

Minute

Orkney Islands Area Licensing Board

Thursday, 6 December 2018, 14:15.

Council Chamber, Council Offices, School Place, Kirkwall.



Present

Duncan A Tullock, Alexander G Cowie, Norman R Craigie, Robin W Crichton, J Harvey Johnston and Owen Tierney.

Clerk

- Gavin Mitchell.

In Attendance

Orkney Islands Council:

- David Brown, Environmental Health Manager and Licensing Standards Officer.
- Elaine Sinclair, Legal Clerk.
- Hazel Flett, Senior Committees Officer.

Police Scotland:

- Inspector Keith Bendall.

Apologies

- Barbara Foulkes.
- Steven B Heddle.

Declarations of Interest

- No declarations of interest were intimated.

Chair

- Duncan A Tullock.

1. Draft Minute of Meeting held on 9 October 2018

After consideration of the draft Minute of the Meeting of the Orkney Islands Area Licensing Board held on 9 October 2018, copies of which had been circulated, the Board:

Resolved, on the motion of Robin W Crichton, seconded by J Harvey Johnston, that the Minute of the Meeting of the Orkney Islands Area Licensing Board held on 9 October 2018 be approved as a true record.

2. Mandatory Revocation of Personal Licences

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted the personal licences, detailed in Appendix 1 to the report by the Clerk to the Board, which had been revoked, in terms of delegated powers, as the licence holders had failed to comply with mandatory refresher training requirements.

3. Notification of Convictions

Holder of Personal and Premises Licences

Dionne J Butcher, licence holder, was present during consideration of this item.

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted:

3.1. That personal licence OI/277 was issued to Miss Dionne J Butcher on 4 February 2010 and had effect until 3 February 2020.

3.2. That a premises licence had been held at Deerness Stores, Deerness, since 1 September 2009, firstly by Mrs Margaret Sinclair and subsequently by Miss Dionne J Butcher since 19 May 2010.

3.3. That Miss Butcher was also named on the premises licence as premises manager.

3.4. That, on 5 September 2018, Miss Butcher submitted notification of criminal convictions by letter, attached as Appendix 1 to the report by the Clerk to the Board.

3.5. That the criminal convictions were in respect of relevant offences within the meaning contained in the Licensing (Scotland) Act 2005 and the Licensing (Relevant Offences) (Scotland) Regulations 2007.

3.6. That, on 12 September 2018, Police Scotland confirmed that the disclosure of one of the convictions by Miss Butcher, namely the conviction for Assault, was accurate and that Police Scotland did not intend to raise any objections to the licences held by Miss Butcher.

After hearing representations from Dionne J Butcher in support of retaining both the premises licence and the personal licence, on the motion of Robin W Crichton, seconded by Norman R Craigie, the Board:

Resolved:

3.7. That no further action be taken with respect to the premises licence held at Deerness Stores, Deerness, by Dionne J Butcher.

3.8. That no further action be taken with respect to personal licence OI/277 held by Dionne J Butcher.

4. Non-payment of Annual Premises Licence Fee

After consideration of a report by the Licensing Standards Officer, copies of which had been circulated, the Board:

Noted:

4.1. That, in terms of Regulation 7 of the Licensing (Fees) (Scotland) Regulations 2007, the holder of a premises licence must make payment of an annual fee in relation to the premises licence.

4.2. That, in accordance with Regulation 9 of the Licensing (Fees) (Scotland) Regulations 2007, invoices were issued in respect of the annual fees for all premises licences held for the period 1 October 2018 to 30 September 2019.

4.3. That, despite two subsequent reminders having been sent to the licence holder, the annual fee payable in respect to the Standing Stones Hotel, Stenness, for the period 1 October 2018 to 30 September 2019, remained outstanding.

4.4. That, in terms of Section 14(2)(a)(i) of the Licensing (Scotland) Act 2005, a licensing compliance notice, containing the undernoted advice, was issued to the holder of the premises licence at the Standing Stones Hotel, Stenness:

- Payment of the annual licensing fee was a mandatory condition of the premises licence.
- Failure to pay the fee would result in an application to the Board to review the holder's premises licence.
- The holder's premises licence could be suspended or revoked in the event of non-payment.

4.5. That the Licensing Standards Officer had subsequently submitted an application for a premises licence review in respect of the premises licence held by Alan R Tulloch and Linda Johnston in relation to premises known as Standing Stones Hotel, Stenness, arising from an ex facie breach of a mandatory condition pertaining to the premises licence, being non-payment of the statutory annual fee relating to the premises licence.

4.6. That, in terms of section 38 of the Licensing (Scotland) Act 2005, the Board was required to assign a review hearing for the purposes of considering and determining the application unless the Board considered that the application was vexatious or frivolous or that it disclosed no relevant ground for review.

4.7. That, in terms of paragraph 13 of the Licensing (Procedure)(Scotland) Regulations 2007, a review hearing required to be held no later than 42 days after the date on which the licensing board received the premises licence review application.

4.8. That, on 3 December 2018, the Licensing Standards Officer was advised by the Finance service, Orkney Islands Council, that the annual fee payable in respect to the Standing Stones Hotel, Stenness, for the period 1 October 2018 to 30 September 2019, had been paid.

The Board resolved:

4.9. That, notwithstanding the fact that the outstanding fee had subsequently been paid, a relevant ground for review had been disclosed and, accordingly, the premises licence held at Standing Stones Hotel, Stenness, be reviewed.

5. Review of Statement of Alcohol Licensing Policy

After consideration of a report by the Clerk to the Board, copies of which had been circulated, the Board:

Noted:

5.1. That, on 28 June 2018, the Board resolved that the Clerk to the Board should undertake statutory consultation in respect of the Board's Statement of Alcohol Licensing Policy.

5.2. That the statutory consultation process was undertaken during the period 4 July to 6 September 2018, with the outcome detailed in section 6 of the report by the Clerk to the Board.

The Board resolved:

5.3. That the Statement of Alcohol Licensing Policy, attached as Appendix 1 to this Minute, be adopted.

6. Conclusion of Meeting

At 14:47 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.