mandatory condition 9A. Mandatory condition 9 is that tap water should be provided free of charge and other non-alcoholic drinks must be available for purchase at a reasonable charge. It is reported there was a £2 charge for tap water and it was £3 - £4 for non-alcoholic drinks. In his opinion that is excessive.

In response to questions by Board members, Mr Dunn responded as follows:-

- ❖ Mr Dunn is aware that Ms Kisicka does not have a personal licence. There was evidence of some training as there was a training record but not in the required format. She does not have any recognised training. On the back of that the required training was done although he has issues with online training.
- ❖ If the circumstances are correct, in his view one of the factors is inexperience but there are a whole host of other issues.
- ❖ As regards there not being a designated premises manager on that night or a personal licence holder present at the bar, Mr Dunn said that it is a failure of the legislation that there is no requirement for a personal licence holder to be present or a designated premises manager, but, in his experience a designated premises manager is there the majority of the time. It also depends on the role of door supervision. It is ok if staff check tickets but if staff are to put people out then they are straying into Security Industries Authority registration for door supervision.
- ❖ As regards the Premises Licence Holder demonstrating the training activity had actually been done rather than just presenting records, Mr Dunn replied that the conditions are that mandatory training is carried out in a set format. He was eventually given sight of that being in place. The same can be said for policies and procedures being in place. How they are implemented is important.

After submissions, Mr Dunn summed up as follows:-

- ❖ Mr Dunn acknowledged that some progress had been made and he looked forward to working with Mr Stewart. He wanted to highlight one common misconception with the mandatory condition on Challenge 25. He is uncomfortable with the emphasis on the actions of Mr Kreics. Responsibility ultimately lies with anyone serving alcohol. Mr Kreics might be the first point of contact but responsibility lies with those serving alcohol.

Paul Trodden on behalf of the Premises Licence Holders submitted as follows:-

- ❖ The history is that the premises were the Station, now the Quality Hotel. It was empty and run down until purchased in 2010 by Supportico, who have two directors. There has been considerable investment in the premises since then.
- ❖ Mr Kotecha was the Designated Premises Manager since 2011 when the previous DPM left. Mr Kotecha is not resident in Spain. He has family commitments so that in late 2013 a fair deal of time was spent in Spain. The intention was to transfer the DPM to Mr Marek Kreics. He had been employed for a considerable time and was experienced. He was also a personal licence holder.
- ❖ The DPM was transferred to Mr Stewart on his appointment in April. The application was made in April and granted in May. Mr Stewart is aged 51 and has extensive licensing experience. He was the DPM and manager for the Black Bull Hotel, Killin. Mr Kerr talked of cooperation with agencies which is vital and important. Mr Stewart told him (Mr Trodden) that there have been several meetings with Mr Kerr and other police, the last of which was two weeks ago at Perth police station and it appears Police Scotland are happy with the running of the premises. They comply with the 2005 Act.
- ❖ Part of the renovations has been the installation of a CCTV system. It is very sophisticated, covering bar areas and other areas, corridors. The hard drive was given to the police. It was not seized but given. It was kept by the police for three months and returned. Therefore, they had adequate time to look at it. Perhaps transferring the images is the problem. It would have given a complete picture to the police.
- ❖ The booking was for Kinross High School prom/teen ball. It was not the only booking associated with Kinross High School. Two weeks after a charity fund raiser was arranged by teachers at Kinross High School that took place at the hotel. The police and the Licensing Standards Officer were advised of this and the function passed without incident. Both bookings were made roughly the same time.
- ❖ His clients thought this function was something to do with Kinross High School. Mr Kerr said, given there are copies of booking emails, it was made very clear on 22 October 2013 by George Tucker, Conference and Events Manager that there would need to be ID and anyone consuming alcohol or anyone highly intoxicated would be asked to leave immediately. That was acknowledged by the organiser who said we will make sure only over 18s are consuming alcohol that night. His clients are not saying that is all they had to do, far from it.
- ❖ Mr Kerr took us through the 11 page report. It is like a car crash happening. From his clients point of view, 25 January was a catastrophe, perhaps of their own making to a large extent. These premises have not come to the attention of the police before that night. They had come to the attention of Mr Dunn on relatively minor matters before. It was a very serious incident on 25 January but a one off incident never to be repeated.
- ❖ On the night Mr Kreics, who had a personal licence and who was to be

appointed the Designated Premises Manager, was tasked with verifying identification and once that was done, stamp the hand of that person. That is the system to take place. It is used in other licensed premises. There were failures in that. Either he didn't ask for identification or just randomly id'd these people therefore as a result it would appear a number of persons under 18 consumed alcohol that evening. It should have been known to Mr Kreics that the only forms of identification acceptable are passport, photographic driving licence or the pass card. Much of the police report is then taken up with statements by people. He (his clients) cannot challenge them. He doesn't know who they are. However, on page 7 and 8, one 17 year old male school pupil admitted drinking several 'Sourz' prior to attending the function and drinking half a bottle of vodka mixed with lemonade and half a bottle of Jack Daniels mixed with lemonade taken into the hotel by a friend. Even after that he was able to say he witnessed other 17 year olds drunk and being served at the bar. If he had drunk what he said, he would not be able to say and would be violently sick.

