

EAST LOTHIAN

Meeting 22 November 2018 at 10:00am in Council Chambers, Town House, Haddington, East Lothian

Licensing (Scotland) Act 2005

Premises Licence Review(s)

Premises	Applicant	Date Received	Comments
7 GIANCARLO'S 119 HIGH STREET TRANENT EH33 1LW	EAST LOTHIAN LICENSING BOARD	9 November 2018	non-payment of annual fee
8 GOLDEN CHOPSTICKS 102 NEW STREET FISHERROW MUSSELBURGH EAST LOTHIAN EH21 6JQ	EAST LOTHIAN LICENSING BOARD	9 November 2018	non-payment of annual fee

# EAST LoTHIAN COUNCIL

Licensing, Administration and Democratic Services

From: Rudi Fruzynski,  
Licensing Standards Officer

To: K. MacNeill  
Clerk to the Licensing Board

Date: 12<sup>th</sup> November 2018

**Subject: LICENSING (SCOTLAND) ACT 2005  
PREMISES LICENCE REVIEW – NON PAYMENT OF ANNUAL FEES  
GIANCARLO'S , 119 HIGH STREET, TRANENT, EAST LoTHIAN EH33 1LW**

On Thursday 8<sup>th</sup> November 2018, 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

# Premises Licence Review

Giancarlo's  
119 High Street, Tranent, East Lothian Eh33 1LW

## Licensing Board November 2018

### Licensing Standards Officer's Report

In 2015 [REDACTED] was granted a Premises Licence in respect of the above restaurant.

On 6th August 2018 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 2018. 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. Details of payment method were included in this letter.

On 21<sup>st</sup> September and 9<sup>th</sup> October 2018, the Clerk to the Board sent additional letters of reminder to the premises address and licensing agent. No response was received.

On 23<sup>rd</sup> October 2018 the Licensing Standards Officer emailed the restaurant [REDACTED] and asked that contact be made with the Licensing Office concerning payment of the annual fee.

By the time of the Licensing Board meeting, on 25<sup>th</sup> October, 2018, 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 25<sup>th</sup> October 2018, the Depute Clerk to the Board sent a letter to the licensee 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 they would require to make payment of the outstanding fee and also appear at the Licensing Board on 22<sup>nd</sup> November 2018 to explain the reason for the stated breach of licence.

On 6<sup>th</sup> November 2018 the Licensing Standards called at the premises during the day. A copy of the letters dated 21<sup>st</sup> September and 25<sup>th</sup> October 2018 were left with [REDACTED] who stated that he had asked his [REDACTED] to send a cheque to their licensing agent to make the necessary payment. He stated that he would check with his [REDACTED] and arrange for payment to be made that day.

By 12<sup>th</sup> November 2018, no payment had been received from the licensee.

Since 2015 the premises licence annual fee has been paid on the following dates:

31/10/2015

27/10/2016

17/11/2017

### 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.

Our Reference: CG/mjw/EN/L/P

Date: 25<sup>th</sup> October 2018

Giancarlo's  
119 High Street  
Tranent  
EH33 1LW



Kirstie MacNeill  
CLERK OF THE LICENSING BOARD

John Muir House  
Haddington  
East Lothian  
EH41 3HA  
[licensing@eastlothian.gov.uk](mailto:licensing@eastlothian.gov.uk)

Dear Sir/Madam

**FINAL REMINDER**

**LICENSING (SCOTLAND) ACT 2005 – ANNUAL FEE NOW OVERDUE**

I refer to your Premises Licence for the above premises and letters/emails sent 6<sup>th</sup> August and 9<sup>th</sup> October advising that the Annual Fee in respect of this licence was due on 1<sup>st</sup> October 2018.

As you do not appear to have made payment of the Annual Fee you are now in breach of one of the Mandatory Conditions attached to your Premises Licence.

The Licensing Board has resolved to hold a review hearing in respect of this matter, in terms of Section 36(3)(a) of the Licensing (Scotland) Act 2005, namely that one of the conditions to which the premises licence is subject has been breached. You should attend at the Review Hearing which will be held at the next meeting of the Licensing Board in the Council Chambers, Town House, 56 High Street, Haddington at 10.00am on **Thursday 22<sup>nd</sup> November 2018**. An agenda will be sent to you in due course.

**Please note that the Licensing Board has the power to suspend or permanently revoke your licence if it finds that there are grounds to do so.**

Should you pay the outstanding sum in advance of the Review Hearing, it will not be necessary to attend the Board meeting. Such payment must be received in cleared funds no later than **5<sup>th</sup> November 2018**. For your convenience, I would remind you that your Annual Fee for 2018 is **£280.00**

Yours sincerely

Carlo Grilli  
Depute Clerk to the Licensing Board



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