

SHETLAND ISLANDS AREA LICENSING BOARD

Clerk: Jan-Robert Riise
Depute Clerk: Susan Brunton

Governance and Law
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If calling please ask for
Leisel Malcolmson
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Dear Sir/Madam

Date: 6 March 2018

You are invited to attend the following meeting:

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Tuesday 13 March 2018 at 10am**

Apologies for absence should be notified to Leisel Malcolmson at the above number.

Yours faithfully

Depute Clerk to the Board

Clerk to the Board: Jan R Riise

AGENDA

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest.
- 1. Licensing Scotland Act 2005
Application for Provisional Premises Licence. Enclosed.
- 2. Hearing for a Personal Licence Applicant (Section 74). Enclosed.
- 3. Hearing for a Personal Licence Holder (Section 83). Enclosed.

1. Application for Provisional Premises Licence

Applicant

Premises

On-Sales/Off Sales/Both

(a) Stuart Fox

Beervana Ltd, 98 Commercial Street,
Lerwick

Both

• **Core Times**

On Sales

	Opening	Terminal
Mon	11am	11pm
Tue	11am	11pm
Wed	11am	11pm
Thurs	11am	11pm
Fri	11am	11pm
Sat	11am	11pm
Sun	11am	11pm

Off Sales

	Opening	Terminal
Mon	10am	10pm
Tue	10am	10pm
Wed	10am	10pm
Thurs	10am	10pm
Fri	10am	10pm
Sat	10am	10pm
Sun	10am	10pm

- Seasonal Variation – Yes
- Other Activities – tasting events which will include food and alcohol pairing as well as stand alone food and alcohol tastings
- Children or Young Persons admitted – under 18 allowed to enter up until 9pm, can only remain in the premises after 9pm if and when accompanied by an adult
- Capacity in bar area – Retail area – 37, Café area – 62, Deli Counter – 13 Total 112
- Premises Manager – Erik Burgess

LSO comments: No objections

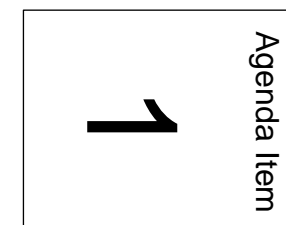
Police comments: No objections

Building Standards comment: Based on the floor plans provided the occupant capacity of the premises can be broken down as follows;
Retail area 37, Café area 62, Deli Counter 13 – Total 112
Display area Shelf one – 16.3m², Shelf two – 6.25m²

Community Council comments: No objections

Health Board Comments:

Fire Board Comments:



SHETLAND ISLANDS AREA LICENSING BOARD

13 March 2018

Hearing for a Personal Licence Applicant (Section 74)

1. Summary

- 1.1 Anais Catherine Williamson, an applicant for a Personal Licence, has a relevant conviction. The Licensing Board is asked to make a decision on whether to grant or refuse the application

2. Statutory Provisions

- 2.1 The process for applying for a personal licence is contained in and governed by Part 6 of the Licensing (Scotland) Act 2005 ("the Act").
- 2.2 The Act makes the grant of a personal licence conditional upon the applicant –
- a. being aged 18 years or over,
 - b. possessing a licensing qualification,
 - c. not already holding a personal licence, and
 - d. not having had a personal licence revoked within the five-year period ending with the receipt of the current application.

The applicant meets all of these conditions.

- 2.3 The Act requires that the Board notify the application to the Chief Constable who must inform the Board whether or not the Applicant has any previous conviction relevant for the purposes of the Act.

- 2.4 If –
- a. all of the conditions set out at paragraph 2.2 above are met in relation to the applicant,
 - b. the Board has been informed by the Chief Constable of the existence of a conviction for a relevant conviction of the applicant, and
 - c. the Chief Constable does not include a recommendation that it is necessary for the purposes of any of the licensing objectives that the personal licence application be refused,

it is within the discretion of the Board to hold a hearing for the purpose of considering and determining the application. The Board cannot refuse an application without a hearing.

- 2.5 The licensing objectives are –
- a. preventing crime and disorder,
 - b. securing public safety,
 - c. preventing public nuisance,
 - d. protecting and improving public health, and
 - e. protecting children from harm.

- 2.6 The Board must, at the hearing, have regard to any Notice provided by the Chief Constable.