- ❖ Pre loading comes through. Licensees have to be very aware of this. Perhaps staff are not so aware. 12 – 14 staff were on duty that night. Mr Kerr referenced people being charged £2 for a glass of water. That is not so. Tap water was freely available. Mineral water was charged as is in any place. Soft drinks were reduced by 50p that night specifically because under 18s were present and should be drinking non-alcoholic drinks. Therefore this is untrue.
- ❖ Since that night there have been great changes in the way the hotel was being and is being run. The most visible is the appointment of Mr Stewart as manager with day to day control of the hotel. As DPM he authorises the sale of alcohol. Mr Stewart is not a fan of online training. That is a fault of the Licensing (Scotland) Act. He prefers face to face and to identify any problems and sort them there and then. Since Mr Stewart has come in all staff have been retrained. All new staff will be trained. To get them trained in two hours is nonsense. There are monthly meetings for all staff at least. If anything occurs there can be further training. All bookings are subject to final approval by Mr Stewart. If a police liaison officer was appointed, such as Sergeant Shona Beattie, he (Mr Trodden) is told there is a good relationship with Mr Stewart. There will never be a school prom held in the Quality Hotel again.
- ❖ He (Mr Trodden) has given the clerk certain proposed additional conditions for the premises licence. Mr Trodden read out the three suggested additional local conditions. For the second proposed condition, if there was a prize giving or awards ceremony, there would be no alcohol at it. For the third condition, Mr Trodden added reference to a policy for preventing serving or consumption of alcohol to persons who are drunk. Having said what they can have, it is implementation which is important.
- ❖ Mr Trodden reiterated that there are grounds for review as there were management failures. Those are admitted. The system for checking identification fell down. There were sales to underage persons. When Mr Dunn and Mr Kerr called on 7 February training records were not in the correct form or not available. That was a failure of management. The failures have all been addressed and rectified and have not

occurred again. The Board can consider revocation, suspension or written warning to the owners and premises licence holders. He (Mr Trodden) asked the Board to consider the third option. It is a well run premise. This was an aberration. Actions have been put into place to prevent this occurring again.

In response to questions by Board members, Mr Trodden responded as follows:-

- ❖ Mr Trodden said he was not inferring that the organisers of the event were somewhat partly responsible. He was saying that the organisers were told and assurances were given. That didn't happen but it does not absolve the responsibility to check on the night that people were under 18 or over 18. That was the failure.
- ❖ When asked whether there was a difference between a school prom where the majority would be under 18 compared to an event for former pupils, Mr Trodden replied that that may well be. There were a number of over 18s. Tickets were sold to school pupils and others. It was naivety on those taking the booking to take it on face value.
- ❖ Mr Trodden confirmed that ownership of the hotel did not change when the booking was taken. Ownership changed around 2010/2011. It was difficult to tell who they were dealing with by email but the girl came up to visit the premises. They are not shirking responsibility here.
- ❖ As regards the second booking and whether they were aware that was for adults, Mr Trodden replied that teachers turned up at that.
- ❖ Mr Trodden stated that a single drink per person was allowed. It is difficult to challenge what is said in the statements, even if they were interviewed late on, what is their recollection? It got completely out of hand. It is acknowledged under 18s consumed alcohol at the hotel. It has to be acknowledged under 18s were served alcohol. However, alcohol was not served to intoxicated persons.
- ❖ When it was pointed out there was evidence from 12 police officers, 2 ambulance staff and written statements of youngsters that there was clear reference to having consumed too much alcohol such that some were sick in and out of the premises, Mr Trodden replied that where they got the drink is something else. The statement on page 2 (of the police letter) for the 17 year old, the chap that phoned up, there was nothing there in that to say this 17 year old did anything to drink on the hotel. Instead, the caller said they had drunk prior to that.
- ❖ When asked again whether the premises licence holders acknowledged that alcohol had been served to intoxicated persons there was a pause while Mr Trodden discussed the matter with his clients. Mr Trodden replied that whether pre-loaded or brought in doesn't matter, the answer is yes.
- ❖ As regards the steps taken at the time, when the police arrived, by hotel staff management, Mr Trodden stated that there were 12 staff for the function that evening. They were attempting to run the function as smoothly as possible. Obviously there were great failures that evening. When the police arrived all members of staff did try to assist when the event was finally cancelled. People were escorted from the premises.
- ❖ When it was pointed out that there was a degree of evidence that the event was getting into difficulty and what steps staff and management

took prior to the arrival of the ambulance and the police to issue more water and help when people were staggering around, being sick and there was a fracas in the car park, Mr Trodden replied that not all of that was happening prior to that. The fracas was after the police arrived.

