

**Special Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Monday 23 December 2013 at 10.00am**

Present:

M Bell	P Campbell
A Duncan	G Smith
A Westlake	

Apologies:

A Cooper
G Robinson
C Smith

In Attendance (Officers):

M Sandison, Director of Infrastructure Services
K Adam, Solicitor/Assistant Clerk to the Board
C.I. A MacInnes
L Gair, Committee Officer

Chairperson

Mr G Smith, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read. The Chair advised that as the Petrofac Representative was present the Board would hear item 3 on the agenda first.

Declarations of Interest

None.

1 Premises Licence Review Hearing – Petrofac Laggan Tormore Accommodation Facility

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 1).

The Assistant Clerk to the Board introduced the report advising that it is a statutory requirement for fees to be paid on time by 1 October. A report was presented to the Board on 15 November at which time the fees had not been paid, but was later paid on 20 November. The Assistant Clerk to the Board confirmed that grounds for the hearing had been established. He advised that Mr Burke, representative for Petrofac Laggan Tormore Accommodation Facility, was present.

The Director of Infrastructure Services advised that the fee was not paid by the 1 October deadline however as payment had now been made it may be appropriate to issue a written warning. The Police advised that they had no comment to make on the licence but said that licensees should be encouraged to conduct their business appropriately.

Mr Burke was invited to address the Board. He advised the Board that he understood the circumstances behind this matter and informed that this was a disciplinary issue and the Finance Manager had been sacked. Mr Burke advised that an action plan was now in place for future payment to be made on time. He informed the Board that one problem they had was that the correspondence had been sent to the local agent rather than the premises licence holder, Compass Group, the fee would have been paid more timely. However he said that as a licence holder, it may be prudent for him to be premises

manager as he lives locally. The Assistant Clerk to the Board confirmed that grounds for the hearing had been established. Mr Burke assured the Board that this would not happen again.

The Chair said that Officers would ensure that future invoices would be sent to the right address.

Mr Duncan moved that the Board issue a written warning on this occasion. Mr Bell seconded.

Decision:

The Board RESOLVED to issue a written warning to the current premises licence holder responsible for the Petrofac Laggan Tormore Accommodation Facility.

2. Premises Licence Review Hearing – Alex Morrison's Shop

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 2). The Board were advised that the representative for Alex Morrison Shop was now present.

The Assistant Clerk to the Board introduced the report and explained that the fee had not been paid by 1 October. He explained that Mr Webb had made contact and explained that the business was being changed from Mr Timberlake to Mr Webb as a new company. At that time the correspondence regarding the late payment of fees was being sent to Mr Timberlake as current licensee but had remained unopened as Mr Timberlake was out of the country. As soon as Mr Webb became aware of the situation the fee was paid in full on 18 November. The Assistant Clerk confirmed that this was a one off situation and all previous fees had been paid on time. However the Assistant Clerk confirmed that grounds for the hearing had been established.

The Director of Infrastructure Services reiterated the circumstances in terms of the unopened mail and the new manager had since taken steps by applying to change the licence into his company name. The Director of Infrastructure Services recommended that a written warning be issued on this occasion. The Police advised that they had no comment to make on the licence but said that licensees should be encouraged to conduct their business appropriately.

Mr Webb was invited to address the Board and explained that as soon as he became aware of the situation he paid the fee immediately as he understood the gravity of the situation. He confirmed that he and his wife were now running the shop and their mail would be opened timeously and fees paid on time. He apologised for the late payment of fees. In response to questions Mr Webb explained that Mr Timberlake had been out of the country for two months.

Mr Campbell said that this was a new phase in this shop with a new person in charge as manager. He moved that the Board issue a written warning in this case. Mr Duncan seconded.

The Board RESOLVED to issue a written warning to the current licence holder of Alex Morrison's Shop

3. Premises Licence Review Hearing – North Bridge Store

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 3).

The Assistant Clerk to the Board introduced the report and explained that correspondence had been sent by recorded delivery and a receipt had been signed for on 16 December. He confirmed however that no representative was present. The Assistant Clerk advised that North Bridge Stores had ceased trading at the end of January 2013 with there being no business retail activity carried out of these premises. Since then, he confirmed that no fee had been paid, no licence had been surrendered and no communication had been received from the premises licence holder and grounds had therefore been established in bringing this matter to the Board.

