

Shetland Islands Area Licensing Board

Licensing (Scotland) Act 2005

Annual Functions Report 2017 – 2018

Clerk to the Licensing Board
Shetland Islands Council
8 North Ness
LERWICK
ZE1 0LZ

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1. INTRODUCTION

1.1 This Annual Functions Report has been prepared by Shetland Islands Area Licensing Board (the “Board”) in terms of Section 9A of the Licensing (Scotland) Act 2005 (the “Act”). The Act requires this report to include –

1. A statement explaining how the Board has had regard to:
 - a. The licensing objectives.
 - b. Their licensing policy statement and any supplementary licensing policy statement (including the Board's statement under section 7(1) (duty to assess overprovision)).
2. A summary of the decisions made by (or on behalf of) the Board during the financial year.
3. Information about the number of licences held under the Act in the Board's area (including information about the number of occasional licences issued during the year).

1.2 This Annual Functions Report has been prepared for the financial year 2017-2018.

1.3 The Board’s [Annual Financial Report](#)¹ required in terms of Section 9B of the Act has been published separately.

2. BACKGROUND INFORMATION

2.1 When it undertakes its functions, the Board has regard to the licensing objectives as well as to its own Licensing Policy Statement published in accordance with Section 6 of the Act. The Licensing Policy Statement that was effective during the time of this report was approved and published [on-line](#)¹ in November 2013; the Board published no supplementary licensing policy statement in the intervening period.

- 2.2 The licensing objectives set out in Section 4 of the Act are –
- a. preventing crime and disorder;
 - b. securing public safety;
 - c. preventing public nuisance;

¹ https://www.shetland.gov.uk/about_introduction/LegalLicensing.asp

- d. protecting and improving public health; and
- e. protecting children from harm.

2.3 The Board's Licensing Policy Statement is available on the [liquor licensing](#)¹ page of Shetland Islands Council's website. Under the Licensing Policy Statement, matters dealt with at a meeting of the Board are the consideration and granting of applications for –

- premises licences
- personal licences
- occasional licences
- provisional licences
- extensions of licensing hours
- temporary licences
- transfers of licences
- variations of licences

in respect of the sale of alcohol by retail and the supply of alcohol in Members' clubs.

2.4 The Board has delegated to the Clerk (and the duly appointed Depute and Assistant Clerks) authority to grant certain specified descriptions of application under the Act, namely –

- (a) minor variations of premises licence (section 29).
- (b) variations to substitute new premises manager – where the applicant has not been convicted of any relevant or foreign offence (section 31 and with reference to section 54).
- (c) transfers of premises licence – where the transferee has not been convicted of any relevant or foreign offence (reference to sections 33 to 35).
- (d) grants of a provisional licence when the Board has held a hearing, has proposed a modification to the operating plan and the applicant has accepted the modification, as proposed by the Board.
- (e) confirmation of a provisional premises licence – where no objections or representations have been received (section 46).
- (f) grants of occasional licence – when all the following criteria are met –
 - i. no objections or representations have been received;
 - ii. Police Scotland have not recommended refusal;
 - iii. the proposed licensed hours are within the guideline licensing hours of 11 am to am; and
 - iv. the hours applied for do not cover a period in excess of 48 hours.
- (g) extensions of licensed hours – within the Board's guideline licensing hours of 11 am to am – where no objections or representations have been received, Police Scotland have not lodged a notice recommending refusal

of the application and the report by the Licensing Standards Officer does not recommend refusal (section 68).

- (h) personal licence or renewal of a personal licence where the applicant has not been convicted of a relevant or foreign offence.
- (i) revocation of personal licence when a licence holder has failed to comply with the statutory retraining requirements.
- (j) general extension for Fire Festival and Up Helly Aa events - within the Board's Policy Statement and provided no adverse comments have been received from Police Scotland or the Licensing Standards Officer.
- (k) general extension for premises hosting the Shetland Folk Festival, Shetland Fiddle and Accordion Festival and the Simmer Dim Motorcycle Rally within the Board's Policy Statement and provided no adverse comments have been received from any person.

