

ANGUS LICENSING BOARD – 17 SEPTEMBER 2020

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 shall be circulated to Board members in advance of the meeting.**

- 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.

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(a) APPLICATION FOR A PERSONAL LICENCE – JAMES MORRISON

The Clerk has received a Personal Licence Application from James Morrison. The application was sent for consultation to the Chief Constable and Licensing Standards Officer on 13 July 2020.

The Clerk received a notice of a conviction of a relevant offence from the Chief Constable dated 22 July 2020. The Chief Constable's notice shall be circulated to Board members prior to the meeting.

A Report has been provided by the Licensing Standards Officer in respect of the Application and will be circulated to Board members prior to the meeting.