

Shetland Area Licensing Board**9 October 2014****Licensing (Scotland) Act 2005 - Variation of Certain Fees****1. Introduction**

- 1.1 The purpose of this report is to ask the Board to increase the fees for certain applications in respect of licensed premises.
- 1.2 The Licensing (Fees) (Scotland) Regulations 2007 (“the Regulations”) made under the Licensing (Scotland) Act 2005 (“the Act”) provide a system of fees payable to licensing boards in respect of applications made under the Act. The fees set down in the Regulations are intended to reflect the Scottish Government’s intention that the licensing system is self-funding and the payment of an annual fee is intended to ensure that the system is sufficiently resourced.
- 1.3 For each of the licensing years from 2009 the income of the Shetland Islands Area Licensing Board has been insufficient to cover its costs and outlays. An increase in fees for certain applications will assist in the reduction of the deficit, but it is unlikely to have a significant effect.

2. Background

- 2.1 The administration of the work of the Board is provided by staff of Governance and Law and the Business Support Unit of Shetland Islands Council, for which the Board pays the Council through a system of recharges. The Council staff who may be called on to undertake duties for the Board include the deputy clerk and two assistant clerks (each of whom is a solicitor) and three administrative officers; at any one time at least one solicitor and one administrative officer is undertaking Board duties, which occupy a large part of the available time.
- 2.2 For the years since the implementation of the Act and its system of fees, the income and the costs/outlays are set out in the table in Appendix 1.
- 2.3 Boards have the authority to set fees up to the maximum permitted under the Regulations for premises licences and annual fees. This Board charges the maximum amount permissible under the Regulations.
- 2.4 The fees chargeable for minor variations and certain other applications are set by the Scottish Ministers and specified in the Regulations. These apply throughout Scotland and are only variable by the Ministers.
- 2.5 Each of the 33 Licensing Boards in Scotland has the power to determine the fees chargeable for seven types of application. The Board set the fees for these seven activities on 21 January 2008. These have remained unchanged since 2008 and are set out in the table in Appendix 2.
- 2.6 Applications of the type set out in paragraph 2.5 form a small part of the business and administration of the Board. The numbers of applications per year are set out in the table in Appendix 3.
- 2.7 The Board has a duty in terms of regulation 13 of the Regulations to have regard to the desirability of ensuring that the total fees payable to the Board in respect of any period are likely to be broadly equivalent to the expenses incurred by the

Board, and the council for the area of that Board, in administering the Act. The existence of an operating loss is inconsistent with that duty.

- 2.8 The fees charged by the Shetland Area Licensing Board are amongst the lowest in Scotland for the seven types of application detailed in Appendix 2. Comparative figures are given in the tables in Appendix 4, where it can be seen that in most cases, the fees chargeable in Shetland are the lowest in Scotland

3. Potential Impact of Change of the Board's Policy

- 3.1 The annual number of applications to which attract the fees which may be varied by the Board is small when compared to the total number of transactions administered by the staff of the Board. The fees are chargeable only on the transfer of the licence and as such are open to be included as an expense on the transferee. It is open to the licence holder to explore setting these against tax as a business expense.

4. Summary

- 4.1 The work of the Board costs more to administer than the current income.
- 4.2 The Board has a duty under the Regulations to ensure that the total fees payable to the Board are likely to be broadly equivalent to the expenses incurred.
- 4.3 The Board has the power to increase some of the fees chargeable.
- 4.4 An increase in fees would assist the Board to reduce the operating deficit.

5. Recommendation

- 5.1 I recommend that:

- (i) the Board notes the fees chargeable for the activities specified in Appendix 2 and compares these with the fees charged by other Boards as set out in Appendix 4.
- (ii) the Board doubles each of the fees specified in Appendix 2.

