

ANGUS LICENSING BOARD – 4 APRIL 2019

PERSONAL LICENCE HOLDER – NOTICE OF CONVICTION

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to consider correspondence received from the Chief Constable, Police Scotland, giving notice of conviction of a relevant offence in terms of section 83(4)(b) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) in respect of a current Personal Licence Holder.

1. RECOMMENDATION

It is recommended that the Board considers the correspondence received from the Chief Constable giving notice of the conviction of a relevant offence and determine whether:

- (a) having regard to the conviction, and
- (b) after giving (i) the licence holder concerned; and (ii) the Chief Constable, an opportunity to be heard, and
- (c) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order revoking, suspending for such period, not exceeding 6 months, as the Board considers appropriate, or endorsing, the personal licence held by the licence holder concerned;
- (d) if, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.

2. BACKGROUND

The Clerk received correspondence from the Chief Constable on 23 January 2019 giving notice of conviction of a relevant offence in terms of section 83(4)(b) of the 2005 Act in respect of a Personal Licence Holder. A copy of that correspondence shall be circulated to Board members in advance of the meeting.

The Board will recall that in respect of the correspondence received, it determined to hold a hearing in terms of section 83(7A)(a) of the 2005 Act at the meeting of the Board on 14 February 2019. At said meeting the Board determined to defer determination of the correspondence until a Special Meeting of the Board on 4 March 2019, having due regard to applicable legislative provisions. At the Special Meeting of the Board on 4 March 2019 determination of the correspondence was further deferred by the Board, at the request of the Licence Holder’s Agent due to her unavailability, to 4 April 2019 Board meeting.

3. LEGAL

The Board now requires to determine, if necessary to do so for the purposes of the licensing objectives, whether to make an order revoking, suspending for a period not exceeding 6 months, or endorsing the personal licence holder’s licence. If at the Hearing the Board is satisfied, having regard to the licensing objectives, that the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

In dealing with this report, the Board will have regard to any human rights issues in relation to the Personal Licence Holder.

6. NOTIFICATION

The Personal Licence Holder has been written to and advised of their entitlement to attend the Board should they wish.

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APPENDIX TO REPORT NO LB17/19
ANGUS LICENSING BOARD – 4 APRIL 2019

(a) PERSONAL LICENCE HOLDER AN/720– MARC JOHN SIVEWRIGHT

The Clerk received notification of a conviction from current personal licence holder Marc John Sivewright on 16 December 2018. The clerk gave notice of the conviction to the Chief Constable, Police Scotland, on 14 January 2019.

The clerk subsequently received a Notice (by way of letter) from the Chief Constable, Police Scotland, on 23 January 2019 confirming the existence of a conviction of a relevant offence.

The Chief Constable's letter shall be circulated to Board members in advance of the meeting.

Section 82 of the Licensing (Scotland) Act 2005 requires that the personal licence holder must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board. The licence holder was convicted on 27 January 2017 but did not notify the clerk of said conviction until 16 December 2018.