

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Thursday 27 September 2016 at 10am**

Present:

P Campbell A Cooper
A Duncan G Smith
A Westlake

Apologies:

M Bell G Robinson
C Smith

In Attendance (Officers):

K Adam, Solicitor
P Dinsdale, Licensing Standards Officer
A Manson, Business Support Assistant
L Gair, Committee Officer

Chairperson

Mr G Smith, Convener to the Board, presided.

Circular

The circular calling the meeting was held as read. Members were advised that item 3 had been replaced with a new report.

Declarations of Interest

None.

1. Occasional Licences

The Board considered a report by the Depute Clerk to the Licensing Board, which provided information regarding the occasional licences applied for, and issued under the delegated authority by the Clerk to the Licensing Board. It also provided an opportunity for the Board to consider whether any issues arise from this information which the Board wishes to have taken into account in the re-drafting of the Licensing Policy which is the subject of a separate report.

The Solicitor introduced the report and at the request of a Member, the Chair agreed that Members would be provided with an emailed briefing note providing comparative figures for the total number of applications approved during the 8 years since the 2005 Act was brought in, but suggested this was information that could be contained in the annual report.

The Chair referred to applications that had been received that were more seasonal in nature and suggested that after the first application, where conditions have not been applied, it may be appropriate for future application to be delegated to two Members of the Board, removing the need for meetings being called. Following some consideration, the Board unanimously agreed that first time occasional licence applications should come to the board where they exceed hours or if objections are received, but subsequent applications of a similar nature with no objections will be delegated to two members of the Board.

Decision

The Board considered and noted the information provided and

- confirmed the requirement to continue to receive annual submissions from the Clerk regarding the number and type of occasional licences granted under delegated authority, including comparisons from previous years; and
- agreed that the Policy be amended so that first time occasional licence applications come to the board where they exceed hours or if objections are received, but subsequent applications of a similar nature with no complaints will be delegated to two members of the Board.

2. Report regarding Premises Licence for the Pierhead Restaurant and Bar

The Board considered a report by the Depute Clerk to the Licensing Board, which concerned the terms of the Premises Licence for the Pierhead Restaurant and Bar.

The Solicitor introduced the report and advised that every licence has to have a premises manager and it had come to the Depute Clerk's attention, through the Licensing Standards Officer that the premises manager no longer worked at the Pierhead. He advised that this would be in breach of the licensing conditions. The Solicitor advised that the Licensing Standards Officer wrote to the premises licence holder in August 2016 and Mrs Anderson stated that she no longer worked there. The premises licence holder failed to intimate this to the Board and failed to apply for a new premises manager licence. The Solicitor said that in these circumstances the Board has no option but to seek a variation. He went on to advise that following the circulation of the agenda, he had heard from the premises licence holder, Mr Anderson, who advised that the premises manager had been ill for a time but still looks after the day to day running of the Restaurant and Bar. The Solicitor said that there appears to be a difference of opinion that would now merit further investigation but should a breach of conditions be found, the matter would be reported back to the Board on 1 November 2016 or to a special meeting, if required.

During discussions Members commented on a number of points including the late representation from the premises licence holder; whether the premises licence holder is acting illegally and requires police involvement; the importance of the premises licence holder understanding his responsibilities under the Licensing (Scotland) Act 2005; the importance to his business of keeping close contact with the Licensing Standards Officer and Depute Clerk; how frequently inspections on licensed premises are taking place and the potential for other premises licence holder's being in breach of their licence in the interim.

Members were advised that Mr Anderson has advised that he is not breaching his premises licence and it was noted that the Premises Licence Holder is not required to be on site at all times. It was also noted that although the personal licence holder is not required to attend today's meeting, Officers would ensure that Mr Anderson is invited to attend, should the matter lead to a hearing under Section 54 of the Act.

Mr Campbell moved that the Board defer a decision on this matter until further investigations are carried out and that the matter be presented to a future meeting on 1 November or earlier if necessary. In addition the Premises Licence holder will be written to and advised strongly of his responsibilities under the Licensing (Scotland) Act 2005. Mr G Smith seconded.

Mr Duncan said that if Mr Anderson had been interested in this matter he would have been present to answer Member's questions. Mr Duncan moved, as an amendment, that Mrs Anderson's name be removed from as Personal Licence Holder forthwith as set out in the recommendation in the report. Ms Westlake seconded.

Following summing up, voting took place with a show of hand and the results were as follows:

Amendment: (Mr Duncan) 2

Motion: (Mr Campbell) 3

The Board were advised that if Mrs Anderson has remained as Personal Licence Holder there will be no further report presented on this matter.

Decision

The Board:

- that the Board defer a decision on this matter until further investigation are carried out and that the matter be presented to a future meeting on 1 November or earlier if necessary; and
- that the Premises Licence holder will be written to and advised strongly of his responsibilities under the Licensing (Scotland) Act 2005.

3. New Three Year Statement of Licensing Policy- 2016/2019 Overprovision Assessment

The Board noted a report by the Depute Clerk to the Licensing Board, which advised of the current situation with respect to the review of the Statement of Licensing Policy. Legislative changes introduced into the Licensing (Scotland) Act 2005, which will take effect from 30 September 2016, mean that there is no current need to review the Licensing Policy.

The Solicitor introduced the report and advised that under the Air Weapons and Licensing (Scotland) Act 2015 varied the need for a three year review and instead there will be a 5 year update which will therefore be adopted within 18 months of the next Council term, namely November 2018. The Solicitor advised that this information has been intimated to the NHS and they are content, as this will give them time to input into that review.

The Chair advised that he had attended a Licensing Seminar within the last two weeks where this issue came to light. He said it was recognised that there is a need for the Scottish Government to bring all licensing activities into one comprehensive piece legislation as the effect on the Licensing Scotland Act 2005 was not clear.

The Chair commented that it would be for the next Council to have input into the Statement of Licensing Policy and advised that the Licensing Forum were looking at this also and the NHS were content to use this period to refine their comments to help with overprovision issues.

Decision

The Board NOTED the change to the legislation and the impact on the review period for the Statement of Licensing Policy.

The Chair advised the Board that Inspector Daley was about to leave Shetland for a new position. He said that Inspector Daley had been a very loyal and consistent attendee at Board meetings and was respected and valued for his advice. The Chair and Board Members wished Inspector Daley well for the future.

The meeting concluded at 10.45am

Convener