

SPECIAL ANGUS LICENSING BOARD – 20 JUNE 2023

PREMISES LICENCE – NOTICE OF CONVICTION

REPORT BY THE CLERK

ABSTRACT

The purpose of this report is to advise the Board of correspondence in relation to a premises licence received by the Clerk giving notification of a conviction.

1. RECOMMENDATION

It is recommended that the Board considers the correspondence received from the Premises Licence Holder giving notice of the conviction and notice from the Chief Constable and determine whether, in terms of section 44(7A), to: -

- (a) make a premises licence review proposal, or
- (b) to take no further action in relation to the conviction.

2. BACKGROUND

The Clerk received correspondence from the Licence holder under Section 43 of the Licensing (Scotland) Act 2005 notifying that they had been convicted of four offences. The Clerk intimated this to the Chief Constable. The Chief Constable responded with a notice in terms of section 44(4)(b) of the Act.

3. LEGAL

In terms of section 43 of the Licensing (Scotland) Act 2005 the Premises Licence holder and, where the holder of the premises licence is neither an individual nor a council, or the premises in respect of which such a licence is held are used wholly or mainly for the purposes of a club, any connected person, has a duty to notify the Licensing Board of the conviction of a relevant or foreign offence, no later than one month after the date of the conviction.

Having received such notification the Licensing Board must give notice of the conviction to the Chief Constable. The Chief Constable must respond with a notice in terms of section 44(4) of the Licensing (Scotland) Act 2005 either:-

- (a) a notice stating that the chief constable is unable to confirm the existence of the conviction or that the conviction does not relate to a relevant or foreign offence, or
- (b) a notice confirming the existence of the conviction and that it relates to a relevant or foreign offence.

Where the Chief Constable proposes to give a notice under section 44(4)(b), and considers that, having regard to the conviction specified in the notice, it is necessary for the purposes of any of the licensing objectives that the premises licence should be varied, suspended or revoked, the Chief Constable may include in the notice a recommendation to that effect.

If the Licensing Board receives from the Chief Constable a notice under section 44(4)(b) which does not include such a recommendation the Licensing Board must either make a premises licence review proposal in respect of the premises licence, or decide to take no further action in relation to the conviction. The notice received from the Chief Constable does not include a recommendation under section 44(5).

4. FINANCIAL IMPLICATIONS

There are no financial implications arising from this report.

5. HUMAN RIGHTS IMPLICATIONS

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

6. EQUALITIES IMPLICATIONS

The issues contained in this Report fall within an approved category that has been confirmed as exempt from an equalities perspective

7. NOTIFICATION

Should the Board decide to hold a hearing at a future date, the Personal Licence Holder will be advised of their entitlement to attend the Board should they wish.

REPORT AUTHOR: Jennifer Burns, Solicitor, Team 1
E-MAIL: LEGDEM@angus.gov.uk

SPECIAL ANGUS LICENSING BOARD – 20 JUNE 2023

(a) PREMISES LICENCE HOLDER - MORRISONS

The Clerk received a letter from, Gosschalks, agents for Morrisons dated 13 April 2023 confirming that Wm Morrison Supermarkets Limited had received 4 convictions. **A copy of the letter will be circulated to members prior to the meeting.**

Section 43 of the Licensing (Scotland) Act 2005 requires the licence holder, no later than one month after the date of a relevant or foreign conviction, to give notice of the conviction to the Licensing Board.

The Clerk notified the Chief Constable of the convictions. The Chief Constable's notice dated 6 June 2023 in response is a notice in terms of section 44(4)(b). It does not include a recommendation in respect of the notice of conviction. **A copy of the letter will be circulated to members prior to the meeting.**