- ❖ The event was organised by an Ellie Cunningham, Co-ordinator of Kinross students. Before the police arrived it was discussed with her that the event should come to a close.
- ❖ When asked what was done before the arrival of the police if the hotel staff management had concerns, what steps were taken to prevent further problems, Mr Trodden replied that the bar was not closed at that point. 12 staff were going around and checking people and that is it. Mr Trodden agreed that apart from a discussion with the organiser no pro-active steps were taken. That was also one of the failures that evening.
- ❖ When asked whether the staffing was adequate that night for 200+ persons Mr Trodden replied that personally, obviously not. The event got away from the staff. There should have perhaps been more.
- ❖ When asked whether Mr Stewart would have been appointed anyway Mr Trodden replied yes. Mr Kreics was to be appointed but he failed. Mr Kotecha, for family reasons, was away in Spain. Mr Stewart should have been appointed earlier.
- ❖ When asked how many of the 12 staff were in the bar and how many stewards there were Mr Trodden replied there was no requirement for stewards that evening. If such an event were ever to be held again, there would be, but that would be voluntary. There is nothing in the operating plan to require this. There were four staff in the bar. They were trained. There were inadequate records of training, however. There are aspects of training requirements that not all premises licence holder are aware of such as keeping up to date training records.
- ❖ Ms Kosicka was asked what procedures were put in place for operating and when did she notice there was a problem. She replied that, in honesty, she noticed before the first drinks were served around 7.30pm. Even before they opened the bar the first guests of the party came into the hotel there was already an incident involving the police. A girl under 18 was assaulted by a guy well over 18. He was very drunk. Apparently, he was part of the event. She thought she was in the bar at the time giving instructions to bar staff and she was called to the incident at reception. The girl was really quite hysterical. The guy was very violent. He was quite drunk. One of the organisers, a young guy called the police who came and removed the guy and left. The guy disappeared into the toilets. The police eventually came and removed him. That took about an hour. It took her attention away from others. Therefore other issues were not at that point monitored as well as should have been.
- ❖ When asked whether a lot were intoxicated at the beginning, Ms Kosicka replied that she was aware a lot brought drink in. She believed at that point there was a system for checking under 18s. The policy was one drink per person. She didn't believe there was a problem serving under 18s but a lot was brought to the hotel. She spent a lot of time pouring drink down the toilets which was on camera. A lot came in intoxicated. She took alcohol from just the ladies. She instructed

- ❖ one of her colleagues, a gentleman, to go into the gents toilets.
- ❖ When asked whether she instructed bar staff not to serve anyone under the influence, Ms Kosicka replied that they were not just instructed on that night but other times. That was not just for legal reasons but practical reasons. People can become drunk and violent. The problem was what was brought in.
- ❖ When asked whether it was fair to say there was not enough staff on to control the event, Ms Kosicka replied that if someone told us under 18s had got drunk there would probably be 25 on each door. This event was for 200+ around 18. The other event was for 300, most from Kinross High School. There were more young persons at that event and they had absolutely no problems. The whole event was misrepresented to them. She spoke to the organiser and was not told it was a prom. She asked to go over the event to go over who was attending. The organiser told her that it was the last year of school, first year of university. She told her half the people expected were from university. Only six staff were at the other event and that was sufficient. They had 12 for this event and that was not sufficient.
- ❖ When asked whether the responsibility lay with the premises licence holders and that it was of concern only six staff were on for the other event Ms Kosicka replied that it was their responsibility and that the other event was a charity event.
- ❖ When asked what she had learned, Ms Kosicka replied that firstly, they had not checked properly for passport and driving licence and, secondly, at the first signs of trouble she should have just shut the event. She had spoken to staff about that in the future.
- ❖ When asked about the first conversation with the Events Manager, Mr Tucker, Ms Kosicka replied that after the event he was no longer involved. Mr Trodden added that all events now have to be approved by Mr Stewart.
- ❖ When asked about Mr Kreics being told to check identification and who had communicated this, Ms Kosicka replied that it was communicated by herself. She had a staff meeting beforehand. Marek Kreics had to check identification and the way to go was to use stamps.
- ❖ When it was pointed out that Ms Kosicka was not totally aware of acceptable forms of identification but Mr Kreics had passed his personal licence, Mr Trodden replied that he did have a personal licence and should have known as a personal licence holder. He was the only staff member that night with a personal licence.
- ❖ When asked if a member of the Board had gone to the bar and asked for water what they would get, Ms Kosicka replied they would have got a glass of water. If they had asked for a bottle they would have got mineral water.

After submissions, Mr Trodden summed up as follows:-

- ❖ Mr Trodden stated it is accepted responsibility for Challenge 25 lies with those serving alcohol.
- ❖ When Ellie Cunningham was interviewed by the police that evening, she advised she was 18. She wasn't.
- ❖ There were management failures. They have to learn and have learned. He asked the Board to confine any outcome to a warning

which would be heeded.

Note: After grounds were review were established, the premises licence holders were given the opportunity to make submissions on the options available to the Board. Mr Trodden stated on behalf of the premises licence holders that he had nothing to add to previous submissions.

10. Decision(s) taken

The grounds for review were established on the basis of grounds relevant to the licensing objectives:

- (a) preventing crime and disorder
- (d) protecting and improving public health

and separately,

Grounds for review were established on the basis of breach of mandatory conditions 3, 6(2A), 9(2) and 9A.

Having heard submissions from the premises licence holders on the possible steps that may be taken, the Board determined as follows:

On the basis that it is necessary and appropriate to do so for the purposes of the licensing objectives:

- (a) preventing crime and disorder
 - (d) protecting and improving public health,
- the premises licence be suspended from Tuesday 3 June 2014 at 5pm for a period of 14 days

and,

the following local conditions be added to the premises licence:-

- (1) Written policies shall be in place for the premises and immediate external area and shall be implemented by the premises licence holders and all staff involved in the sale and consumption of alcohol, all to the continuing satisfaction of the Board for:-
 - (i) not serving or allowing the consumption of alcohol by drunk persons
 - (ii) not serving or allowing the consumption of alcohol by persons under the age of 18
 - (iii) not serving alcohol to adults purchasing on behalf of persons under the age of 18
 - (iv) dispersal of patrons
 - (v) staff training on the implementation of the Challenge 25 policy
 - (vi) noise mitigation
 - (vii) litter and waste management
 - (viii) regular inspection of the toilet facilities
 - (ix) the management of all external areas.
- (2) No birthday parties, dances, proms or other similar functions for

