

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Wednesday 7 November 2018 at 10 a.m.**

Present:

C Hughson S Leask
I Scott C Smith
G Smith B Wishart

Apologies:

M Bell A Cooper

In Attendance (Officers):

K Adam, Solicitor
D Manson, Licensing Standards Officer
CI Tulloch, Police Scotland
J Belford, Solicitor
M Hodgson, Solicitor
L Malcolmson, Committee Officer

Chairperson

Mr I Scott, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read.

Declarations of Interest

None

1 Christmas and New Year Licensing Hours 2018/19

The Board considered a report by the Depute Clerk to the Board that presented the Christmas and New Year Licensing Hours for 2018/19.

The Solicitor introduced the report advising that the dates are presented each year for the Board's consideration. He said that the report set out the benefits of standardising the general extension process. Members were informed that the the Board had approved the general extensions through this process for a number of years.

(Mr G Smith attended the meeting)

The Police advised that Police Scotland had identified no issues from this report and that the proposals were the same as in previous years.

Mr C Smith commented that there was a lot of attention in the media around excessive drinking in town but he believed that there was a bigger problem whereby people were drinking at home before going out. Mr Smith said that it was important to be consistent and moved that the Board approve the recommendations contained in the report. Mr G Smith seconded.

Decision:

The Board approved a general extension to licensing hours covering the Christmas and New Year period in 2018/19; and

Approved a general extension, to resolve to permit –

(a) all licensed on-sales premises to remain open daily until 02:00 during the period from Saturday 22 December 2018 until Sunday 6 January 2019, both dates inclusive, and

(b) all licensed nightclub premises that are already permitted to remain open on a specified day or days of the week until 03:00, to remain open daily until 03:00 during the same period.

2 Annual Functions Report

The Board considered a report by the Depute Clerk to the Board that presented an Annual Functions Report for consideration of publication.

The Solicitor introduced the report and advised that the Act was amended in December 2017 and there was a duty on the Board to produce a functions report for publication on its website.

During discussion a request was made that future reports include the types of occasional licenses granted and how many had been granted, the Solicitor agreed to take that forward for future reports.

In responding to a question on the reasons for Personal Licenses being revoked, the Solicitor advised that there were a number of Personal Licenses that had lapsed as individuals had not undertaken the necessary training and that could be for a number of reasons that are personal to the individuals involved.

Mr G Smith moved that the Board approve the recommendations contained in the report. Mrs Hughson seconded.

Decision:

The Board APPROVED the draft Annual Functions Report and instructed the Clerk to publish it on the Board's website.

3 Gambling Act 2005: New Three Year Policy Statement – 2019/2022

The Depute Clerk to the Board presented a report inviting the Board to initiate a review of the Policy Statement under the Gambling Act and to carry out a public consultation to identify any areas of concern.

The Solicitor introduced the report and explained the extent of the gambling activity in Shetland that would be covered under the Act. He indicated therefore that the full 12 week consultation period was not considered necessary. The intention would be to conclude the consultation by the end of the year with a report presented to the Board for approval at the January 2019 meeting.

In response to a question on the need for consultation, the Solicitor advised that there had been concerns regarding the types of gambling machines available and the consultees would include the Police and Health Board as well as the public and other interested bodies. He said that a list of consultees would be available on the Board's website.

Comment was made on the Government's move to bring a reduction in the number of machines and the level of stakes that can be made and it was acknowledged by the Board that overprovision of gambling outlets was an issue for other town centres in Scotland. A change by the Government was therefore welcomed.

Mr C Smith moved that the Board approve the recommendation in the report. Mr G Smith Seconded.

Decision:

The Board APPROVED the opening of consultation on the Gambling Act Policy Statement with a closing date of 31 December 2018.

4 **Breach of Licensing Conditions**

The Board considered a report by the Depute Clerk to the Board that presented information on a breach of licensing conditions in regard to the Spiggie Hotel.

The Solicitor introduced the report and drew attention to the appendix that was incorrectly attached and apologised for any confusion caused.

During introduction of the report the Solicitor drew attention to section 3 of the report and advised that the premises license holder, namely "Enjoy the Fruits Limited" was in breach of licensing conditions. He advised that the last instalment for 2017/18 annual premises license fee remained unpaid and the premises licence holder has not applied for a change of premises manager but continue to sell alcohol. The Board was therefore asked to consider whether they wished to proceed with a review premises license for the Spiggie Hotel.

The Solicitor further advised that in the absence of any notification of change of premises license holder, Mr Massie, the former owner remained on record as the premises license holder. He advised that contact had been made with Mr Massie to establish that that he is no longer the premises licence holder and has not been retained as such, by the new owner.

In considering the report the Board sought clarification on the efforts made to inform the current premises licence holder of their obligations under the Licensing Scotland Act 2005. The Solicitor provided clarity and advised on the correspondence sent to the premises licence holder. The Board acknowledged that the premises licence holder was a company located in England where the licensing laws were different. A suggestion was made that the Licensing Standards Officer make a visit to the on-site manager of the Hotel to advise of the current situation and the companies obligations in terms of the fee, the change of premises manager, and the need for a personal license holder to serve alcohol. It was agreed that the Licensing Standards officer should stress severely that these matters must be addressed before the date of the next meeting, at which time a review of the premises license will be held.

It was further stated that ignorance is not a defence and adherence to the law is essential.

Mr C Smith moved therefore that the Board authorise officer to visit the Hotel Manager in the terms described above, and a review of the premises licence will be held at the next meeting of the Board. Mr Leask seconded.

Decision:

The Board authorised the Licensing Standards Officer to make a visit to the current hotel manager to advise of the current situation and the companies obligations in terms of the fee, the change of premises manager, and the need for a personal license holder to serve alcohol; and

Agreed that a review of the Premise Licence be held at the next meeting of the Board.

The meeting concluded at 10.35 am.

Convener