3. Current application

- 3.1. Anais Catherine Williamson applied for a personal licence on 20 December 2017.
- 3.2 The application was referred to the Chief Constable on 15 January 2018.
- 3.3 The Chief Constable notified the Board that the Applicant had been convicted of assault to injury at Lerwick Sheriff Court on 9 November 2016 and fined £200. This conviction infers personal violence and as such is relevant for the purposes of the Act.
- 3.4 The Board decided at its meeting on 26 February 2018 that it would hold a hearing at its next meeting for the purpose of considering and determining the application. Notice has been given to the applicant of the hearing.
- 3.5 The Chief Constable has not made a recommendation of the nature referred to in paragraph 2.4 c above.

4. Conclusion

- 4.1 The Applicant meets all the requirements of an applicant for a personal licence. The Chief Constable notified the Board the existence of this applicant's relevant conviction but did not make a recommendation that this application be refused. The Board decided to hold a hearing on the application. At the hearing the Board must have regard to the Chief Constable's notice and –
 - a. if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, refuse the application, or
 - b. if not so satisfied, grant the application.

Depute Clerk to the Licensing Board
Ref: SB/DKA

SHETLAND ISLANDS AREA LICENSING BOARD

13 March 2018

Hearing for a Personal Licence Holder (Section 83)

1. Summary

- 1.1 Mark Toka, a Personal Licence holder, has notified the Licensing Board that he has been convicted of a relevant offence. The Licensing Board is asked to make a decision on whether to –
 - a. take no action, or
 - b. having regard to the conviction, consider whether it is necessary to endorse, suspend or revoke Mr Toka's Personal Licence in terms of section 83 of the Licensing (Scotland) Act 2005 ("the Act"), for the purposes of any of the licensing objectives

2. Statutory Provisions

- 2.1 Section 82 of the Act places a duty on the holder of any personal licence, who has been convicted of a relevant offence, to give notice of the conviction to the licensing board which issued the personal licence, specifying the nature of the offence and the date of the conviction, and to deliver the personal licence to the board.
- 2.2 When a licensing board receives notice of the conviction of a personal licence holder that board must give notice of the conviction to the Chief Constable, who must confirm the existence of the conviction.
- 2.3 Where the Chief Constable considers that, having regard to the conviction, it is necessary for the purposes of any of the licensing objectives that the personal licence should be revoked, suspended or endorsed, the Chief Constable may include a recommendation to that effect with his confirmation of the existence of the conviction. The licensing objectives are –
 - a. preventing crime and disorder,
 - b. securing public safety,
 - c. preventing public nuisance,
 - d. protecting and improving public health, and
 - e. protecting children from harm.
- 2.4 If the Board receives from the Chief Constable confirmation of the existence of the conviction, the board must hold a hearing.
- 2.5 At the Hearing the Board may, having regard to
 - a. the conviction, and
 - b. any recommendation sent by the Chief Constable
 and

- c. after giving the personal licence holder and the Chief Constable an opportunity to be heard, and
 - d. if satisfied that it is necessary to do so for the purposes of any of the licensing objectives,
 - make an order
 - i. revoking,
 - ii. suspending for such period not exceeding 6 months, as the Board considers appropriate, or
 - iii. endorsing
- the personal licence of the licence holder concerned.

3. Detail

- 3.1 On 12 March 2016 Mark Toka applied to the Board for a Personal Licence under the Act. As he met the statutory conditions, Mr Toka was granted a personal licence under the delegated procedure on 23 March 2016.
- 3.2 On 15 February 2018 Mr Toka attended the Board's offices and informed the Board that he had been convicted in Lerwick Sheriff Court of assault to severe injury and permanent impairment, which is a relevant offence for the purposes of the Act, and had been fined £1,000.
- 3.3 The Board's Clerk gave notice of the conviction to the Police and requested details of the conviction and confirmation that it was a relevant offence to allow the Board to decide whether any action was necessary.
- 3.4 On 21 February 2015 the Chief Constable confirmed that Mr Toka had been convicted of the relevant offence as above specified at paragraph 3.2
- 3.5 The Chief Constable when confirming the conviction made no recommendation of the sort referred to at paragraph 2.3.

4. Conclusion

- 4.1 Mr Toka is a Personal Licence holder. He has committed a relevant offence for the purposes of the Act. The Board must consider what action, if any, it wishes to take in respect of this conviction. The options available to the Board are to take no action or, if satisfied that it is necessary for the purposes of the licensing objectives, to endorse, suspend or revoke Mr Toka's Personal Licence.

Assistant Clerk to the Licensing Board
Ref: SI/LIQ/506 DKA
26 February 2018