- persons aged 20 and under shall take place on the premises. For the avoidance of doubt, this does not include christenings and weddings.
- (3) A personal licence holder shall be present at all times during the licensed hours for the premises.
 - (4) A written policy shall be in place and implemented by the premises licence holders for the training and continuing supervision of staff involved in the sale and consumption of alcohol including on the terms of the premises licence and the specific aspects of running the premises, all to the continuing satisfaction of the Board.
 - (5) When functions take place that utilise the function hours, door supervision shall be provided from commencement of the function until 30 minutes after close as follows:-
 - (i) one SIA registered supervisor shall be on duty at all times in the function area, and
 - (ii) additional supervision shall be provided appropriate to the function.
 - (6) Where a prearranged function is due to take place, the premises licence holders shall notify Police Scotland at Perth at least 7 days in advance of the function taking place.
 - (7) Where a prearranged function is due to take place, the premises licence holders shall carry out and implement a risk assessment and management plan for that function including for the appropriate number of staff required, all to the continuing satisfaction of the Board.
 - (8) A digital CCTV system shall be installed at the premises, subject to all necessary consents, with both internal and external camera coverage of the premises, all to the continuing satisfaction of the Board and of Police Scotland. The CCTV system shall be constantly maintained in good working order and all CCTV images shall be kept for at least one month and made available to Police Scotland on request.

10a. Reasons for decision

Grounds for Review

The Board held grounds for review were established on the basis of grounds relevant to the licensing objectives:

- (a) preventing crime and disorder,
- (d) protecting and improving public health.

The Quality Hotel, Leonard Street, Perth is subject to a premises licence regulating the sale and consumption of alcohol under the Licensing (Scotland) Act 2005. Since March 2010 the Premises Licence Holders have been Supportico Ltd. The two directors of that company are Mahesh Kotecha and Agata Kisicka. The Designated Premises Manager was Mahesh Kotecha from the latter part of 2011 until 20 May 2014 when Daniel Stewart was substituted as DPM having been employed as manager at the Quality Hotel in April 2014.

The Board took into account the submissions made and the papers before it. The Board placed reliance upon and gave strong weight to the Police Scotland premises licence review application dated 10 March 2014, particularly the summary of statements obtained. Although the Premises

Licence Holders suggested there was doubt over the recollection of the persons who gave the statements, and disputed whether tap water had been charged for and whether non-alcoholic drinks had not been reasonably priced (which relate to mandatory conditions and are referred to later), the information provided by Police Scotland and the summaries of the 12 statements obtained as set out in the review application dated 10 March 2014 were generally consistent as to the events that occurred on Saturday 25 January 2014. Other than doubting the recollection of those providing statements, disputing whether tap water had been charged for and disputing whether non-alcoholic drinks were not reasonably priced, the Premises Licence Holders did not dispute nor offer a significantly different version of events from that given in the Police Scotland review application. Further, the Premises Licence Holders admitted that there were failures in identifying which persons attending the prom/teen ball function were 18 or not; admitted that the checking of identification fell down; admitted that there were management failures; admitted that there were sales to persons under the age of 18; and admitted that there had been consumption of alcohol by persons under the age of 18 at the hotel. Initially, the Premises Licence Holders denied that alcohol had been sold to drunk persons, however, after questioning that was also admitted. By making such admissions, the Premises Licence Holders thereby did not significantly dispute the content of the Police Scotland review application in terms of grounds relevant to the licensing objectives.

The Board held that there was a failure in the Premises Licence Holder's own system for checking whether persons attending the function on Saturday 25 January 2014 were aged at least 18 and therefore able to purchase and consume alcohol on the premises. Just before the function took place, Agata Kisicka, Director of the Premises Licence Holders and the person in charge that evening, instructed a member of staff, Marek Kreics to check for identification as to proof of age. To instruct only one member of staff to check for identification as persons attending the function arrived was insufficient given the number of persons who attended. Ms Kisicka did not know what forms of identification would be acceptable given that according to her, hotel policy was to accept student ID as proof of age but not passport or driving licence. Marek Kreics, as a personal licence holder, should have known the forms of acceptable identification. However, according to most of the persons who provided statements to Police Scotland who were under 18, he was either not at the entrance as people arrived, or accepted the word of the person entering that they were 18 without insisting upon identification being produced or consistently failed to ask for identification and stamped the hands of persons attending the function to signify they were 18 or over. The Premises Licence Holders admitted that there had been failures in identifying which persons attending were 18 or not. They admitted that the checking of identification fell down. They admitted that there were management failures. To operate a hand stamping system at the entrance for what was a pre-booked prom/teen ball; and a prom/teen ball linked to a named High School; where at least 200 persons attended; and that the vast majority of persons attending would have appeared to be under 25; and that there is mandatory condition 9A on the premises licence to have an age verification policy in relation to the sale of alcohol on the premises for a customer who appears to be under the age of 25, there should have been sufficient trained and properly

instructed staff to check for proof of age identification from persons attending the function. These failures directly contributed to the events that took place later that evening.