The Director of Infrastructure Services explained that the fee was still outstanding and the licence holder was still in breach of the licensing conditions. She recommended to the Board that the licence be revoked as the premises had now closed. The Police had no comment.

In response to questions, the Director of Infrastructure Services said that there is an option for the licence holder to surrender the licence and update the operating plan but the whole premises licence was now out of date. She also advised that if the licence were revoked the debt would no longer exist therefore would not be pursued.

A Member said that it was important to emphasise as a licensing Board how disappointed Members are in terms of there being no response to correspondence sent. Ms Westlake moved that the Board revoke the premises licence on this occasion. Mr Duncan seconded.

Decision:

The Board RESOLVED to revoke the North Bridge Stores Premises Licence.

4. Premises Licence Review Hearing – Pierhead Restaurant & Bar

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 4).

The Assistant Clerk to the Board introduced the report and advised that no representative was present for the Pierhead Restaurant and Bar. He advised that following further communication the Personal Licence Holder had made payment in full, ten days ago. He advised that he understood that the business partners may be going through a breakup but he had no further information on that.

The Director of Infrastructure Services confirmed that there had been a breach of conditions as the fee had not been paid on 1 October. She advised that there had been issues between the Premises Licence Holder and the Personal Licence Holder but she had no other concerns regarding the licences held for this establishment. She said that as payment had now been made she recommended that the Pierhead Restaurant and Bar. The Police advised that they had no comment to make on the licence but said that he would encourage licence holders to conduct their business appropriately. He expressed his disappointment that no one was present to address the Board.

Members also expressed their disappointment that no representative had attended to explain the situation. Director of Infrastructure Services confirmed that payment had been made but that the licence was held by someone else and not the premises manager. This meant that correspondence was not sent to the premises manager, who understands the importance of paying the fees on time. She advised that staff would meet with the Pierhead Premises Manager in order to avoid this happening again.

Mr Bell moved that the Board issue a written warning to the Pierhead Restaurant and Bar.

It was agreed that in future letters to Premises Manager advising that a hearing is being held should stress that it is a requirement of the Board that they attend the Hearing. Failure to attend the hearing will be taken into the Board's decision.

It was also noted that meetings would be scheduled soon after 1 October in order that any non payment of fees can be brought to the Board more timeously.

Members recognised that there had only been 4 non payments of fees out of 140 existing licences. However the Board agreed that it was important for licensees to understand how seriously the Board takes the matter of non payment of fees and that any failure would give the Board concern on their suitability to hold a licence and would make them question their ability to adhere to other conditions.

Decision:

The Board RESOLVED to issue a written warning to the premises licence holders of the Pierhead Restaurant and Bar

5. Gambling Act 2005 – New Three Year Policy Statement – 2013-2016

The Board considered a report by the Depute Clerk to the Licensing Board (Appendix 5).

The Director of Infrastructure Services introduced the report and advised that although this policy statement is not used much there is an obligation for the Board to set out any licensable activities. She referred to appendix 1 and advised that the consultation period of 12 weeks, if agreed by the Board, would be amended to commence from today's date.

In response to a question, the Director of Infrastructure Services said that as this was Westminster legislation, to be applied UK wide, she would have to look into whether the list of consultees could include MSP's.

The Director of Infrastructure Services also responded to a question on whether inspections are carried out to ensure that premises are adhering to the number and placement of gaming machines. She explained that Officers received training on the act and has carried out inspections with no issues being identified. However the Director of Infrastructure Services explained that as there are now fewer inspections taking place it was not possible to attend all premises.

The Director of Infrastructure Services confirmed that the Adult Protection Committee would be added as a consultee acknowledging that the Government see financial harm as a key issue.

In moving the recommendations contained in the report, the Chair advised that following consultation the policy statement would be brought back for consideration, Ms Westlake seconded.

Decision:

The Board RESOLVED to approve the terms of the draft Gambling Policy Statement subject to any comments and direction required, and instructed the Depute Clerk to the Licensing Board to publish it for consultation with a closing date of 17 February 2014.

The meeting concluded at 10.45am.

Convener