

ANGUS LICENSING BOARD – 4 APRIL 2019

NEW APPLICATION FOR A PERSONAL LICENCE – NOTICE OF CONVICTION

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to advise the Board of correspondence received from the Chief Constable giving notice of a conviction of a relevant offence in terms of section 73(3)(b) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) in respect of a new application for a personal licence.

1. RECOMMENDATION

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

- (a) in terms of section 74(5A), to hold a hearing for the purpose of considering and determining the application; or
- (b) in terms of section 74(5B), to grant the application.

2. BACKGROUND

The Clerk has received correspondence from the Chief Constable giving notice of conviction in terms of section 73(3)(b) of the Act in respect of a new application for a personal licence. **A copy of the correspondence shall be circulated to members in advance of the meeting.**

3. LEGAL

Section 74(2) of the Act determines that an application for a personal licence must be granted if:

- (i) all of the conditions of section 74(3) are met;
- (ii) the Board has received from the Chief Constable a notice that states the applicant has not been convicted of any relevant offence or foreign offence;
- (iii) the notice does not include a recommendation that it is necessary, for the purposes of any of the licensing objectives, that the application be refused;
- (iv) no further information has been provided by the Chief Constable;
- (v) the applicant has signed the application; and
- (vi) the applicant has not previously held an expired or surrendered personal licence.

In terms of section 74(3), the Applicant must:

- (a) be aged 18 or over
- (b) possesses a licensing qualification
- (c) does not already hold a personal licence: and
- (d) has not had a personal licence revoked within the period of 5 years ending on the day when the application was received.

Notice having been given in terms of section 73(3)(b) of the Act, the Board now requires to determine whether to hold a hearing or whether, in terms of section 74(5B), the application must be granted.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

In dealing with the application as set out in this report, the Board will have regard to any human rights issues in relation to the Applicant.

6. NOTIFICATION

Should the Board decide to hold a hearing the Applicant will be advised of the date of said hearing and their entitlement to attend the Board should they wish.

REPORT AUTHOR: Nannette Page, Team Leader (Senior Solicitor)

E-MAIL: LAWLicensing@angus.gov.uk

APPENDIX TO REPORT NO LB18/19
ANGUS LICENSING BOARD – 4 APRIL 2019

(a) APPLICATION FOR A PERSONAL LICENCE – JAMES BURNETT

The clerk received an application for a Personal Licence dated 6 March 2019 from the Applicant. The application was thereafter sent for consultation to the Chief Constable in accordance with applicable statutory provisions

The clerk subsequently received notice by way of letter from the Chief Constable on 19 March 2019 confirming the existence of a conviction of a relevant offence. This letter shall be circulated to Board members in advance of the meeting.

The conviction was declared by the Applicant on his application form.