The Board also held that alcohol was sold by members of staff at the Quality Hotel to persons under the age of 18. Around six of those who provided statements to the police who were under 18 either admitted purchasing alcohol or witnessing others under 18 purchasing alcohol. The Premises Licence Holders admitted alcohol was served to persons under 18. Selling alcohol to a young person is an offence under the Licensing (Scotland) Act, Section 102. With the failure of the hand stamping system and the failure of staff serving alcohol to ask for identification of proof of age, due diligence was not exercised.

Alcohol was also consumed by young persons on the premises contrary to the Licensing (Scotland) Act 2005, Section 106(1). Three persons under 18 gave statements to the police that they had consumed alcohol bought for them on the premises. Two of those three also admitted consuming alcohol on the premises that had been brought into the premises. The Premises Licence Holders admitted alcohol was consumed on the premises by persons under 18. It is an offence under the Licensing (Scotland) Act 2005, Section 106(1) for a young person to consume alcohol on any relevant premises such as the Quality Hotel. Other persons under 18 who gave statements to the police admitted purchasing alcohol at the premises. With those persons purchasing alcohol and police officers seeing large numbers of persons they considered to be under 18 in the outside area and in the function suite of the premises consuming or having consumed alcohol, it is reasonable to conclude that there was widespread consumption of alcohol by persons under 18 on the premises and in full view of members of staff. One 17 year old male who gave a statement to the police admitted that he and his friends under 18 freely walked around the hotel holding their alcoholic drinks and were never challenged by staff. When a police officer was speaking to a member of staff at the bar, the officer saw a female who looked under 18 remove a bottle of vodka from her handbag and pour some into a glass at the bar in full view of members of bar staff who took no action. Responsible persons therefore allowed young persons to consume alcohol on the premises contrary to the Licensing (Scotland) Act 2005, Section 106(2).

Although initially denied, the Premises Licence Holders admitted drunk persons were served alcohol. It is an offence under the Licensing (Scotland) Act, Section 113 for any responsible person such as a staff member 18 or over authorised to sell alcohol to sell alcohol to a person who is drunk. One 17 year old male who gave a statement to the police witnessed several fellow 17 year old pupils drunk and being served at the bar.

Further, several persons were drunk on the premises and incapable of taking care of themselves which is an offence under the Licensing (Scotland) Act 2005, Section 111(2). The 17 year old male for whom the ambulance was called was described as unconscious, unresponsive, his breathing shallow and his face blue. Two police officers also saw a 17 year old male lying unconscious in a chair within the bar area having vomited on himself several times. A 16 year old female who provided a statement to the police described

seeing four 17 year old pupils one of which was sent home early as he had vomited on himself and nearly passed out and the other three were paralytic, sitting on seats unable to move and did not appear to know where they were. With members of staff in the bar area and elsewhere, the drunk persons incapable of taking care of themselves would have been in full view of members of staff.

The Board considered other matters such as whether persons 18 or over knowingly bought alcohol for consumption on the premises by a young person which is an offence under the Licensing (Scotland) Act 2005, Section 105(4), however, although there was clear evidence of persons 18 or over purchasing alcohol that was then consumed by young persons, there was insufficient information to show that those persons 18 or over had knowingly purchased the alcohol for the young persons.

Ms Kisicka, the person in charge that evening, and the staff present did not have adequate control over the premises on Saturday 25 January 2014. The system for checking the ages of the persons attending the event failed; alcohol was sold to persons under the age of 18; there was widespread consumption of alcohol on the premises by young persons; those young persons were allowed to consume alcohol on the premises; drunk persons were served alcohol; and there were drunk persons on the premises who were incapable of taking care of themselves. There were insufficient measures in place at the outset to control the bringing in of and prevent the consumption of alcohol by young persons attending the function. The outside area was not properly monitored at the point the police arrived with a large number of young persons consuming alcohol and the area strewn with glasses and bottles. The bar area was also littered with glasses and bottles. Despite what was occurring, the Premises Licence Holders admitted the bar was not closed. The bar was still open for the sale of alcohol despite the lack of control and clear signs of an overconsumption of alcohol such as several young persons having vomited, drunk young persons being present and drunk young persons sitting on seats incapable of taking care of themselves. Ms Kisicka spoke to the organiser of the event about stopping the function but took no action to carry that out. Ms Kisicka admitted that she noticed problems before the first drinks were served and that having been taken away by an incident of assault, that other issues were not being monitored at that point. There was therefore inadequate control and supervision of the function. Further, after it was agreed the function should end, it proved difficult to disperse those attending due to their drunken condition, unruly behaviour and several incidents of disorder, antisocial behaviour, breaches of the peace and fighting. Staff required the assistance of the police to disperse those attending the function. As the Premises Licence Holders admitted of the function, it got completely out of hand. The Board therefore held that grounds of review were established on the basis of grounds relevant to the licensing objective, (a) preventing crime and disorder.

Further, given the widespread consumption of alcohol by young persons on the premises; that drunk young persons were served alcohol; that drunk young persons were on the premises who were incapable of taking care of themselves; young persons either unconscious or having nearly passed out; and several young persons having vomited, all in full view of members of staff

there was a clear disregard for the health of the young persons, a clear disregard for protecting the health of the young persons. The Board therefore held that grounds for review were established on the basis of grounds relevant to the licensing objective, (d) protecting and improving public health.

Separately, grounds for review were established on the basis of breach of mandatory conditions 3, 6(2A), 9(2) and 9A.

