

Shetland Islands Area Licensing Board

Licensing (Scotland) Act 2005

Combined Annual Functions and Financial Report 2020-2021

Clerk to the Licensing Board
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1. INTRODUCTION

1.1 This combined Annual Functions and Annual Financial Report has been prepared by Shetland Islands Area Licensing Board (the “Board”) in terms of sections 9A and 9B of the Licensing (Scotland) Act 2005 (the “Act”). Section 9A(5) provides that a Licensing Board may, if considered appropriate, prepare and publish a combined report containing the information required under section 9A and 9B. The Act requires a combined 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)), in the exercise of their functions under the Act.
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).
4. A statement of the amount of relevant income received by the Licensing Board during the financial year and the amount of relevant expenditure incurred in respect of the Board's area during the year.
5. An explanation of how the amounts in the statement were calculated.

1.2 This combined Annual Functions and Financial Report has been prepared for the financial year 2020-2021.

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 was approved by the Board on 9 October 2018.

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

2.3 The Board's Licensing Policy Statement is available on the 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 variation of premises licence (section 29).
- (b) variation 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) transfer of premises licence – where the transferee has not been convicted of any relevant or foreign offence (reference to sections 33 to 35).
- (d) grant 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 1 am; and
 - iv. the hours applied for do not cover a period in excess of 48 hours.

- (g) extension of licensed hours – within the Board’s guideline licensing hours of 11 am to 1 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.

The Board has delegated to two members of the Board authority to grant the following descriptions of application under the Act, namely -

- (1) Occasional Licence applications. First time applications where they exceed hours or if objections are received must come to the Board. Subsequent applications of a similar nature with no complaints may be granted by two members of the Board.

2.5 The data in the following table apply to the reporting period ending 31 March 2021 –

| Premises licences | | | |
|--|----------------------------|----|-----|
| | Premises licences in force | | 148 |
| | • on-sales licences | 66 | |
| | • off-sales licences | 43 | |
| | • both on- and off-sales | 39 | |
| Premises licence applications received | | | |
| | • on sale | | 0 |
| | • off sale | | 0 |
| | • both on- and off-sales | | 0 |
| Applications for premises licences refused¹ | | | 0 |
| Applications granted¹ | | | 0 |
| Applications for review of premises licence² | | | 0 |
| Occasional licences granted | | | 12 |

¹ Section 23 of the Act.

² Sections 36 and 37 of the Act.

| Personal Licences | | | |
|--------------------------|---|----|-----|
| | Personal Licences in force | | 333 |
| | New Applications refused | 0 | |
| | New Applications granted | 19 | |
| | Proceedings taken ³ resulting in:- | | |
| | • endorsement | | 0 |
| | • suspension | | 0 |
| | • revocation | | 0 |
| | • no action | | 0 |
| | Proceedings taken ⁴ in respect of conduct inconsistent with licensing objectives | | 0 |
| | Proceedings ⁵ in respect of multiple endorsements | | 0 |
| | Revocations ⁶ of personal licences | | 26 |
| 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/licences-permits/shetlands-licensing-board>. 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 Meetings⁷.

³ Section 83 (following conviction)

⁴ Section 84 (conduct inconsistent with licensing objectives)

⁵ Section 86

⁶ Section 87(3) (failure to provide evidence of having undertaken refresher training)

⁷ 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>

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 objectives⁸. 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 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 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 above⁹, 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 can be requested in accordance with the Act for specific decisions on applications.

⁸ Paragraph 2.2 above

⁹ Section 2 above

5. FINANCIAL STATEMENT

5.1 The statements of relevant income and relevant expenditure are as follows:

| | |
|--|----------------------|
| <u>Income</u> | £ |
| Income (Licencing Fees) | 48,346.65 |
| No Liquor Licencing Fees Income (i.e. Gambling Fees) | 1,945.00 |
| Total Income | <u>50,291.65</u> |
| <u>Expenditure</u> | |
| Staff Costs – LSO | 5,853.49 |
| Staff Costs – Other | 35,069.59 |
| Transport | 0.00 |
| Supplies | 0.00 |
| Overheads | 12,226.86 |
| Total Expenditure | <u>53,149.94</u> |

Difference between income and expenditure is a deficit of £2,858.29

5.2 Section 9B(2)(a) requires an explanation of how the amounts in the statement were calculated.

The amount of relevant income has been calculated by adding up the licensing fees received by the Board for liquor licensing and non-liquor licensing applications and annual fees. The amount of relevant expenditure has been calculated by adding up the staff costs and attributing an amount for overheads.

6. CONCLUSION

6.1 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 and 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.

6.2 The Board is mindful of the challenges brought by changes to law in relation to the sale, use and abuse of alcohol, the challenges to premises licence holders and others brought about by the pandemic, 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