

Minute

Orkney Islands Area Licensing Board

Thursday, 20 January 2022, 11:30.

Microsoft Teams.



Present

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

Clerk

- Gavin Mitchell.

In Attendance

Orkney Islands Council:

- Elaine Sinclair, Legal Clerk.
- Angela Kingston, Committees Officer.

Observing

- Lillian Rendall, Legal Clerk.

Declaration of Interest

- No declarations of interest were intimated.

Chair

- Duncan A Tullock.

1. Draft Minute of Meeting held on 2 December 2021

After consideration of the draft Minute of the Meeting of the Orkney Islands Area Licensing Board held on 2 December 2021, copies of which had been circulated, the Board:

Resolved, on the motion of Duncan A Tullock, seconded by Barbara Foulkes, that the Minute of the Meeting of the Orkney Islands Area Licensing Board held on 2 December 2021 be approved as a true record.

2. Non-Payment of Annual Premises Licence Fee

Fusion, 10/12 Ayre Road, Kirkwall

After consideration of a report by the Licensing Standards Officer, copies of which had been circulated, and after hearing a report from the Clerk, the Board:

Noted:

2.1. 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.

2.2. 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 2021 to 30 September 2022.

2.3. That, despite three subsequent reminders having been sent to the licence holder, the annual fee payable in respect to Fusion, 10/12 Ayre Road, Kirkwall, for the period 1 October 2021 to 30 September 2022, remained outstanding.

2.4. 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 Fusion, 10/12 Ayre Road, Kirkwall:

- 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.

2.5. That the Licensing Standards Officer had subsequently submitted an application for a premises licence review in respect of the premises licence held by Light Fantastic (Orkney) Limited in relation to premises known as Fusion, 10/12 Ayre Road, Kirkwall, 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.

2.6. 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.

On the motion of Duncan A Tullock, seconded by Barbara Foulkes, the Board resolved:

2.7. That the application, referred to at paragraph 2.5 above, was not vexatious, nor frivolous, and that a relevant ground for review had been disclosed and, accordingly, the premises licence held at Fusion, 10/12 Ayre Road, Kirkwall, be reviewed at the meeting of the Board on 10 March 2022.

3. Conclusion of Meeting

At 11:40 the Chair declared the meeting concluded.

Signed: Duncan A Tullock.