The premises licence for the Quality Hotel is subject to mandatory condition 3, any other activity to be carried on in the premises is to be carried on only in accordance with the operating plan contained in the licence. In terms of 6(b) of the Quality Hotel's operating plan, children and young persons must be accompanied by an adult and supervised at all times. Although there were a few adults present on Saturday 25 January 2014, they could not be said to be accompanying the large numbers of young persons present and could not be said to be supervising those young persons. There was therefore a breach of mandatory condition 3.

The premises licence for the Quality Hotel is subject to mandatory condition 6(2A), at any time when a person, other than a personal licence holder, is working on the premises either making sales of alcohol or where alcohol is sold for consumption on the premises, serving such alcohol to any person, a training record in prescribed form must be kept on the premises. When the Licensing Standards Officer visited the premises on 7 February 2014, the training records were not in the prescribed form and had no details of the person delivering that training. There was therefore a breach of mandatory condition 6(2A).

The premises licence for the Quality Hotel is subject to mandatory condition 9(2), tap water fit for drinking must be provided free of charge on request. The Premises Licence Holder's position was that on Saturday 25 January 2014 tap water was free of charge and that it was bottles of mineral water that were charged for. However, the Board held that tap water was charged for. Two persons under 18 who gave statements to the police stated that they were aware of others being charged for tap water and a third young person stated that she and her 16 year old friends were charged £2 for a glass of tap water. The statements corroborate each other and are specific in referring to tap water, not mineral water. There was therefore a breach of mandatory condition 9(2).

The premises licence of the Quality Hotel is subject to mandatory condition 9A, there must be an age verification policy in relation to the sale of alcohol. This is commonly referred to as the Challenge 25 scheme where a customer may appear to be less than 25 years of age and steps are to be taken to establish the age of the person. Although there was a system of checking identification for proof of age (which failed) on Saturday 25 January 2014, Ms Kisicka, as the person in control, did not know the forms of acceptable identification and appeared to be unaware of the Challenge 25 scheme. The failed system was, in the Board's view, directed at checking if persons attending the function were 18 rather than checking age when they appeared to be less than 25 years of age. There was therefore a breach of mandatory condition 9(A).

The premises licence of the Quality Hotel is subject to mandatory condition 9(3), other non-alcoholic drinks must be available for purchase at a reasonable price. The Board held there was insufficient information on the actual price of the non-alcoholic drinks, and insufficient information as to what a reasonable price for the non-alcoholic drinks may be. Therefore, a breach of mandatory condition 9(3) was not upheld.

Possible steps that may be taken

The Board considered the possible steps that may be taken having established grounds for review.

The Board took into account that the issues that arose on Saturday 25 January 2014 have not been repeated; that no young person was hospitalised; that there is a new Designated Premises Manager with day to day control of the premises; that the new DPM approves all bookings; that training records are now in place in the prescribed form; that staff have been retrained; and that monthly staff meetings are now in place. In light of this, the Board did not consider that revocation of the premises licence was appropriate, however, there were a series of serious failures on the part of management and staff on Saturday 25 January 2014. The Board considered it fortunate no young person was hospitalised. The consequences for the young persons present could have been worse. Those failures and the lack of control of the premises on 25 January could not be set aside. There was nothing to indicate the Premises Licence Holders had carried out a detailed assessment of the failures and reasons for lack of control and put in place adequate measures in an effort to ensure there is no repeat. Ms Kisicka stated she had learned about properly checking identification for proof of age; to stop an event at the first signs of trouble; and that she had spoken to staff, however, there was nothing to indicate a detailed assessment with measures put in place had been carried out and implemented by all staff involved in the sale and consumption of alcohol including to address: the failures in the system for checking proof of age; widespread consumption of alcohol by young persons on the premises; young persons being allowed to consume alcohol on the premises; drunk persons being served alcohol; drunk persons being on the premises who are incapable of taking care of themselves; and a failure of staff to take action when issues arose. The Licensing Standards Officer had not been shown any protocols or policies for the premises. Placing a new DPM in day to day control of the premises; a basic retraining of staff; having monthly staff meetings; and the DPM approving bookings does not directly address the issues that arose on 25 January. Further, the Board noted that there were issues regarding staff training in August 2011 and that training records were incomplete on 7 February 2014, indicating the need for measures to be put in place to prevent repeated failures.

The Board imposed Local Condition 1 as it is both necessary and appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. By having written policies in place for the premises and immediate external area that are then implemented by the Premises Licence Holders and all staff involved in the sale and consumption of alcohol, which policies can evolve, the failures and

lack of control of the premises that occurred can be addressed. The policies are:

