

EAST LoTHIAN COUNCIL

Licensing, Administration and Democratic Services

From: Rudi Fruzynski,
Licensing Standards Officer

To: K. MacNeill
Clerk to the Licensing Board

Date: 11th November 2016

**Subject: LICENSING (SCOTLAND) ACT 2005
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES
THE MASONS ARMS, 8 HIGH STREET, BELHAVEN, DUNBAR, EAST
LoTHIAN EH42 1NP**

On Thursday 27th October 2016, I received intimation in terms of Section 38(3)(b) of the licensing (Scotland) Act 2005 of the intention of the Licensing Board to review the Premises Licence in respect of the above premises.

In terms of Section 38(4) of the Act, I have prepared this report outlining the basis of the request for the review, which is submitted for the consideration of Licensing Board Members.

R. Fruzynski
Licensing Standards Officer

Licensing Standards Officer's Report

The annual fee for the Masons Arms is £220

On 29th July 2016 the Clerk to the East Lothian Licensing Board wrote to all Premises Licence Holders advising of the Annual Fee due in respect of their licence, requesting payment by 1st October 2016. It was intimated at this time that payment was a mandatory condition of the Premises Licence, in terms of Section 27(1) of the Licensing (Scotland) Act 2005 and failure to pay may be treated as a breach of Premises Licence.

On 4th October 2016, the LSO emailed Mr Darling, Licensee, requesting he make contact with the Licensing Board Office, regarding non payment of the annual fee. Later that day Mr Darling replied asking if the money could be uplifted from the Pub since he was busy decorating his house.

The following day the LSO contacted Mr Darling asking that a cheque for the annual fee be posted to the Licensing Office. The email also generously offered, there being no obligation or responsibility on the part of the LSO, to pick up the money from the pub that day, but Mr Darling replied that he was 'really struggling' and would not manage to be at the Pub. He also stated he did not do cheques. He asked instead if he could pay by cash at the Council Office that Saturday morning. On 7th October, Mr Darling was advised that the LSO would not be in the Dunbar area the following week and that the Council Offices are closed at weekends.

No further contact was received from Mr Darling.

By the time of the Licensing Board meeting, on 27th October, 2016, payment of the mandatory annual fee had still not been made. As a consequence, the Licensing Board instructed that a review of the Premises Licence would take place.

On 27th October 2016, the Depute Clerk to the Board sent a letter to the Masons Arms with a further reminder that they had not paid their mandatory annual fee and since this was a breach of a condition of their Premises Licence, the licence, would be reviewed at the Licensing Board on 24th November 2016. However, the review would be waived if the fee was paid prior to the Board meeting.

On 3rd November 2016, the LSO sent another email reminder to Mr Darling, with full payments option instructions, but received no response.

At the time of submission of this report (16:00 Friday 11th November 2016), the fee of £220 was still outstanding.

Annual Fee Payment Record

2010 to 2013 – the premises were operated by a different tenancy.

2014 – fee paid 08/10/2014

2015 – fee paid 19/10/2015

Licensing Board's Powers On Review

Licensing (Scotland) 2005 Section 39 (1) At a review hearing in relation to any premises licence, the Licensing Board may, if satisfied that a ground for review is established (whether or not on the basis of any circumstances alleged in the premises licence review proposal or application considered at the hearing) take such of the steps mentioned in subsection (2) as the Board considers necessary or appropriate for the purposes of any of the licensing objectives.

(2) Those steps are—

- (a) to issue a written warning to the licence holder,
- (b) to make a variation of the licence,
- (c) to suspend the licence for such period as the Board may determine,
- (d) to revoke the licence.

(3) On making a variation under subsection (2)(b), the Board may provide for the variation to apply only for such period as they may determine.