
SCOTTISH BORDERS LICENSING BOARD

Report by The Clerk to the Licensing Board

NON PAYMENT OF PREMISES LICENCE ANNUAL FEES 2018/19

14 December 2018

1 PURPOSE AND SUMMARY

- 1.1 This report on the non payment of Premises Licence Annual Fees provides the Board with an up to date list of Premises which are subject to Review Hearings. Appendix A and B refer.
- 1.2 The grounds for the Review Hearings are that the following condition to which the Premises Licences are 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 fee for all premises fell due on 1 October 2018. A reminder letter was issued to licence holders in September 2018. At a meeting held on 16 November 2018, the Board considered a list of licence holders who had failed to make payment and agreed to hold Review Hearings in respect of any premises whose fees remained unpaid at its next meeting. Licence holders were notified of the Board's decision. No payment has been made to date by any of the Premises listed in Appendix A and B. The premises listed in Appendix A paid the previous year's annual fee (or part). The premises listed in Appendix B are currently suspended due to non payment of the previous year's annual fees.

2 RECOMMENDATIONS

- 2.1 I recommend that the Board:-
 - (a) proceeds to hold review hearings in respect of the Premises Licences listed in Appendix A and B; and
 - (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 annual fees for Premises Licences listed in Appendix A and B under the terms of Section 37(4)(a) of the Act remain unpaid. Mandatory Condition 10 of Schedule 3 attached to all Premises Licences requires the payment of annual or recurring fees.
- 3.2 The annual fee for all premises fell due on 1 October 2018. A reminder letter was issued to licence holders in September 2018. At a meeting held on 16 November 2018, the Board considered a list of those premises which had failed to make payment before that date and agreed to hold Review Hearings for those which remained unpaid at its next meeting. Premises licence holders were subsequently notified of the Board's decision and advised to treat that notification as a Final Reminder. A number of licence holders made payment, however, no payment has been made to date in respect of any of the Premises listed in Appendix A and B. The premises listed in Appendix A paid the previous year's annual fee (or part). The premises listed in Appendix B are currently suspended due to non payment of the previous year's annual fees.

4 IMPLICATIONS

4.1 Financial

The outstanding amount of fees due total £3,430. There are no other financial implications for the Licensing Board in considering the review, however dependent on the outcome of the review hearing there could be a subsequent appeal by any of the Premises Licence Holders 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 review the Premises Licences listed in Appendix A and B, 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 the 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 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.

Approved by

Licensing Team Leader

Signature

Author(s)

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Background Papers:

Previous Minute Reference: N/A

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jackie Wilson can also give information on other language translations as well as providing additional copies.

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