

SPECIAL ANGUS LICENSING BOARD – 29 OCTOBER 2020

NEW PERSONAL LICENCE APPLICATION – NOTICE OF CONVICTION

REPORT BY THE CLERK

ABSTRACT

At a meeting of the Board on 17 September 2020 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 meeting of the Board on 17 September 2020 the Board determined to hold a hearing to determine the application. [Report 54/20](#) 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 – JAMES MORRISON

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

The Clerk received a response to the consultation from the Chief Constable by way of notice of a conviction dated 22 July 2020. **The Chief Constable's notice shall be circulated to Board members in advance of the meeting.**

The applicant did not declare this conviction on his application form.