

**SPECIAL ANGUS LICENSING BOARD – 30 SEPTEMBER 2021**

**PERSONAL LICENCE – NOTICE OF CONVICTION**

**REPORT BY THE CLERK**

**ABSTRACT**

Having decided to hold a hearing in terms of section 83(7A)(a) of the Licensing (Scotland) Act 2005 at the meeting of the Board on 16 September 2021, the purpose of this report is to consider the notice of conviction received from the Chief Constable of a relevant offence in terms of section 83(4)(b) of the 2005 Act in respect of a Personal Licence Holder.

**1. RECOMMENDATION**

It is recommended that the Board considers the correspondence received from the Chief Constable giving notice of the conviction and determine:-

- (a) having had regard to the conviction and any recommendation in the Chief Constable's notice, and
- (b) after giving (i) the licence holder concerned; and (ii) the Chief Constable, an opportunity to be heard, and
- (c) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order
  - (i) revoking, or
  - (ii) suspending for such period, not exceeding 6 months, as the Board considers appropriate, or
  - (iii) endorsing,the personal licence held by the licence holder concerned;
- (d) if, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.

**2. BACKGROUND**

The Clerk has received correspondence from the Chief Constable giving notice of conviction of a relevant offence in terms of section 83(4)(b) of the Licensing (Scotland) Act 2005 ("the 2005 Act") in respect of a Personal Licence Holder. **A copy of that correspondence shall be circulated to members in advance of the meeting.**

The Board determined, at its meeting on 16 September 2021 (Report LB 43/21 refers), to hold a hearing in terms of section 83(7A)(a) of the Licensing (Scotland) Act 2005.

The Board is now required to hold a hearing under Section 83(7A)(a) of the 2005 Act. At this hearing, the Licensing Board may:-

- (a) having regard to—
  - (i) the conviction, and
  - (ii) any recommendation contained in the chief constable's notice under Section 83(5) of the 2005 Act,

- (b) after giving—
  - (i) the licence holder concerned, and
  - (ii) the chief constable,an opportunity to be heard, and
- (c) if satisfied that it is necessary to do so for the purposes of any of the licensing objectives,

make and order under Section 83(9) of the 2005 Act.

An order under Section 83(9) of the 2005 Act is an order-

- (a) revoking,
  - (b) suspending for such period, not exceeding 6 months, as the Board considers appropriate,
- or
- (c) endorsing,

the personal licence held by the licence holder concerned.

Section 83(9)A of the 2005 Act provides that where, at the hearing, the Licensing Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence the Board must make an order revoking the licence.

The Board is asked to note that an endorsement expires at the end of the period of 5 years beginning with the date on which the endorsement is made. Any endorsement which has expired is to be disregarded. Where three endorsements have been made in any personal licence, the Board which issued the licence must hold a hearing.

### **3. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

### **4. HUMAN RIGHTS IMPLICATIONS**

In dealing with this report, the Board will have regard to any human rights issues in relation to the Personal Licence Holder.

### **5. NOTIFICATION**

The Personal Licence Holder has been written to at their last known address and advised of their entitlement to attend the Board should they wish.

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**(a) PERSONAL LICENCE HOLDER AN368– FAISAL NASEEM**

The Clerk received notification of a conviction of a relevant offence from the Chief Constable on 24 August 2021 regarding Faisal Naseem, who is a Personal Licence holder.

Section 82 of the Licensing (Scotland) Act 2005 requires that the licence holder must, no later than one month after the date of the conviction, give notice of the conviction to the Licensing Board.

Mr Naseem confirmed the conviction by email on 22 August 2021.

The Chief Constable's notice of conviction shall be circulated to members prior to the meeting.