Depute Clerk to the Board

30 September 2014

Appendix 1 – Income and Operating Costs/Outlays

		2008/09	2009/10	2010/11	2011/12	2012/13	2013/14	2014/15 *
<u>Income</u>		£70,720	£34,514.39	£54,863.93	£39,435.22	£41,379	£47,454.65	£17,326.42*
<u>Costs/Outlays</u>	Administration, Salaries, Staff Time	£64,469.99	£88,449.35	£88,857.00	£54,831.25	£52,942.74	£50,516.70	~*
	Stationery	£8.64	£1057.95	£25.92	£44.85	£118.04	£123.85	~*
	Other	£143.20	£309	£152.04	£99	£467.92	£560	£163.19
	Total	£64,621.83	£89,816.30	£89,034.96	£54,975.10	£53,528.70	£51,200	~*
Balance (Deficit)		£6,098.17	(£55,301.91)	(£34,171.03)	(£15,539.88)	(£12,149.70)	(£3745.90)	~*

* The figures for 2014/15 are correct to 21 August 2014. The income for the current year is not yet ascertained, since the majority of fees due for 2014/15 will be received in September 2014. In addition, recharges are only applied at the end of each financial year (April-March).)

Appendix 2 – Current fees

Application type	Fee
Transfer on application of licence holder	£50
Transfer on application of licence holder, which does not include an application for variation	£75
Transfer on application of person other than licence holder	£50
Transfer on application of person other than licence holder, which does not include an application for variation	£75
Temporary premises licence	£75
Replacement personal licence	£10
Variation of licence other than a minor variation	£50

Appendix 3 – Number of Application

Application type	Number of Applications						
	2009/10	2010/11	2011/12	2012/13	2014/14	2014/15	Total
Transfer of licence, which includes an application for a variation	0	2	1	0	2	1	6
Transfer which does not include an application for variation	0	2	0	1	2	0	5
Variation of licence other than a minor variation	2	13	4	1	0	5	25

The number of replacement licences issued is relatively small and is not separately recorded. No temporary licences have been applied for.

Appendix 4 – Fees charged by Licensing Boards throughout Scotland (Sorted Lowest – highest)

Table A – Fee for Variation, other than a minor variation:

Licensing Board	Fee
<u>Shetland</u>	<u>£50</u>
Orkney Islands	£100
West Lothian	£100
East Ayrshire	£125
East Dunbartonshire	£130
Edinburgh City	£130
East Renfrewshire	£135
Aberdeen City	£150
Clackmannanshire	£150
East Lothian	£150
Dundee City	£160
Falkirk	£160
Fife	£160
Glasgow City	£160
North Lanarkshire	£160
Renfrewshire	£175
Aberdeenshire	£180
Angus	£184
Inverclyde	£200
South Ayrshire	£200
Stirling	£200
West Dunbartonshire	£200
Scottish Borders	£210
Dumfries & Galloway	£100 (Fee Cat 1) £400 (Fee Cat 2) £550 (Fee Cat 3) £650 (Fee Cat 4) £850 (Fee Cat 5) £1,000 (Fee Cat 6)
North Ayrshire	£180 (Fee Cat 1) £220 (Fee Cat 2) £280 (Fee Cat 3) £500 (Fee Cat 4) £700 (Fee Cat 5) £900 (Fee Cat 6)
Moray	£350 (Fee Cat 1-3) £500 (Fee Cat 4-6)
Perth & Kinross	£50 (Fee Cat 1) £200 (Fee Cat 2) £275 (Fee Cat 3) £325 (Fee Cat 4) £425 (Fee Cat 5) £500 (Fee Cat 6)
Highland	£72 (Fee Cat 1) £288 (Fee Cat 2) £396 (Fee Cat 3) £469 (Fee Cat 4) £613 (Fee Cat 5) £721 (Fee Cat 6)
Argyll & Bute	Unable to find on website
Western Isles	Unable to find on website
Midlothian	Unable to find on website
South Lanarkshire	Unable to find on website

