
Report by LICENSING STANDARDS AND ENFORCEMENT OFFICER

Scottish Borders Licensing Board

20 April 2018

1 PURPOSE AND SUMMARY

- 1.1 This report requests a Review of a Premises Licence in terms of Section 36 of the Licensing (Scotland) Act 2005 ("the 2005 Act"), in respect of the premises known as The George and Abbotsford Hotel, High Street, Melrose - SB/PREM/315.
- 1.2 The grounds for the request are that the following condition to which the premises licence is subject has been breached, namely Mandatory Condition 10 of Schedule 3 to the Act – failure to pay the annual fee as required by regulation made under terms of Section 136 of the Act.
- 1.3 The annual licensing fee (£500) for the premises fell due on 1 October 2017. A reminder letter was issued to the licence holder, Andria Gardner ("the licensee") in September 2017. No payment was made by 1 October with the licensee eventually making contact and arranging to pay by quarterly instalments. The first instalment of £125 was overdue and paid on 1 December 2017. The second instalment of £125 was due on 1 January 2018, however, to date remains unpaid. The licensee has been visited by the Licensing Standards and Enforcement Officer when she gave assurances to immediately rectify the situation and make arrangements to have the outstanding instalment paid. Despite a further visit the unpaid quarterly instalment remains outstanding with no further contact being made by the licensee. A compliance notice under terms of Section 14 of the Act was issued by the Licensing Standards Officer dated 2 April 2018. The notice required payment of the outstanding portion of the annual fee (£375).

2 RECOMMENDATIONS

- 2.1 I recommend that the Board
 - (a) find that there are grounds for review,
 - (b) determine if any of the following options, which are available to them under terms of Section 39 of the 2005 Act would be appropriate in the circumstances:
 - (i) to issue a written warning to the licence holder,
 - (ii) to make a variation of the licence,
 - (iii) to suspend the licence for such period as the Board may determine,
 - (iv) to revoke the licence.

3 BACKGROUND

- 3.1 The review of the above premises licence is requested by the Council's Licensing Standards and Enforcement Officer under the terms of Section 36 of the Act. Mandatory Condition 10 of Schedule 3 attached to all premises licences requires the payment of annual or recurring fees.
- 3.2 The annual licensing fee (£500) for the premises fell due on 1 October 2017. A reminder letter was issued to the licence holder, Andria Gardner ("the licensee") in September 2017. No payment was made by 1 October 2017 however the licensee eventually made contact and elected to pay by quarterly instalment (£125) with the first of these being overdue and paid on 1 December 2017. The second instalment which was due on 1 January 2018 remains unpaid despite two reminder follow up visits by the Licensing Standards and Enforcement Officer and assurances from the licensee to immediately rectify the situation and arrange payment of the outstanding instalment. To date no further contact has been made and the remainder of the outstanding annual fee, £375 remains unpaid.
- 3.3 As a result of failure to make payment of the annual fee a Compliance Notice under the terms of Section 14 of the Act was issued by the Licensing Standards and Enforcement Officer on 2 April 2018. The notice was sent by recorded delivery and 1st class ordinary post. The notice required compliance with Mandatory Condition 10 of Schedule 3 to the Act within seven days of the date of the notice, ie payment of the outstanding portion of the annual premises fee as required by Regulation made under terms of Section 136 of the Act.
- 3.4 The premises operate as a Hotel with on and off sale facility and remain open and trading at this time.

4 IMPLICATIONS

4.1 Financial

There are no financial implications for the Licensing Board in considering the application for review, dependent on the outcome of the review hearing there could be a subsequent appeal by the Premises Licence Holder to the Sheriff Principal under Section 131 of the Licensing (Scotland) Act 2005 which could then have financial implications for the Board.

4.2 Risk and Mitigations

Should the Board fail to consider the review request, it could be seen as failing to address its legal duties. The risk is therefore mitigated by this report.

4.3 Equalities

It is anticipated there will be no adverse impact due to race, disability, gender, age, sexual orientation or religion/belief arising from the proposals contained in this report.

4.4 Acting Sustainably

There are no economic, social or environmental effects as a result of the proposals contained in this report.

4.5 Carbon Management

There is no impact on the Council's carbon emissions as a result of the proposals contained in this report.

4.6 Rural Proofing

Not applicable as this is not a new policy.

4.7 Changes to Scheme of Administration or Scheme of Delegation

No changes to either the Scheme of Administration or the Scheme of Delegation are required as a result of the recommendations in this report.

5 CONSULTATION

5.1 The Chief Financial Officer, the Monitoring Officer, the Chief Legal Officer, the Chief Officer Audit and Risk, the Chief Officer Human Resources, and the Clerk to the Council have been consulted in the preparation of this report

Approved by

Licensing Team Leader

Signature

Author(s)

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Background Papers:

Previous Minute Reference: N/A

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