

**SPECIAL ANGUS LICENSING BOARD – 3 JULY 2019**

**NEW PERSONAL LICENCE APPLICATION – NOTICE OF CONVICTION**

**REPORT BY THE CLERK**

**ABSTRACT**

The purpose of this report is to advise the Board of correspondence received giving notice of a conviction 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 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 2005 Act in respect of a new application for a personal licence. **A copy of that correspondence shall be circulated to Board members in advance of the meeting.**

**3. LEGAL**

- 3.1 Where a Licensing Board receives a personal licence application, the Board must give notice of it, together with a copy of the application to the Chief Constable.
- 3.2 The Chief Constable must, within 21 days of the date of receipt of the personal licence application, respond to the application by giving the Licensing Board one or other of the notices noted in paragraph 3.3.
- 3.3 The notices available are:-
  - i) a notice, in terms of section 73(3)(a), stating that, as far as the Chief Constable is aware, the applicant has not been convicted of any relevant offence or foreign offence
  - ii) a notice, in terms of section 73(3)(b), specifying any convictions of the applicant of any such offence.
- 3.4 On giving either type of notice, if the Chief Constable considers that it is necessary for the purposes of any of the licensing objectives that the personal licence application be refused, the Chief Constable may include in the notice a recommendation to that effect.
- 3.5 On giving either type of notice, the Chief Constable may also provide to the Licensing Board any information in relation to the applicant that the Chief Constable considers may be relevant to consideration by the Board of the application.
- 3.6 Where a Licensing Board receives a Personal Licence application, the Board must also give notice of it, together with a copy of the application, to a Licensing Standards Officer for the Board's area.

A Licensing Standards Officer may, within 21 days of the date of receipt of a notice, respond to the notice by giving the Licensing Board any information in relation to the application that the Officer considers may be relevant to consideration by the Board of the application. **A copy of the LSO Report is attached.**

- 3.7 Section 74(2) of the Act determines that an application for a personal licence should be granted if:
- a) all of the conditions of section 74(3) are met in relation to the applicant;
  - b) the Board has received a notice from the Chief Constable 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;
  - d) no further information has been provided by the Chief Constable;
  - e) the applicant has signed the application; and
  - f) the applicant has not previously held an expired or surrendered personal licence.
- 3.8 In terms of section 74(3), the Applicant must:
- a) be aged 18 or over;
  - b) possess a licensing qualification;
  - c) not already hold a personal licence: and
  - d) not have had a personal licence revoked within the period of 5 years ending on the day when the application was received.
- 3.9 Notice having been given in terms of section 73(3) (b) of the Act, the Board requires to determine whether to hold a hearing or whether, in terms of section 74(5B), the application should be granted.

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

### **4. 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.

### **5. NOTIFICATION**

Should the Board decide to hold a hearing at a future date the Applicant will be advised of their entitlement to attend the Board.

**REPORT AUTHOR:** Nannette Page, Team Leader  
**E-MAIL:** LEGDEM@angus.gov.uk

**APPENDIX TO REPORT NO LB 39/19**  
**ANGUS LICENSING BOARD – 3 JULY 2019**

**(a) APPLICATION FOR A PERSONAL LICENCE – ASHLEIGH ELIZABETH ROSS**

The Clerk received a Personal Licence Application dated 17 April 2019 but received 1 May 2019, from Ashleigh Elizabeth Ross. The application was sent for consultation to the Chief Constable and Licensing Standards Officer on 1 May 2019.

The Clerk received a notice of a conviction of a relevant offence from the Chief Constable on 16 May 2019. The Chief Constable's notice shall be circulated to Board members prior to the meeting.

The Board is asked to note that the Applicant did declare a conviction of assault on her personal licence application form. The Board may wish to ascertain from Police Scotland whether the declaration of assault is, in fact, a separate or related offence.

A Report has been provided by the Licensing Standards Officer in respect of the Application.

**LICENSING (SCOTLAND) ACT 2005**  
**PERSONAL LICENCE APPLICATION**

A notice of conviction has been received in respect of: **Ashleigh Elizabeth Ross**

**Background:**

An application for Personal Licence was received from Ms Ross on 1 May 2019.

An email was sent both to Police Scotland and the Licensing Standards Officer on 1 May 2019 notifying them of the application as required by Section 73 (1) and 73A (1) of the Licensing (Scotland) Act 2005 respectively.

The Licensing Standards Officer replied in terms of Section 73A (2) of the Licensing (Scotland) Act 2005 on 6 May 2019, stating that he had no information he considered relevant in relation to the applicant.

A notice of conviction was received from Police Scotland in terms of 73(3) (b) of the Licensing (Scotland) Act 2005 on 16 May 2019.

**Licensing Standards Officer's Report:**

I received notification of the application from Ms Ross on 1 May 2019. I replied on the 6 May 2019 with the following:

*"In my capacity as Licensing Standards Officer, I have no information to provide in relation to the applicant that I consider may be relevant for consideration by the Licensing Board in terms of Section 73A(2) Licensing (Scotland) Act 2005 in reference to Ashleigh Ross's application for a Personal Licence".*

It was then brought to my attention at a later date that Police Scotland had submitted a notice of conviction, that letter being dated 16 May.

While I still have no further information I can provide in relation to Ms Ross or in respect of this conviction, I have noted the relevant offence.

The Board therefore can either:

- a) in terms of section 74(5A) of the Licensing (Scotland) Act 2005, hold a hearing for the purpose of considering and determining the application; or
- b) in terms of section 74(5B) Licensing (Scotland) Act 2005 , grant the application.

Daniel J. Coleman  
Licensing Standards Officer  
Angus Council