Table B – Fee for a Transfer of Licence

Licensing Board	Fee
West Lothian	£25
Falkirk	£35
Fife	£35
Glasgow City	£35
East Lothian	£37.50
Angus	£40
Dumfries & Galloway	£40
East Dunbartonshire	£40
Edinburgh City	£40
North Lanarkshire	£41
Aberdeen City	£45
East Renfrewshire	£45
<u>Shetland</u>	£50
Perth & Kinross	£50
Scottish Borders	£53
West Dunbartonshire	£60
Dundee City	£100
Clackmannanshire	£120
South Ayrshire	£120
Stirling	£120
Orkney Islands	£150
Inverclyde	£165
Aberdeenshire	£180
Highland	£275
East Ayrshire	£50 (app by licence holder) £60 (app by person other than licence holder)
North Ayrshire	£50 (app by licence holder) £60 (app by person other than licence holder)
Renfrewshire	£50 (app by licence holder) £60 (app by person other than licence holder)
Moray	<u>App by Licence holder</u> £125 (Fee Cat 1-3) £200 (Fee Cat 4-6)
	<u>App by Person Other than Licence holder</u> £200 (Fee Cat 1-3) £275 (Fee Cat 4-6)
Argyll & Bute	Unable to find on website
Western Isles	Unable to find on website
Midlothian	Unable to find on website
South Lanarkshire	Unable to find on website

Table C – Fee for a Transfer of Licence together with a variation

Licensing Board	Fee					
Shetland	£75					
East Dunbartonshire	£130					
Edinburgh City	£130					
Clackmannanshire	£150					
East Lothian	£170					
Renfrewshire	£175					
Dumfries & Galloway	£190					
Aberdeen City	£195					
Orkney Islands	£200					
Aberdeenshire	£200					
Inverclyde	£330					
North Ayrshire	£100 (app by licence holder) £120 (app by person other than licence holder)					
Dundee City	£120 (inc minor variation) £260 (inc major variation)					
East Ayrshire	£125 (app by licence holder) £150 (app by person other than licence holder)					
South Ayrshire	£151 (inc minor variation) £250 (inc major variation)					
Stirling	£151 (inc minor variation) £250 (inc major variation)					
Scottish Borders	£210 (inc variation)					
Highland	£347 (Fee Cat 1) £563 (Fee Cat 2) £671 (Fee Cat 3) £744 (Fee Cat 4) £888 (Fee Cat 5) £996 (Fee Cat 6)					
Fife	£50 (inc minor variation) £175 (inc major variation)					
East Renfrewshire	£50 (inc minor variation) £150 (inc major variation)					
Falkirk	£55 (inc minor variation) £195 (inc major variation)					
Glasgow City	£55 (inc minor variation) £195 (inc major variation)					
West Lothian	£56 (inc Premises Manager)					
Perth & Kinross	£60 (inc minor variation) £75 (inc major variation Fee Cat1) £225 (inc major variation Fee Cat 2) £300 (inc major variation Fee Cat3) £350 (inc major variation Fee Cat 4) £450 (inc major variation Fee Cat 5) £525 (inc major variation Fee Cat 6)					
Angus	£63 (inc minor variation) £225 (inc major variation)					
North Lanarkshire	£66 (inc minor variation) £192 (inc major variation)					
West Dunbartonshire	£80 (inc minor variation) £200 (inc major variation)					
Moray	App by Licence holder £145 (inc minor variation Fee Cat 1-3) £220 (inc minor variation Fee Cat 4-6) £375 (inc major variation Fee Cat 1-3) £600 (inc major variation Fee Cat 4-6)					
	App by Person Other than Licence holder £220 (inc minor variation Fee Cat 1-3) £295 (inc minor variation Fee Cat 4-6) £450 (inc major variation Fee Cat 1-3) £675 (inc major variation Fee Cat 4-6)					
Argyll & Bute	Unable to find on website					
Western Isles	Unable to find on website					
Midlothian	Unable to find on website					
South Lanarkshire	Unable to find on website					

