

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Monday 20 May 2019 at 10 a.m.**

Present:

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

Apologies:

M Bell

In Attendance (Officers):

P Wishart, Solicitor
D Manson, Licensing Standards Officer
Sgt King, Police Scotland
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. Applications under the Licensing (Scotland) Act 2005

1.	<u>Application for Variation other than a Minor Variation of Premises Licence</u>	<u>Decision</u>
(a)	<p><u>Staneyhill Brewery Limited</u></p> <p>The Solicitor introduced the application and advised that the applicant Ms Herculson of the Staneyhill Brewery Limited was present.</p> <p>During questions clarification was sought on the reason for the application and on whether the visitor centre or the venue was the main priority. Ms Herculson was invited to respond and explained that the main purpose was to provide a visitor centre with beer tastings and the venue for events was to supplement that activity. She confirmed that the licence to 1am would be used when the venue is hired out.</p> <p>Some concern was expressed that the use as a venue, particularly in the winter, may cause problems for anyone walking in the area. It was also suggested that if the venue was to be hired out on an occasional basis it may be better for the Brewery to apply for occasional licences.</p>	GRANTED

	<p>It was considered however that adults would take responsibility for themselves travelling to and from the venue and therefore Mr Scott moved that the Board approve the grant of a Variation other than a Minor Variation of Premises Licence.</p> <p>Comment was received that the visitors centre would be valuable for the area but concern was expressed being open to 1am would have potential road safety issues particularly if patrons have had too much to drink.</p> <p>Ms Herculson confirmed that the standard opening hours would be between 9am and 5pm and they had just started taking in tours but they wanted to cater for late bookings too.</p> <p>In seeking advice the Board heard that the road safety issue was primarily a Roads Service issue and it was for the Board to consider the licensing conditions.</p> <p>Mr G Smith seconded Mr Scott's motion.</p>	
2	<u>Extension of Licensed Hours</u>	
(a)	<p><u>Elaine Kirk</u> The Solicitor introduced the application and advised that the applicant was not present.</p> <p>In considering the application and whether a wedding was considered a special event, reference was made to applications granted to Up Helly Aa events solely to aid the distribution of the public. Discussion was held around what constitutes a special event and that each application is considered on its own merits. It was determined that the application did not provide enough detail on the event itself and it was agreed that the application form be amended to provide more detail for future applications.</p> <p>Comment was made that this event would be a special event for the family and that it would be disappointing if the application were refused. It was noted that the lack of information did not help the Board justify approval or refusal of the application.</p> <p>Mr Leask moved that the Board refuse the application for an Extension of Licensed Hours. There was no seconder.</p> <p>Mr Scott moved that the Board grant the application for an Extension of Licensed Hours. Mrs Hughson seconded.</p> <p>It was further agreed that a letter be provided to each licensed establishment requesting that more information be provided on future applications submitted. Consideration was given to applications being provided to the Board but it was acknowledged that this would not provide the detail sought and would create additional burden on administrative staff.</p>	GRANTED

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2 **Consultation on Occasional Licences**

The Depute Clerk presented a report to the Board to consider the Scottish Government consultation on the proposal to review the fee for occasional licenses and a limit on the number and duration of occasional licenses.

The Solicitor introduced the report and advised that the consultation document was not attached and circulated a copy to each Member. Five minutes was allowed for Members to read the document.

During discussion the Board considered the level of fees and the need to charge appropriate fees to cover the cost of administration. Concern was expressed that Community Halls struggle with the cost of water rates etc and that this may be another disincentive for Community Halls to remain sustainable. Members were informed however that most public halls are fully licensed so they would not be affected by this report but it would affect some businesses. It was suggested that there was not enough background information in the report to respond in an informed way.

A request was made for more information on the cost and time taken to administer each application to ensure that there is a balance in that area. It was agreed that this report be deferred to the June meeting of the Board to provide more explanation of the process set out clearly in a report.

Decision:

The Board deferred a decision on the consultation response to the June meeting of the Board.

3 **Licensing (Scotland) Act 2005 – Section 142 Guidance**

The Board considered a report by the Depute Clerk to the Board that presented information on a Scottish Government consultation on revised guidance.

The Solicitor introduced the report and advised that again a copy of the consultation was not attached and advised that there was nothing of substance to comment on. He explained that the Guidance was more user friendly and was a better working document for Clerks to process the business of the Board. He said that more detail had been given on over provision part of the legislation which was good.

Assurance was sought from the Solicitor's professional point of view that there was nothing to highlight in terms of practice that Members should support in order for the Board to act more effectively. The Solicitor advised that there was nothing in the document that Officers are not doing correctly. He said that there would always be areas that are not clear but he was happy with the content of the guidance. In terms of overprovision guidance he referred to the NHS comments regarding the harm of alcohol but he said that it was difficult for the NHS to demonstrate that overprovision was causing or exacerbating the problem. He said that there was an issue around providing evidence of overprovision and the NHS had previously sought a statement from the Board. The Solicitor advised that there were a couple of paragraphs that were confusion and unless this is clarified the Board will continue to receive incorrect guidance that could also mislead the NHS to make comment without evidence.

Following further discussion Mr Cooper moved that Clerk be instructed to response to the revised guidance and include comment that clarity was welcomed but overprovision was an issue going forward; and that the response be prepared in consultation with the Chair to agree the wording. Mr C Smith seconded.

Comment was added that the wording should be explicit and not open to subjectivity. The Solicitor read from a prepared text for a draft letter and it was agreed that the first sentence be changed to "The Board welcomed the guidance but overprovision was not clear".

Decision:

The Board instructed the Clerk to respond to the revised guidance and include comment that clarity was welcomed but overprovision was an issue going forward and that response be prepared in consultation with the Chair to agree the wording.

4 Personal Licence Holders - Renewals

The Depute Clerk considered a report that presented progress in respect of the ten year training and renewal of personal licences within the Shetland Islands Area.

The Solicitor introduced the report and explained the efforts made to engage with each Personal Licence holder to ensure they understood that failure to renew would mean their Personal Licence would be revoked. He provided an update on the figures of Personal Licences granted to date. It was suggested that letters be written to those advising that there licences had lapsed to ensure there is no dubiety. The Solicitor explained that the letter already explained that position very clearly.

Acknowledgement was given to the fact that some Personal Licence Holders may no longer require to hold a licence and others may simply not want to renew. It was also recognise that this was a similar position for other local authorities and was a national problem.

It was also noted that the need for renewals had been in the media therefore there was no reason for anyone to come back and say that they did not know the position and that people had to take personal responsibility on this matter. The Solicitor confirmed that not all licence holders working in Shetland would have been granted in Shetland as the Licence was not location specific.

In terms of training it was confirmed that there are suitable opportunities for individuals to receive training with training providers coming to Shetland. It was also noted that training providers are aware of who they have trained and have been in direct contact with them. The Licensing Standards Officer advised that she had contacted 14 Personal Licence Holders directly to advise of their last opportunity to be trained and to ensure they were booked on, but some had not. She also advised that if there were to be a surge of applications, the training providers would come to Shetland again. She assured Members that all those who require training have now been accommodated.

Decision:

The Board noted the report.

The meeting concluded at 11am.

Convener