

REPORT TO: DUNDEE CITY LICENSING BOARD

REPORT ON: THE NICHOLSON COMMITTEE

REPORT BY: PRINCIPAL GENERAL SERVICES OFFICER

REPORT NO: 828-2003

The Board welcomes the majority of the recommendations contained within the Nicholson Report, especially those on the enforcement of licence conditions which would allow Boards to take action in the event of problems occurring within licensed premises. It also welcomes the streamlining of some of the administration which will benefit licensees, Board members and members of the public.

The Board had specific concerns regarding the following recommendations:-

Recommendation 24

The Board were of the view that the standard form should include a warning to applicants that it is an offence to attempt to influence a member of a licensing board. Many applicants quite innocently approach members only to be advised of the illegality of their actions and a warning on the form may go some way to reduce the number of such approaches.

Recommendation 27

Some guidance will be required as to what requires to be advertised. Since there will only be a premises licence which could range from a small off-sale to a large nightclub, the public must be given sufficient information in the advert to allow them to decide if they wish to object. Under the present Act with seven different types of licences and terminology such as public house or off-sale, it is quite clear to the public what is being applied for. The proposals make this unclear and therefore some short description from the operating plan should be included in the advertisement.

Recommendation 29

The Board expressed some concerns regarding personal licences since such licences would allow a licensee to operate in any licensing area in Scotland. The Board's concern is simply that a local Board would have no say as to a person's fitness where the personal licence was granted in another area. The Board would have no knowledge as to how the Board in the other area assessed fitness to hold a licence. If the local Board then encountered difficulties with the Licensee it may be difficult to deal with these particularly if the problem was associated with action on the part of the Licensee, which had occurred in the past, had been revealed to the Board which considered the application for the personal licence and notwithstanding which had granted the licence. All areas have their own difficulties and actions/conduct of a Licensee in one area may present considerable difficulty whilst in another area these same actions may be commonplace and acceptable.

It was therefore considered that a Licensee should require to obtain a licence from the Board in the area in which it is intended to operate. This one licence would suffice for any number of premises in the Licensing Board's area and would still be a separate licence from the premises licence.

Recommendation 32

The Board's view is that by prescribing statutory objectors, some organisations or individuals who have a valid interest in premises may not be permitted to object.

The Board's proposal is that either any person be permitted to object or alternatively, a further category, namely, any person or organisation who appears to the Board to have a valid interest in the licence.

Smoking in Licensed Premises

The Board also expressed concerns regarding smoking in licensed premises. The Board's view is that there should be a total ban on smoking in licensed premises. This is consistent with the licensing principle of promoting public health and the protection of children from harm. Whilst this may be achieved by way of a condition attached to the licence under Recommendation 12 it is more appropriate in the Board's view for it to be specifically included in the primary legislation or regulations made thereunder. There is growing public concern regarding the dangers of passive smoking. The Scottish Executive itself is conducting a hard-hitting advertising campaign regarding the effects of passive smoking on children and only recently the thirteen Royal Colleges of Surgeons called for a total ban on smoking in public places. It is the view of the Board that control over smoking should therefore be included in any legislation.

Stuart Galloway

for and on behalf of the
Clerk to the Licensing Board

10th December 2003