

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 from the Chief Constable giving notice of a conviction of a relevant offence 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. RECOMMENDATIONS

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

- (i) in terms of section 74(5A), to hold a hearing for the purpose of considering and determining the application; or
- (ii) in terms of section 74(5B), to grant the application.

2. BACKGROUND

The Clerk received correspondence from the Chief Constable giving notice of a conviction for a relevant offence in terms of section 73(3)(b) of the Act in respect of a new application for a personal licence.

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 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.

3.7 Section 74(2) of the 2005 Act determines that an application for a personal licence must be granted if:

- (a) all of the conditions of section 74(3) are met;
- (b) the Board has received from the Chief Constable a notice 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:

- (i) be aged 18 or over
- (ii) possesses a licensing qualification
- (iii) not already hold a personal licence: and
- (iv) 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.

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 Personal Licence Holder has been given a copy of this Report, a copy of the Report from the Chief Constable and has been invited to attend the Board. The Chief Constable has been given a copy of this Report and been invited to attend the Board

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(a) APPLICATION FOR A PERSONAL LICENCE – DAVID CRIPPS

The Clerk received a Personal Licence Application from David Cripps which was processed and sent to the Chief Constable and Licensing Standards Officer for consultation on 22 December 2021.

The Clerk received a response to the consultation from the Chief Constable by way of notice of a conviction dated 29 December 2021. **The Chief Constable's notice shall be circulated to Board members in advance of the meeting.**

No report was submitted by the Licensing Standards Officer as she had no comments to make in relation to the application.

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