

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Tuesday 13 March 2018 at 10 a.m.**

Present:

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

Apologies:

A Cooper C Smith

In Attendance (Officers):

K Adam, Solicitor
Inspector D Livitt, Police Scotland
P Dinsdale, Team Leader – Environmental Health
J Irvine, Business Support
L Adamson, 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. Application under the Licensing (Scotland) Act 2005

1.	<u>Application for a Provisional Premises Licence</u>	<u>Decision</u>
(a)	<p><u>Beervana Ltd</u> The Solicitor introduced the application, advising that the LSO and Police had no objections. He reported that the applicant had previously held a Premises Licence for Beervana Ltd, which had been surrendered when occupation was taken of the new premises. The Board noted that Mr Fox, the applicant, was present.</p> <p>There being no questions, Mr Bell moved that the Board approve the application. Mrs Hughson seconded.</p> <p>The Chair thanked Mr Fox for attending, and wished him good luck in the new venture.</p>	Granted

2. Hearing for a Personal Licence Applicant (Section 74)

The Board considered a report by the Depute Clerk that informed of an application for a Personal Licence from Miss Williamson.

The Solicitor introduced the application, referring to the decision at the previous meeting of the Board for a hearing to be held. He explained that in discussion with the Police since that time, it has been clarified that the conviction as listed in Miss Williamson's application is more than a year old and therefore is assessed as a spent conviction and not required

to be reported to the Board nor declared on the application. The Solicitor outlined the options open to the Board in considering the application as set out in the attached report. He advised that while it had not been expected that the applicant would be present at the meeting, Miss Williamson has submitted correspondence, which he would circulate to the Board.

Mr G Smith commented on the regrettable and unusual situation for both the Board and the applicant, and he moved that the Board approve the application. In seconding, Mr Bell advised on his concern at the unsatisfactory and drawn out process, where the application should have been granted under delegated authority rather than being considered by the Board.

In responding to a comment, the Solicitor provided further explanation to the Board in regard to the unfortunate confusion with the application. In response to a suggestion for an apology to Miss Williamson from the Board, the Solicitor confirmed that reference to the circumstances on the extended application process would be included in the letter to Miss Williamson.

3. **Hearing for a Personal Licence Holder (Section 83)**

The Board considered a report by the Depute Clerk that informed of an application from a Personal Licence Holder, Mr Toka, who had a relevant conviction that required to be considered by the Board.

The Solicitor introduced the application, advising that Mr Toka has held a Personal Licence since March 2016, and except for this one instance has not come to the adverse attention of the Board or the Police. The Solicitor advised from Section 2 of the report, the statutory provisions following confirmation of a conviction to hold a Hearing before the Board.

At the invitation of the Chair, Inspector D Livitt, Police Scotland, gave an account of the circumstances which led to Mr Toka's conviction. In responding to a question, Inspector Livitt confirmed that there had been sufficient evidence to charge Mr Toka with assault. The Solicitor clarified that Mr Toka made a guilty plea, and a trial was not required.

At the invitation of the Chair, Mr Toka addressed the Board, providing his account of the incident and in pleading guilty to the charge.

In response to questions regarding the option open to the Board to suspend the Personal Licence, the Solicitor advised from the Act, that there is no guidance given on timescales. He also advised that should the Board determine to suspend Mr Toka's Personal Licence, his employment could continue but not as Premises Manager.

Following some discussion, Mr Scott moved that the Board endorse Mr Toka's personal Licence. Mr G Smith seconded.

In referring to the significant fine imposed and that Mr Toka had made a guilty plea, Mr Leask moved as an amendment to revoke Mr Toka's Personal Licence. Mr Bell seconded.

Following summing up, voting took place by a show of hands, and the result was as follows:

Amendment (Mr Leask) 2

Motion (Mr Scott) 4

The meeting concluded at 10.40am.

Convener