

SHETLAND ISLANDS AREA LICENSING BOARD

Clerk: Jan-Robert Riise
Depute Clerk: Susan Brunton

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If calling please ask for
Leisel Malcolmson
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Dear Sir/Madam

Date: 27 August 2018

You are invited to attend the following meeting:

**Shetland Islands Area Licensing Board
Council Chamber, Town Hall, Lerwick
Monday 3 September 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
Extension of Licensed Hours. Enclosed
- 2. Linkhouse Stores – Premises Licence Review Proposal. Enclosed.

1. Application for Extension of Licensed Hours

<u>Applicant</u>	<u>Premises</u>	<u>Extended Hours Applied For</u>	<u>Event or Occasion</u>
(a) Graeme Howell	Mareel	Sunday 1 January 2019 1am to 3am	Hogmanay Celebration

LSO comments: No response received

Police comments No objections

SHETLAND ISLANDS AREA LICENSING BOARD**3 September 2018****Linkhouse Stores – Premises Licence Review Proposal****1. Introduction**

- 1.1 Premises Licences are subject to an annual fee. Most premises licence holders timeously pay the annual fee. Some do not. This report asks Shetland Islands Area Licensing Board to consider whether they wish to propose to review the licence held by Linkhouse Stores Limited whose holder has failed to pay the annual fee due 2 October 2017.

2. Detail – Statutory Provision

- 2.1 Section 37(1) of the Licensing (Scotland) Act 2005 states that the appropriate Licensing Board in respect of any licensed premises in relation to which a premises licence has effect may, on their own initiative, propose to review the licence on any of the grounds for review.

A proposal under section 37(1) is referred to as a “premises licence review proposal”.

- 2.2 The powers of the Board at a licence review are specified in Section 39. If the Board are satisfied that the grounds of review are established the Board can, in order to promote the licensing objectives, take the following steps:

- (a) Issue a written warning to the licence holder.
- (b) Make a variation to the licence.
- (c) Suspend the licence.
- (d) Revoke the licence.

- 2.3 The grounds for review referred to in section 37(1) are those specified in section 36(3) and are:

(za) that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a premises licence,

(a) that one or more of the conditions to which the premises licence is subject has been breached, or

(b) any other ground relevant to one or more of the licensing objectives.

- 2.3 A premises licence review proposal must specify the alleged ground for review including in particular, where the ground is that specified in subsection 36(3)(a), the condition or conditions alleged to have been breached.

- 2.4 It is a mandatory condition of any premises licence that the annual or other recurring fee to be paid by virtue of the regulations made under section 136(1) of the Licensing (Scotland) Act 2005 must be paid as required by the regulations. Regulation 7 of the Licensing (Fees)(Scotland) Regulations 2007 states that the holder of a premises licence which is in effect or is suspended must make payment of an annual fee in respect of the performance in relation to that licence of functions by the relevant Board, the council within the area of which the premises are situated and that council's Licensing Standards Officers.
- 2.5 Annual fees are due on 1 October each year or, where that date falls on a Saturday or Sunday, on the immediately following Monday.

3. Detail - Facts

- 3.1 Most premises licence holders in Shetland Islands Area ensure that the annual fee for the premises to which the licence relates is paid timeously either in full or in instalments. All licensees received notification from the Board of the due date and the fee level prior to the due date. The notification was sent on 11 August 2017. In addition the licensee of Linkshouse Stores Ltd received a second reminder dated 1 November 2017.
- 3.2 The holder of the Linkshouse Stores Ltd premises licence has failed to pay and is in breach of the conditions of the premises licence.
- 3.3 The Board is therefore entitled to consider whether a premises licence review proposal should be carried out for the premises.

4. Decisions Required

- 4.1 The Board is asked to consider the information provided and decide whether:-
1. The Board wishes to propose to review the Linkshouse Stores Ltd licence on the ground that it has breached a condition of the licence by failing to pay the annual fee.
 2. If the Board wishes to hold a review the Board are asked to consider whether they wish to request the attendance of any specified person at the review hearing.

Assistant Clerk to the Licensing Board

3 September 2018