2.5 The data in the following table apply to the reporting period ending 31 March 2018 –

Premises licences			
	Premises licences in force		153
	• on-sales licences	67	
	• off-sales licences	46	
	• both on- and off-sales	40	
Premises licence applications received			
	• on sale		2
	• off sale		2
	• both on- and off-sales		1
Applications for premises licences refused²			0
Applications granted²			3
Applications for review of premises licence³			0
Occasional licences granted			118

Personal Licences			
	Personal Licences in force		383
	Applications made		19
	Applications refused	0	
	Applications granted	19	
Proceedings taken⁴ resulting in:-			
	• endorsement		1
	• suspension		0
	• revocation		0

² Section 23 of the Act.

³ Sections 36 and 37 of the Act.

⁴ Section 83 (following conviction)

	• no action		0
	Proceedings taken ⁵ in respect of conduct inconsistent with licensing objectives		0
	Proceedings ⁶ in respect of multiple endorsements		0
	Revocations ⁷ of personal licences		16
Staffing			
	Number (full-time equivalent) of licensing standards officers employed		0.2

3. PUBLISHED DOCUMENTATION

3.1 The Board publishes its relevant documentation on the website of Shetland Islands Council at https://www.shetland.gov.uk/about_introduction/LegalLicensing.asp. This web page contains contact information and the current Licensing Policy Statement and Statutory reports and includes links to –

- Licensing board documents;
- Register of premises licences;
- Register of occasional licences;
- Application forms under the Act and guidance notes;
- Notices required to be published under the Act;
- Agendas and Minutes of Board Meetings⁸.

4. THE LICENSING OBJECTIVES AND THE BOARD'S LICENSING POLICY STATEMENT

4.1 The Act requires the Board to publish a statement of its licensing policy with respect to the exercise of its functions under the Act and that has regard to the licensing objectives⁹. The Board's policy statement outlines the way it intends to exercise its functions under the Act and to promote the licensing objectives.

4.2 The licensing objectives provide a basis for the Board's proper and reasonable determination of an application for the grant of a premises licence or of an occasional licence; an act or omission by a holder of a licence under the Act that is contrary to the licensing objectives may lead to the imposition of sanctions on a

⁵ Section 84 (conduct inconsistent with licensing objectives)

⁶ Section 86

⁷ Section 87(3) (failure to provide evidence of having undertaken refresher training)

⁸ From the Beginning of 2018 Minutes and Agendas are published only on the Council's Committee Information Pages:

<http://www.shetland.gov.uk/coins/committee.asp?bodyid=181&bodytitle=Shetland+Islands+Area+Licensing+Board>

⁹ Paragraph 2.2 above

personal licence holder or provide grounds for the review of a premises licence. The attachment of conditions to a premises licence or occasional licence may be based on any of the objectives.

4.3 Reports by the Clerk to the Board regarding applications for determination and advice to be tendered by the Clerk to the Board during Board meetings refer the Board to its policy provisions, the licensing objectives and grounds for objection, as well as grounds for refusal. In the same way, advice is also given that applications must be refused if they are inconsistent with any of the licensing objectives. The Board's attention is drawn by way of guidance to pertinent provisions of the Board's statement of licensing policy.

4.4 The Board can provide a summary of decisions made, as provided in the section on Background Information above¹⁰, it is more difficult for it to provide detailed analysis of all decisions. It is, however, of relevance that –

- the Board's Licensing Policy Statement sets out the Board's approach;
- Board meetings are held in public;
- agendas and reports are published;
- minutes of meetings are published; and
- Statements of Reasons, which are very detailed documents, can be requested in accordance with the Act for specific decisions on applications.

5. CONCLUSION

5.1 The Board is satisfied that it and its officers have, in all decisions taken in the exercise of the Board's functions under the Act during the reporting year, had regard to the Licensing Objectives and the Board's Licensing Policy Statement. The Board is fully mindful of its duties under the Act, but is also willing to encourage and support the local licensed trade to adopt and maintain best practices in relation to their businesses and premises as are for the benefit of Shetland society.

5.2 The Board is mindful of the challenges brought by changes to law in relation to the sale, use and abuse of alcohol and has regard to national policy as societal attitudes in the performance of its duties.

Reported by

Clerk to the Shetland Islands Area Licensing Board

¹⁰ Section 2 above