

SHETLAND ISLANDS AREA LICENSING BOARD

Clerk: Jan-Robert Riise
Depute Clerk: Susan Brunton

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If calling please ask for
Leisel Malcolmson
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Dear Sir/Madam

Date: 27 June 2017

You are invited to attend the following meeting:

**Shetland Islands Area Licensing Board
Auditorium, Museum and Archives, Hay's Dock, Lerwick
Tuesday 4 July 2017 at 10.00am**

Apologies for absence should be notified to Leisel Malcolmson at the above number.

Yours faithfully

Depute Clerk to the Board

Clerk to the Board: Jan R Riise

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest.

Item

- 1 Hearing for Application for a Personal Licence Holder

SHETLAND ISLANDS AREA LICENSING BOARD

4 July 2017

Hearing for Application for a Personal Licence Holder

1. Summary

- 1.1 Mr Foote, an applicant for a Personal Licence, has a relevant conviction. The Licensing Board decided at their meeting on 5 June 2017 that they would hold a hearing in terms of Section 74(5A) in order to make a decision on that application for a Personal Licence. The options open to the Board today are:
- if satisfied that it is necessary to do so for the purposes of any of the Licensing objectives, refuse the application;
 - if not so satisfied, grant the application.

2. Statutory Provisions

- 2.1 The process for applying for a personal licence is set out in Part 6 of the Licensing (Scotland) Act 2005.
- 2.2 As part of the process the Board is required to contact Police Scotland and ask them if they are aware of any relevant convictions relating to the Applicant. The Act sets out what are regarded as relevant convictions for this purpose.
- 2.3 If Police Scotland notify the Board of a relevant conviction, they can include a recommendation that the personal licence application be refused. The reason for making such a recommendation would be because the Chief Constable considers that it is necessary for the purpose of any of the licensing objectives that the licence be refused. If Police Scotland make a recommendation that the licence be refused then the Board must hold a hearing to decide whether or not to refuse the application.
- 2.4 Police Scotland did not make a recommendation that the application be refused and the Board decided not to grant the application but to hold a hearing.
- 2.5 The Board are obliged to have regard to the Notice provided by the Chief Constable.

3. Current case

- 3.1. Mr Roger Foote applied for a personal licence on 28 February 2017.
- 3.2 Mr Foote's application was referred to Police Scotland on 2 March 2017.
- 3.3 Police Scotland notified the Council that Mr Foote has a conviction under Section 38(1) of the Criminal Justice and Licensing (Scotland) Act 2010. The conviction is dated 21 February 2011 and the disposal was a fine of £200.
- 3.4 S. 38(1) provides that the following is an offence.
- 38 Threatening or abusive behaviour*
- (1) A person ("A") commits an offence if—*
- (a) A behaves in a threatening or abusive manner,*
- (b) the behaviour would be likely to cause a reasonable person to suffer fear or alarm, and*

(c) A intends by the behaviour to cause fear or alarm or is reckless as to whether the behaviour would cause fear or alarm.

4. Conclusion

4.1 Police Scotland notified the Board of a relevant conviction in relation to this applicant for a Personal Licence and the Board has decided to hold a hearing. At this hearing the board is required to have regard to the Chief Constable's notice and any other relevant evidence before it and:

- if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, refuse the application, or
- if not so satisfied, grant the application.

Depute Clerk to the Licensing Board

Ref: SB