

VALUE YOUR LICENCE

NATIONAL LAW FIRM TLT'S STEPHEN MCGOWAN, A DIRECTOR AND HEAD OF LICENSING (SCOTLAND)

It never ceases to surprise me how often licensing is considered as an afterthought in general business practice and management. The vast majority of the operators we read about in magazines like the DRAM are responsible and diligent, and fantastic contributors to Scottish society. But there are those for whom the licence is sometimes low on the list of priorities or even worse, forgotten. It is not altogether uncommon to read of a business that has gotten itself into difficulties by not paying attention to the licence and the licensing system.

One of the most common examples of this relates to business restructuring or insolvency events. We have seen numerous stories in the trade press recently about premises being closed because the licence holding company has been dissolved or placed in administration and no one has remembered that the licence needs to be looked after. On countless occasions I have been instructed by insolvency practitioners appointed to look after a business caught up in a personal sequestration or a company liquidation, and the licence has been ignored. The law requires certain actions to be taken and where an event occurs, which affects the legal status of the entity which holds the licence, there are strict timescales to be observed to save the licence – typically 28 days. Otherwise the licence ceases to have effect and in most cases this means it is irretrievably lost, which can bring tremendous grief further down the line. These issues can also arise following a simple transfer of the business or a business restructuring, where the property and corporate dimensions are fully explored but no-one thinks to take steps to secure the licence. Just because a premises licensed to have a licence does not mean a new licence will be granted. There are major issues to consider if you are forced to apply for a new licence, for example, are the premises up to modern building regulations?

Another issue which comes up is trading without a licence

or the correct licence. This could be: trading after the licence has been lost and not realising that it has happened; trading having taken on a premises without having the licence transferred properly; trading where there is no full licence as perhaps a provisional licence has been granted only; or worse, trading when there is simply no licence at all! It does an operator no favours when seeking a licence to have the licensing board discover that he has been trading in advance of their decision. It is also a criminal offence which could lead to a fine of £20,000 and/or imprisonment of 6 months so there really can be no dubiety of the seriousness of this.

A third strand to this debate is about protecting the licence once it is in place. It is now incredibly easy for a licence to be revoked or suspended and this can be done quite quickly too with police, a licensing standards officer and in fact anyone at all now able to call a review of a licence. Operators must respect the licence and recognise that it is a right which is given with the burdens of responsibility, due diligence and best practice. I understand the financial pressures some sectors of the trade are experiencing as

I have clients operating under extreme difficulties and I see first hand the stresses they are under. But short term gain by ignoring the obligations or duties you have as a licensee is a false economy, for you will have no business at all without the licence.

The licence must surely be the single most fundamental aspect of a hospitality business, so this begs the question why it is sometimes taken for granted. What good is a pub without an alcohol licence? An alcohol licence is not simply another tick-box or a bit of paper, it is the central pillar of that business and must be treated with respect.

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Issued

Premises licence number GC0137

Postal address of premises

Postcode G3 8TB

Telephone number

Description of premises

Premises are located in the west end of Glasgow in an area of mixed commercial and residential use with a large amount of tenemental property in the area

The premises are located on the ground floor of a tenemental property