

**ANGUS LICENSING BOARD – 8 AUGUST 2019**

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

**REPORT BY THE CLERK**

**ABSTRACT**

At a Special Meeting of the Board on 3 July 2019 the Board determined to hold a hearing in terms of section 74(5A) of the Licensing (Scotland) Act 2005 in respect of a new personal licence application. The purpose of this report is for the Board to now consider the notice received from the Chief Constable of a relevant offence in terms of section 73(3)(b) of the Act and determine the application.

**1. RECOMMENDATION**

It is recommended that the Board hold a hearing and considers the correspondence received from the Chief Constable giving notice of a conviction and determine to:

- (a) if satisfied that a ground for refusal applies, refuse the application, or
- (b) if not satisfied that a ground for refusal applies, grant the application.

**2. BACKGROUND**

The Clerk received correspondence from the Chief Constable giving notice of a conviction in terms of section 73(3)(b) of the Act in respect of a new application for a personal licence. At a Special Meeting of the Board on 3 July 2019 the Board determined to hold a hearing to determine the application. [Report 39/19](#) refers.

**A copy of the correspondence received from the Chief Constable shall be circulated to Board members in advance of the meeting.**

**3. LEGAL**

**3.1** At a hearing under section 74(5A), the Board, after having regard to the Chief Constable's notice and, if applicable, any information provided by Police Scotland or the Licensing Standards Officer under sections 73(5) or 73A(2), can:-

- (a) if satisfied that a ground for refusal applies, refuse the application, or
- (b) if not so satisfied, grant the application.

**3.2** The grounds for refusal are:

- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
- (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.

**3.3** The licensing objectives are:

- (i) preventing crime and disorder
- (ii) securing public safety
- (iii) preventing public nuisance
- (iv) protecting and improving public health; and
- (v) protecting children and young persons from harm

- 3.4** The Board should be aware that any grounds relevant to the licensing objectives mean that there has to be a direct and material link thereto brought about through the sale of alcohol.
- 3.5** 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.
- 3.6** 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.

#### **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 applicant.

#### **6. NOTIFICATION**

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

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**(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 in accordance with the Licensing (Scotland) Act 2005.

The Clerk received a response to the consultation from the Chief Constable by way of notice of a conviction on 16 May 2019. **The Chief Constable's notice shall be circulated to Board members in advance of the meeting.**

The Board is asked to note that the Applicant declared 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, noted in the notice of conviction.