- (i) not serving or allowing the consumption of alcohol by drunk persons. The Premises Licence Holders proposed that such a policy be a condition of the premises licence. Drunk persons were both served alcohol and then allowed to consume alcohol on the premises. Some of those drunk persons also became incapable of taking care of themselves on the premises. It is therefore both necessary in light of the serious failures and also appropriate to address the failures to have such a policy by way of condition for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.
- (ii) not serving or allowing the consumption of alcohol by persons under the age of 18. The Premises Licence Holders proposed that there should be conditioned a policy on the sale or supply of alcohol to persons under 18. Alcohol was sold to young persons and there was widespread consumption of alcohol by young persons with staff allowing that consumption on the premises. It is therefore both necessary in light of the serious failures and also appropriate to address the failures to have such a policy by way of condition for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.
- (iii) not serving alcohol to adults purchasing on behalf of persons under the age of 18. The Premises Licence Holders proposed that there should be a policy on the sale or supply of alcohol to persons under 18. Although the Board did not hold that adults had knowingly purchased alcohol for consumption by under 18s on the premises, there had clearly still been purchases of alcohol by adults for under 18s which were then consumed on the premises. It is therefore both necessary and appropriate to address this issue by having a policy by way of condition for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.
- (iv) dispersal of patrons. The Premises Licence Holders proposed that there should be conditioned a policy on the dispersal of patrons. After it was agreed to end the function on 25 January 2014, it proved difficult to disperse those attending due to their drunken condition, unruly behaviour and several incidents of disorder, antisocial behaviour, breaches of the peace and fighting. Staff required the assistance of the police to disperse those attending the function. It is therefore both necessary and appropriate to address this issue to have such a policy by way of condition for the purposes of the licensing objective, (a) preventing crime and disorder.
- (v) staff training on the implementation of the Challenge 25 policy. There were failures in the system for checking proof of age on 25 January 2014 and that system was not the Challenge 25 policy or scheme as required under mandatory condition 9A of the premises licence. It is therefore both necessary and appropriate in light of this serious failure to have a policy by way of condition for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.
- (vi) noise mitigation. The Premises Licence Holders proposed that there

should be conditioned a policy on noise pollution. At the point of dispersal on 25 January 2014, it was difficult to disperse those attending due to their drunken condition, unruly behaviour and several incidents of disorder, antisocial behaviour, breaches of the peace and fighting. Such behaviour leads to noise both within and outwith the premises. There are residential properties in the vicinity of the premises as well as other possible patrons and residents of the hotel. It is therefore both necessary and appropriate in light of the issues that arose to have a policy by way of condition for the purposes of the licensing objective, (a) preventing crime and disorder.

- (vii) litter and waste management. The Premises Licence Holders proposed that there should be conditioned a policy on litter and waste. On 25 January 2014, the outside area was not properly monitored at the point the police arrived with a large number of young persons consuming alcohol and the area strewn with glasses and bottles. The bar area was also littered with glasses and bottles. It is therefore appropriate in light of the issues that arose to have a policy by way of condition for the purposes of the licensing objective, (a) preventing crime and disorder.
- (viii) regular inspection of toilet facilities. On 25 January 2014, the toilets were used for the consumption of alcohol by young persons, and some young persons also resorted to the toilets to be sick. There was no regime in place for checking the toilets. It is therefore both necessary and appropriate in light of the issues that arose to have a policy by way of condition for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health.
- (ix) the management of all external areas. On 25 January 2014, the licensed garden area was not properly monitored at the point the police arrived with a large number of young persons consuming alcohol and the area strewn with glasses and bottles. At the end of the function, it was also difficult to disperse those attending due to their drunken condition, unruly behaviour and several incidents of disorder, antisocial behaviour, breaches of the peace and fighting. Such behaviour leads to noise and disturbance immediately out with the premises. There are residential properties in the vicinity of the premises as well as other possible patrons and residents of the hotel. It is therefore appropriate in light of the issues that arose to have a policy by way of condition for the purposes of the licensing objective, (a) preventing crime and disorder.

The Board did not impose policies by way of conditions for the prevention and misuse of drugs on the premises, and for the prevention of possession of offensive weapons as such issues had not arisen, however, for the good management of the premises the Board would encourage the premises licence holders to do so.

The Board imposed Local Condition 2 as it is both necessary and appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. There were a series of serious failures on the part of management and staff on Saturday 25 January 2014. The Board considered it fortunate no young person was hospitalised. The consequences for the young persons present could have been worse. The type of function, a prom/teen ball, was likely to attract a significant number of young persons. The function should have been

managed properly. However, failures resulted including failures in the system to check for proof of age; serving persons under 18; widespread consumption of alcohol by under 18s; service of persons under 18 that were also drunk; and drunk persons who were also under 18 being incapable of taking care of themselves on the premises in full view of the staff. Whilst there has been no repeat of what occurred on 25 January 2014, the Premises Licence Holders have not carried out a detailed assessment of the failures and reasons for the lack of control and put adequate measure in place to address the issues for a future function. The Board considered that similar functions up to but not including the age of 21 should not take place on the premises given they may attract significant numbers of children and young persons and that similar issues could arise. However, the Board did not include christening or weddings as those are different types of events. The Board did not follow the Premises Licence Holder's proposed condition that alcohol will not be sold at any function where the majority of those attending are under the age of 18. Such a condition would still allow such functions to take place, similar issues could still arise, and deciding when the majority of persons attending a function would be under 18 would be difficult to determine.

The Board imposed Local Condition 3 as it is appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. The Premises Licence Holders proposed a condition that during licensed hours there will be a personal licence holder on duty. On 25 January 2014, there was only one personal licence holder on the premises, namely Marek Kreics who was responsible, in part, for the failures in the system to check proof of age. At that time, Ms Kisicka, who does not have a personal licence, was only occasionally on the premises. Mr Kotecha, the then Designated Premises Manager and a personal licence holder, was rarely on the premises. Whilst a new designated premises manager who has a personal licence has since been substituted, to assist in addressing the issues that arose and to assist in the running of the premises, it is appropriate for a personal licence holder to be present at all times during licensed hours for the premises. For the avoidance of doubt, those licensed hours are as set out in the operating plan of the premises licence.

