

AGENDA ITEM 7

REPORT NO LB 19/19

ANGUS LICENSING BOARD – 4 APRIL 2019

NEW APPLICATION FOR A PERSONAL LICENCE

NOTICE IN TERMS OF SECTION 73(3)(a) LICENSING (SCOTLAND) ACT 2005

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to advise the Board of notice received from the Chief Constable, Police Scotland, in terms of section 73(3)(a) of the Licensing (Scotland) Act 2005 (“the 2005 Act”) which includes a recommendation under section 73(4), and information the Chief Constable considers may be relevant in relation to the applicant in terms of section 73(5), in respect of a new personal licence application.

1. RECOMMENDATION

It is recommended that the Board considers the notice received from the Chief Constable and determines the application:-

- (a) having regard to the Chief Constable’s notice and any information provided by him under Section 73(5) of the 2005 Act -
- (b) if satisfied that a ground for refusal applies, refuse the application; or
- (c) if not so satisfied, grant the application.

2. BACKGROUND

The Clerk has received notice by way of letter in terms of section 73(3)(a) from the Chief Constable in respect of a new application for a personal licence which includes a recommendation under section 73(4), and information the Chief Constable considers may be relevant in relation to the applicant, in terms of section 73(5) of the 2005 Act. A copy of said notice shall be circulated to Board members in advance of the meeting.

3. LEGAL

Having regard to the terms of notice received a hearing must be held by the Board for the purposes of determining the application in accordance with Section 74(5) of the 2005 Act.

Section 74(2) of the 2005 Act provides that an application for a personal licence must be granted if:

- (a) all of the conditions specified in section 74(3) are met in relation to the applicant;
- (b) 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;
- (c) 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;
- (ca) no information has been provided by the Chief Constable to the Board in relation to the applicant that the Chief Constable considers may be relevant to consideration by the Board of the application;
- (e) the applicant has signed the application; and

(f) the applicant has not previously held an expired or surrendered personal licence.

In terms of section 74(3) of the 2005 Act the Applicant must :-

(i) be aged 18 or over

(ii) possess a licensing qualification

(iii) does not already hold a personal licence: and

(iv) has not had a personal licence revoked within the period of 5 years ending on the day the application was received.

(v) The grounds for refusal of the application are –

(vi) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,

(vii) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

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

6. NOTIFICATION

The Applicant has been advised of the date of the hearing and his entitlement to attend the Board should he wish.

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APPENDIX TO REPORT NO LB 19/19

ANGUS LICENSING BOARD – 4 APRIL 2019

(a) APPLICATION FOR A PERSONAL LICENCE – NEVADA MITCHELL

An application for a Personal Licence dated 4 March 2019 was received from the Applicant. The application was sent for consultation same date to the Chief Constable, Police Scotland, in accordance with applicable statutory provisions.

The clerk subsequently received notice by way of letter dated 18 March 2019 from the Chief Constable, in terms of Sections 73(3)(a) confirming that the applicant has not been convicted of a relevant offence, however in terms of Section 73(5) of the 2005 Act the applicant has acted in a manner which is inconsistent with the licensing objectives, namely Securing Public Safety and Protecting Children and Young Persons from Harm; further, that he recommends refusal of the application in terms of Section 73(4).

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

The Applicant previously held a Personal Licence which was granted under delegated authority on 1 September 2009. The applicant failed to undertake the mandatory Refresher Training and therefore submitted an email on 29 August 2014 to the Angus Licensing Board surrendering his Personal Licence- numbered AN/444.