

RECORD OF DECISIONS

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Monday 14 September 2009 at 10a.m.**

Present:

C L Smith J Budge
A T J Cooper J H Henry
G Robinson

Apologies:

A J Cluness
A J Hughson
J G Simpson

In attendance:

B C Hill, Depute Clerk to the Board
M Dunne, Service Manager – Environmental Health
H Lisk, Licensing Standards Officer
Insp. MacKillop Northern Constabulary
L Gair, Committee Officer

Declarations of Interests

None.

Report by the Clerk to the Board Detailing Applications Under the Licensing (Scotland) Act 2005 for Premises Licences

The Board considered the applications detailed in the list prepared by the Clerk to the Board as shown in Appendix 1.

Application	Decision
1(a)	Granted

2. Licensing (Scotland) Act 2005 – Implementation Update

The Board considered a report by the Depute Clerk to the Board, attached as Appendix 2.

The Depute Clerk introduced the report and in response to a query from Mr A T J Cooper, he advised that at paragraph 2.1e “Northern Constabulary” would be expanded to add the “Licensing Standards Officer” where no adverse comments are received. The Chairperson advised that the document would be updated with “Licensing Standards Officer” where appropriate.

The Depute Clerk confirmed to Mr J H Henry that fees would be paid annually.

Mr A T J Cooper said that he had no concerns with delegated authority being granted for when no adverse comments had been made on applications for extended hours to 2am. The Service Manager – Environmental Health confirmed that extended hours for the generality of establishments would be 2am and 3am for nightclubs. The Depute Clerk advised that the core hours would generally be 1am and 2am for nightclubs. He said that the extended hours would be for special events either of national or local significance. He added that the previous policy was favourable to 2am.

The Chairperson said that the policy should be left at 1am.

The Depute Clerk confirmed that special conditions would only apply to premises which are regularly late opening premises but would not apply to occasionally extended hours. The Service Manager- Environmental Health said that the Board may wish to apply its own conditions locally. She referred to seasonal events such as Up Helly Aa and Christmas which may be set locally.

Mr G Robinson said that he was concerned that extensions had been granted to premises during the folk festival and fiddle and accordion festival. He said that if extensions were granted to pubs there might be a stampede across town to pubs that cannot cope. He said that some premises could become so packed that you can't get in and the Board noted that it had a duty to the premises holders.

During further discussions, Inspector MacKillop said that each event should be considered on a case-by-case basis, but said that 1am was permissible. Mr J Budge referred to the last sentence in paragraph 2.3 and said that local or national significance was what the consideration should be based upon. The Service Manager – Environmental Services said that under the 1976 Act that definition had been stretched and she said that the Board could use its powers to manage seasonal events such as Christmas rather than receiving many different variations within applications.

Mr A T J Cooper said that following further consideration the delegated authority was too wide and moved that should an application for extended hours be made for later than 1am, it should be presented to the Board to allow a degree of scrutiny. Mr G Robinson seconded.

Mr B C Hill advised that applications for an occasional licence from voluntary organisations are required, under the Act, to be granted for special events if there are no objections/adverse comments. Mr Cooper said that they should apply in time for the Board to consider it.

The Chairperson referred to paragraph 2.4 and the Board discussed the opening hours over Christmas and New Year. Mr G Robinson said that in the past, applications sought to extend Christmas to 3 weeks, therefore he moved that the Board approve that the terminal hour on 22 and 23 December 2009 be 2am and 1am on 24 December 2009. He said that the New Year terminal hour on 29 and 30 December 2009 would be 2am and 1am on 31 December 2009. Mr C L Smith seconded.

Members spoke in support of the decision and the Service Manager – Environmental Health added that the principle behind the decision was public health and community safety.

The Board discussed the various Up Helly Aa events and Mr A T J Cooper said that if a license did not cover the period of the event, there would be drinking on an unregulated basis. He said that Brae had recognised the problem and brought the event forward so that it could finish sooner. He said that Brae had acted responsibly. He said there needed to be dialogue with the Hall Committees and that should progress before Christmas. He said that there needed to be give and take on both sides. The Service Manager – Environmental Health advised that if alcohol is consumed on a licensed premises outwith the license hours, there is a breach of that licence.

Mr C L Smith said that Lerwick Up Helly Aa should be considered separately as there were only one or two licensed premises involved. The Service Manager – Environmental Health said that the intention was that she and the Licensing Standards Officer would liaise with Up Helly Aa Committees and advise them on how the legislation would affect them.

During further consideration, the Board agreed that the matter had to be formalised and that the consultation with Committees should include the Chairperson and the relevant Board Member for the area.

The Board considered the level of fees set and Mr A T J Cooper queried whether this should be revisited to establish to what extent the fees have been a disincentive to businesses. The Depute Clerk advised that a few businesses had dropped out of the system, but over 135 took forward their licence. He said that he would bring these figures to a future meeting. The Service Manager – Environmental Health advised that some businesses had been asked why they did not want to continue with their license, and some had felt that they sold so little alcohol, they did not want to pay the fee and others felt that even if the cost was lower, the extra responsibility was not worth it.

The Chairperson queried whether licensees were aware that they had to pay an extra fee, the Licensing Standards Officer advised that many were not aware, but that was being addressed.

In response to a comment from Mr A T J Cooper, the Service Manager – Environmental Health said that she did not feel that there would be a problem with the yearly payment as it was possible to pay it over 12 months. The Chairperson suggested that Maureen Stewart be contacted to ensure that the information is reaching everyone. He added that if there was an unfavourable response to this, a further meeting of the Board could be held.

The meeting concluded at 10.40am.

Convener