The Board imposed Local Condition 4 as it is both necessary and appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. There were a series of serious failures on the part of management and staff on Saturday 25 January. Those failures were either the direct responsibility of staff or they failed to attend to issues that arose. That included the failures in the system for checking proof of age; widespread consumption of alcohol by young persons on the premises; young persons being allowed to consume alcohol on the premises; drunk persons being served alcohol; drunk persons being on the premises who are incapable of taking care of themselves; and a failure of staff to take action when issues arose. Young persons were also permitted entry unaccompanied by an adult contrary to the terms of the operating plan, 6(b). It is therefore both necessary and appropriate to ensure staff are trained and supervised on an ongoing basis on the terms of the premises licence for the Quality Hotel and the specific aspects of running what is a large premise where different activities may take place in different places in an effort to

make sure issues (or similar issues to) that arose on 25 January 2014 are not repeated.

The Board imposed Local Condition 5 as it is both necessary and appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. It was a function that took place on 25 January 2014. The system for checking the ages of the persons attending the event failed. That contributed to other issues that arose including alcohol being sold to persons under the age of 18; there was widespread consumption of alcohol on the premises by young persons; those young persons were allowed to consume alcohol on the premises; drunk persons were served alcohol; and there were drunk persons on the premises who were incapable of taking care of themselves. At the point of dispersal there was also unruly behaviour, several incidents of disorder, antisocial behaviour, breaches of the peace and fighting. For that function there was only Marek Kreics, a personal licence holder, at the entrance to check for proof of age. A personal licence holder is not a Security Industry Authority registered door supervisor licensed to carry out manned guarding activities including the removal of persons from premises. Recognising that it has conditioned that similar functions shall not take place on the premises; but that issues can arise at any functions particularly those that occur later on; that the Premises Licence Holders have not put detailed measures in place for the running of functions; and that SIA registered door supervisors can help address issues that may arise, the Board considered it both necessary and appropriate that one door supervisor be present from the commencement of the function until 30 minutes after close (thus being able to attend to the dispersal of patrons) for functions that utilise the later function hours. This condition does not apply to functions not using the later function hours. Additional supervision shall be provided appropriate to the function including the type of function and number of persons attending.

The Board imposed Local Condition 6 as it is appropriate to do so for the purposes of the licensing objective, (a) preventing crime and disorder. There were a series of serious failures on 25 January 2015 that led to 12 police officers attending the premises and taking approximately one hour to disperse the patrons from the premises. Advance notification to Police Scotland of prearranged functions will assist communication between the Premises Licence Holders and the police, and assist being able to address issues that may arise with those functions.

The Board imposed Local Condition 7 as it is both necessary and appropriate to do so for the purposes of the licensing objective, (a) preventing crime and disorder. There were a series of serious failures and a lack of control by management and staff on 25 January 2014 at a function. That included an inadequate number of staff being allocated to check for proof of age. There was nothing to indicate the Premises Licence Holders had carried out a detailed assessment of the failures and reasons for lack of control and put in place adequate measures in an effort to ensure there is no repeat. The Board therefore considered it is both necessary and appropriate to impose a condition that a risk assessment is carried out for a prearranged function and a management plan for that function put in place.

The Board imposed Local Condition 8 as it is appropriate to do so for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. There were a series of serious failures and a lack of control by management and staff on 25 January 2014. Whilst the Board recognised that the Premises Licence Holders have a CCTV system in place and that images for 25 January 2014 were made available to Police Scotland, in light of the issues that arose on the premises, it is important that any CCTV system is to the continuing satisfaction of Police Scotland and the Board and that it is constantly maintained with images kept for at least one month and made available to Police Scotland on request.

The Board having varied the premises licence of the Quality Hotel to address issues that arose, a period of time is required to implement and comply with those conditions. In particular written policies will have to be drafted, agreed, staff trained on them and then implemented in relation to local conditions 1 and 4. Work should be carried out to have a risk assessment framework and management plan framework for functions in terms of local condition 7. The Board views the implementation of these conditions as important given the series of serious failures on the part of management and staff on Saturday 25 January 2014. The Board considered it fortunate no young person was hospitalised. The consequences for the young persons present could have been worse. There was nothing to indicate the Premises Licence Holders had carried out a detailed assessment of the failures and reasons for lack of control and put in place adequate measures in an effort to ensure there is no repeat of those issues. Whilst there had been no repeat since 25 January 2014, those issues could still occur without adequate measures being in place. Those issues include the failures in the system for checking proof of age; widespread consumption of alcohol by young persons on the premises; young persons being allowed to consume alcohol on the premises; drunk persons being served alcohol; drunk persons being on the premises who are incapable of taking care of themselves; a failure of staff to take action when issues arose; and a lack of control of the function. The Board therefore considered it necessary and appropriate to suspend the premises licence for the purposes of the licensing objectives, (a) preventing crime and disorder and (d) protecting and improving public health. The Board considered the implementation and compliance of local conditions could reasonably be carried out within 14 days. A shorter period would be inadequate for the implementation and compliance to be carried out whilst a longer period would not be proportionate from the Premises Licence Holder's perspective. Further, the Board considered it appropriate to delay the suspension coming into effect until Tuesday 3 June 2014 at 5pm to enable the Premises Licence Holders to consider their position in relation to a possible appeal.

11. Legal powers used to come to decision

Licensing (Scotland) Act 2005, Section 39(1) and (2)

12. Date statement of reasons issued

20 August 2014

Name Clerk/Representative of Clerk* *(Delete as appropriate)	Date
Print Name Colin Elliott	20 August 2014

