

EAST LoTHIAN COUNCIL

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Licensing Standards

From: Licensing Standards Officer

To: C. Grilli
Clerk to the Licensing Board

Date: 8th November 2024

Subject: LICENSING (SCOTLAND) ACT 2005

PREMISES LICENCE REVIEW

EL0199, SHISH MAHAL, 63A HIGH STREET, MUSSELBURGH, EAST LoTHIAN EH21 7BZ

On 4th November 2024, I received intimation under 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 for nonpayment of the annual fee.

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

Shish Mahal
63A High Street, Musselburgh, East Lothian EH21 7BZ

Licensing Board 28th November 2024

Licensing Standards Officer's Report

In 2009 Idris Khan was granted a Premises Licence in respect of the above on conversion from the 1976 Act.

The premises manager named on the licence is Inam Khan.

On 1st August 2024, 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 2024. 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 methods were included in this letter.

On 8th October 2024, the Clerk to the Board sent additional reminder letters to the premises address. No response was received.

By 30th October 2024, payment of the mandatory annual fee had still not been made. I hand delivered a further reminder for payment from the Clerk to the Board to the premises address and posted it through the door. The premises was not open at this time.

The letter gave a further reminder that the mandatory annual fee had not been paid. As this was a breach of a condition of their Premises Licence, payment of the outstanding fee was required by 1st November 2024, and the premises licence holder may be required to appear at the Licensing Board on 28th November 2024, to explain the reason for the stated breach of premises licence.

On 4th November 2024, the Board resolved to review all premises licences that had failed to pay the annual fee under Section 37(1) of the Licensing (Scotland) Act 2005. I received intimation of this proposal and produced this report.

On 4th November I received a phone call from Mr Khan, premises licence holder and explained the situation and the requirement to pay the fee. He said he would pay, and I gave him details on how to do this. I reminded him that the annual fee is due every year by 1st October and late payment was not acceptable. I informed him that late payment has resulted in follow up by Licensing Officers and visits by the Licensing Standards Officers and this has occurred every year since 2012. I explained the Licensing Board may review the premises licence and that he would be requested to attend the Licensing Board hearing.

On 5th November 2024, payment of the premises licence annual fee was received. This was 35 days late.

Since 2012 the premises licence annual fee has been paid after 1st October (late) on the following dates:

09/10/2012
24/10/2013
03/10/2014
07/10/2015
07/10/2016
03/10/2017
03/10/2018
11/10/2019
06/10/2020
06/10/2021
10/10/2022
27/10/2023
05/11/2024

Each year the payment of the annual fee has been chased by Licensing Officers and the Licensing Standards Officer.

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

Our Reference: CG/GH

Date: 14th November 2024

Private & Confidential

Idris Khan



Carlo Grilli
CLERK OF THE LICENSING BOARD

John Muir House
Haddington
East Lothian
EH41 3HA
licensing@eastlothian.gov.uk

Dear Sir/Madam

**LICENSING (SCOTLAND) ACT 2005 – SECTION 37(1)
NOTIFICATION OF PREMISE REVIEW HEARING
IDRIS KHAN, EL0199, SHISH MAHAL, 63A HIGH STREET, MUSSELBURGH, EH21 7BZ**

The Licensing Board, has resolved to hold a review hearing, in terms of Section 37(1) of the Licensing (Scotland) Act 2005, on the grounds one or more of the conditions to which the premises licence is subject to has been breached. The condition detailed in Mandatory Condition 10 – Payment of annual fees.

The Review Hearing will be heard at the next meeting of the Licensing Board to be in the Council Chambers, Town House, High Street, Haddington or by Hybrid System at 10.00am on **Thursday 28th November, 2024.**

You are entitled to attend the Hearing and the Board members may, but are not obliged to, invite you to give your views in respect of this matter. If you wish someone else to represent you at the Hearing, you will be required to provide a written mandate confirming that they are instructed to do so. You can provide that mandate to this office in advance of the Hearing.

The Licensing Board has asked the Licensing Standards Officer to prepare a report into this matter for their consideration at the Hearing.

A copy of the report is included with this letter. Details of the Board hearing and agenda will be sent to you in due course.

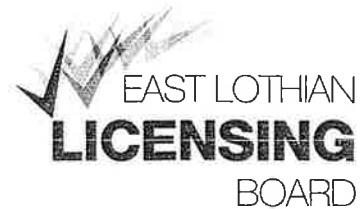
Yours sincerely

Carlo Grilli
Clerk to the Licensing Board

Direct Dial : 01620 827664
E-mail : licensing@eastlothian.gov.uk

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

Date: 30th October 2024



Shish Mahal Tandoori Ltd
63a High Street
Musselburgh
EH21 7BZ

Carlo Grilli
CLERK OF THE LICENSING BOARD

Dear Sir/Madam

John Muir House
Haddington
East Lothian
EH41 3HA

FINAL REMINDER

LICENSING (SCOTLAND) ACT 2005 – ANNUAL FEE NOW OVERDUE licensing@eastlothian.gov.uk

I refer to your Premises Licence for the above premises and letters/emails sent 1st August and 9th October advising that the Annual Fee in respect of this licence was due on 1st October 2024.

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 28th November 2024**. 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 by 1st November 2024 in advance of the Review Hearing, it will not be necessary to attend the Board meeting. I would remind you that your Annual Fee for 2024 is **£280.00**.

Yours faithfully

Carlo Grilli
Depute Clerk to the Licensing Board

E-mail : licensing@eastlothian.gov.uk

eastlothian.gov.uk

