

**ANGUS LICENSING BOARD – 17 AUGUST 2023**

**NEW PERSONAL LICENCE APPLICATION**

**REPORT BY THE CLERK**

**ABSTRACT**

The purpose of this report is to advise the Board of a notice received 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 and for the application to be determined.

**1. RECOMMENDATION**

It is recommended that the Board considers the notice received from the Chief Constable relevant to the application, determines whether to hold a hearing and, if so, thereafter considers and determines the application.

**2. BACKGROUND**

The Clerk has received correspondence from the Chief Constable giving notice and information 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 for 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 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 with no recommendation in terms of section 73(4), the Board may hold a Hearing as per section 74(5A) which states:-

If (a) all of those conditions are met in relation to the applicant; and (b) the notice received from the chief constable under subsection (3)(b) of section 73, and the notice does not include a recommendation under subsection (4) of that section, the Licensing Board may hold a hearing for the purpose of considering and determining the application.

#### **4. FINANCIAL IMPLICATIONS**

There are no financial implications arising from this report.

#### **5. 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.

#### **6. NOTIFICATION**

The applicant has been notified of the terms of this Report. They have also been advised of their entitlement to attend the Board should they wish.

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**APPLICATION FOR A PERSONAL LICENCE – BRIAN JOHN CAITHNESS**

The Clerk received an application for a Personal Licence from Brian Caithness. The application was thereafter sent for consultation to the Chief Constable and the Licensing Standards Officer on 19 July 2023 in accordance with applicable statutory provisions.

The Clerk subsequently received a letter of notice of conviction from the Chief Constable dated 27 July 2023. **A copy of said letter shall be circulated to Board members in advance of the meeting.**

The Licensing Standards Officer has no comments to make in respect of the application.