Table D – Fee for replacement Licence

Licensing Board	Fee	
<u>Shetland</u>	<u>£10</u>	
Dundee City	£20	
South Ayrshire	£20	
Angus	£24	
Edinburgh City	£25	
North Ayrshire	£25	
West Dunbartonshire	£25	
Perth & Kinross	£10 - Personal Licence	
Highland	£10 - Personal Licence	£22 - Premises Licence
North Lanarkshire	£10 - Personal Licence	£30 - Premises Licence
East Dunbartonshire	£15 - Personal Licence	
East Ayrshire	£20 - Personal Licence	
Glasgow City	£20 - Personal Licence	
Orkney Islands	£20 - Personal Licence	
Fife	£20 - Personal Licence (including change of address)	
Falkirk	£25 - Personal Licence	
Aberdeen City	£25 - Personal Licence	
Renfrewshire	£25 - Personal Licence	£30 - Premises Licence
West Lothian	£25 - Personal Licence	£35 - Premises Licence
Moray	£25 - Personal Licence	£40 - Premises Licence
Inverclyde	£35 - Personal Licence	
East Lothian	£37.50 - Premises Licence	£25 - Personal Licence
Clackmannanshire	Unable to find on website	
Dumfries & Galloway	Unable to find on website	
Aberdeenshire	Unable to find on website	
Stirling	Unable to find on website	
Scottish Borders	Unable to find on website	
East Renfrewshire	Unable to find on website	
Argyll & Bute	Unable to find on website	
Western Isles	Unable to find on website	
Midlothian	Unable to find on website	
South Lanarkshire	Unable to find on website	

Table E – Fee for Temporary Premises Licence

Licensing Board	Fee
North Lanarkshire	£32
<u>Shetland</u>	£75
Dundee City	£100
East Dunbartonshire	£130
Edinburgh City	£130
Aberdeen City	£150
Perth & Kinross	£150
East Ayrshire	£160
Renfrewshire	£175
West Dunbartonshire	£175
Aberdeenshire	£200
Fife	£200
Glasgow City	£200
Moray	£200
South Ayrshire	£200
Angus	£223
Highland	£250
Orkney Islands	£800
Inverclyde	35% of Premises Licence fee
North Ayrshire	60% of Premises Licence fee
Clackmannanshire	Unable to find on website
Dumfries & Galloway	Unable to find on website
East Lothian	Unable to find on website
East Renfrewshire	Unable to find on website
Falkirk	Unable to find on website
Scottish Borders	Unable to find on website
Stirling	Unable to find on website
West Lothian	Unable to find on website
Argyll & Bute	Unable to find on website
Western Isles	Unable to find on website
Midlothian	Unable to find on website
South Lanarkshire	Unable to find on website

**Shetland Area Licensing Board
9 October 2014**

Recommendation from Shetland Islands Local Licensing Forum

1. Introduction

- 1.1 The purpose of this report is to draw to the attention of the Board a recommendation from the Shetland Islands Local Licensing Forum (“the Forum”).
- 1.2 The Licensing (Scotland) Act 2014 (“the Act”) provides for a Local Licensing Forum for each Licensing Board area with the purpose, *inter alia*, of giving such advice and making such recommendations to the Board in relation to such matters as the Forum considers appropriate.

2. Background

- 2.1 On 27 June 2014 the Forum discussed reports of anti-social conduct of a large number of apparently drunken members of the public in Lerwick on 26 June 2014. This conduct received coverage in the local news media at the time concern was expressed by Lerwick residents.
- 2.2 The minute of the Forum meeting is attached as the Appendix hereto and the Board is invited to consider the final paragraph of item 3, namely:

“The forum agreed that letters should be sent to all premises managers to remind staff not to sell alcohol to customers who are too drunk and to remind people not to take their drinks outside in Lerwick. This letter would be sent by the Licensing Board in conjunction with the Forum and the Police.”

The Chairman of the Forum has written that this be presented to the Board as a recommendation.

- 2.3 In accordance with section 12(1) of the Act a Licensing Board must, in exercising its function, have regard to any advice given or any recommendation made, to them in relation to the function by a Local Licensing Forum, and where the Board decides not to follow the advice or recommendation, give the Forum reasons for the decision.

3. Summary

- 3.1 The Forum has considered, and recommends, that the Board write to premises managers in accordance with the minute set out at paragraph 2.2 hereof.
- 3.2 The Board may accede to the recommendation.
- 3.3 If the Board decides not to follow the Forum’s recommendation, it should inform the Forum of the reason for not doing so.

