

# **EAST LoTHIAN COUNCIL**

## **Licensing Standards**

**From: Licensing Standards Officer**

**To: C. Grilli  
Clerk to the Licensing Board**

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**Date: 13<sup>th</sup> November 2023**

**Subject: LICENSING (SCOTLAND) ACT 2005**

**PREMISES LICENCE REVIEW**

**THE FOLLY HOTEL, 1 STATION HILL, NORTH BWERICK, EAST LoTHIAN EH39 4AN**

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On 8<sup>th</sup> November 2023, 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 information relevant to the review for the consideration of Licensing Board Members.

Licensing Standards Officer

## **Premises Licence Review**

**The Folly Hotel  
1 Station Hill, North Berwick, East Lothian, EH39 4AN**

### **Licensing Board November 2023**

#### **Licensing Standards Officer's Report**

In 2019 The Wise Folly Ltd was transferred the Premises Licence in respect of the above hotel.

At this time Gareth Lancefield Cotton was appointed premises manager.

On 18<sup>th</sup> November 2021 Gareth Cotton was appointed premises manager at a premises in the Highlands. No notification was given to the Licensing Board of this however police have confirmed his appointment at another premises.

On 27<sup>th</sup> October 2022, an email was received from Mr Cotton to remove the current premises manager as they were moving to the Highlands. It is unclear who Mr Cotton was referring to in this email if it was himself or another person. No application to appoint a new premises manager was received at this time or has been since.

As a result, there should have been no sales of alcohol at the premises since Nov 2021. Should any sales of alcohol have occurred or continue this would be a breach of the premises licence condition and offence under the Licensing (Scotland) Act 2005.

Therefore, the sale of alcohol should not have taken place at the premises for the last 2 years.

On 31<sup>st</sup> July 2023 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 1<sup>st</sup> October 2023. 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 9<sup>th</sup> October and 2<sup>nd</sup> November 2023, the Clerk to the Board sent additional letters of reminder to the premises address and licensing agent. No response was received.

On 10<sup>th</sup> October 2023 the Licensing Standards officer hand delivered an additional letter of reminder to the premises. The premises was closed and the letter was posted through the door. There was a notice on the door (see photo a). The sign detailed that the hotel is running a self check in due to a staff shortage. It directs guests to a side door with 6 lock boxes and to look at booking instructions sent online for room number and box code.

It appears that the hotel is unmanned, and guests reside at the premises without staff there. This is concerning in relation to all the licensing objectives and the control the licence holder has over the operations and behaviour at a licensed premises.

By the time of the Licensing Board meeting, on 27th October 2023, 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 2<sup>nd</sup> November 2023, the Clerk to the Board sent another letter of reminder to the premises licence holder's address. No response was received.

On 8<sup>th</sup> November 2023, the 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 23<sup>rd</sup> November 2023 to explain the reason for the stated breach of licence.

By 13th November 2023, no payment had been received from the licensee.

Since 2019 the premises licence annual fee has been paid on the following dates:

27/09/2019

15/09/2020

29/09/2021

29/09/2022

#### **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.

Licensing Standards Officer

The Folly Hotel

Photo A