4. Recommendation

- 4.1 I recommend that:
- (a) the Board consider the recommendation of the Forum to write to premises managers in accordance with paragraph 2.2 above; and
 - (b) (i) follow the recommendation; or

(ii) decline to follow the recommendation and give reasons that will be given to the Forum.

Depute Clerk to the Board

30 September 2014

Shetland Islands Area Local Licensing Forum
Friday 27th June 2014 – Council Chambers – Town Hall

Present:

Michael Johnston – Chairman
Dawn Manson - SIC – Infrastructure Services
Patti Dinsdale - SIC – Infrastructure Services
Susan Brunton – SIC – Legal Services
Debbie Leask - Licensee
Councillor George Smith
Jurgen Kurtz – CADSS
Amanda Souter- Police Scotland

In Attendance:

Paula Nicolson - SIC – Infrastructure Services (Note taker)

Apologies:

Marjory Barrie – Brudolph Hotels
Councillor Robert Henderson
Councillor Malcolm Bell
Dr Sarah Taylor – NHS Shetland
George Hepburn – J W Grays
Mark Loynd – Fire Scotland

1. Welcome and Introductions

Michael welcomed everyone to the meeting and asked everyone to introduce themselves.

The apologies were noted

2. Pub Watch Campaign

Michael explained the details of the pub watch campaign. It was set up in conjunction with the Police, any customers causing problems could be barred from all premises.

There were currently four people banned from premises for one year and one person had received a warning letter. Pubwatch currently only applied to Lerwick premises but it was hoped to roll it out throughout Shetland.

Amanda also provided a breakdown on incidents from public houses in Lerwick since 1st January and she agreed to supply these figures at every meeting

ACTION: AS

George asked Debbie how she felt the 3am licensing was going, she replied that she felt it was much better at closing time as most of patrons left in dribs and drabs to go and get something to eat and for her business and staff she felt it was easier to get everyone out at the end of the night and the dispersal was much better. Debbie was concerned if they went back to 2am closing as this would cause people to stay on with the food outlets only closing at 3am

Michael explained that he felt the 3am license was much better for premises and the dispersal at the end of the night would be easier to handle as everyone would not be coming out at the same time. Amanda confirmed that the Police had not had to deal with so many incidents as people weren't hanging around as much. Everyone agreed that the 3am licence was the right decision for food outlets and public houses

3. 3 Years Licensing Policy Statement

Overprovision

A list of current licensed premises was circulated at the meeting; this was broken down by area and by head of population, which included children and the elderly. The forum discussed premises in each area in Shetland, it was agreed that some of these weren't used regularly i.e. rural halls, it was felt at the meeting that it would be better to leave provision as it is at present with the current influx of workers and monitor the situation.

It was felt it would be good to know NHS A&E admission figures for the weekends and how many new licence applications there had been in the past three years. Susan was able to confirm at the meeting that there had not been very many new applications.

It was agreed to look at hot spot areas at each meeting. Amanda would provide details of these for the next meeting. **ACTION: AS**

The forum agreed that letters should be sent to all premises managers to remind staff not to sell alcohol to customers who are too drunk and to remind people not to take their drinks outside in Lerwick. This letter would be sent by the Licensing Board in conjunction with the Forum and the Police, Michael /Dawn were to e-mail Susan. **ACTION: MJ/DM**

4. Renewal of Personal Licence Holder Training

Retraining:

Personal Licence holders (PLH) were to have refresher training every five years, Michael was working through the training which needed to be completed by 31st August. The PLH then had three months to show their certificates to the board. 235 reminders had been sent out and 119 were now completed, some people may no longer want to renew their PLH licence. Michael had already sent a list to Avril with anyone who no longer wanted their licence renewed. The Board was to write to premises managers as some of them hadn't renewed their licences as yet, Susan was to send as list to Dawn and Patti with PLH premises managers names so that they could contact them. **ACTION: PHD/DM**

5. AOCB

At the last meeting licensing costs were discussed. Susan explained that the Licensing Board is required to be self funded but due to the quantity of premises this is not the case in Shetland.

Date of Next Meeting

The date of the next meeting would be In August in conjunction with a Licensing Board Meeting. If anyone wanted anything added to the next agenda they were to email Dawn