

The Highland Licensing Board

Meeting – 11 December 2014

Agenda Item	11.1
Report No	HLC/156/14

Personal Licence Section 83 Hearing

Licence Holder : [REDACTED]

Licence Number : HC/INBS/3987

Report by the Clerk of the Licensing Board

Summary

A notice has been submitted on behalf of the Chief Constable under Section 83(4)(b) of the Licensing (Scotland) Act 2005 confirming that the personal licence holder has been convicted of a relevant offence and recommending that the personal licence be either endorsed or suspended.

The Board must hold a Hearing to consider the conviction and the Chief Constable's recommendation.

1. Background

In terms of section 83 of the Licensing (Scotland) Act 2005 if a personal licence holder notifies the Board of a conviction, the Board must notify the Chief Constable who must then submit to the Board a notice confirming the existence of the conviction and confirming whether it is a relevant offence in terms of the Act. The Chief Constable may also include in the notice a recommendation that the personal licence be revoked, suspended or endorsed.

2. Notice submitted under section 83(4)(b)

A notice under Section 83(4)(b) dated 6 November 2014 has been submitted to the Board on behalf of the Chief Constable and is attached to this Report at Appendix 1.

The notice confirms that the personal licence holder, [REDACTED] was convicted of an offence under section 5(2) of the Misuse of Drugs Act 1971 Sec. This is a relevant offence in terms of the Licensing (Scotland) Act 2005.

The notice includes a recommendation on behalf of the Chief Constable that the personal licence be either endorsed or suspended.

The Personal Licence Holder, submitted notification of her conviction (Appendix 2) to the Board (dated 20 October 2014 but not received until 30 October 2014).

3. Hearing

Section 83(7) of the Act provides that where the Board receives from the Chief Constable a notice confirming the existence of a relevant conviction the Board must hold a Hearing.

A copy of this Report and the section 83(4)(b) notice submitted on behalf of the Chief Constable have been sent to the personal licence holder, who has been invited to attend and/or be represented at the Hearing.

A representative of the Chief Constable has also been invited to attend the Hearing.

4. Board's powers at the hearing

In terms of section 83(8) and (9) of the Act the Board may, after giving the licence holder and the Chief Constable's representative an opportunity to be heard and having had regard to the conviction and the Chief Constable's recommendation and if satisfied that it is necessary to do so for the purposes of any of the licensing objectives, make an order –

- (a) revoking the personal licence held by the licence holder concerned,
- (b) suspending that personal licence for such period, not exceeding 6 months, as the Board considers appropriate, or
- (c) endorsing that personal licence

The Board may also decide to make no order if satisfied that an order is not necessary for the purposes of any of the licensing objectives.

5. Recommendation

The Board is invited to hear from the representative of the Chief Constable and from the personal licence holder and then to determine whether to make any order revoking, suspending or endorsing the personal licence.

Author: Wendy Grosvenor

Date: 7 November 2014

Background Papers: Licensing (Scotland) Act 2005.

Appendix 1: Notice on behalf of the Chief Constable dated 6 November 2014

Appendix 2: Notification from the Licence Holder dated 20 October 2014

6 November 2014

Your Ref: HC/INBS/3987
Our Ref: NN31118/14



Clerk to the Highland Licensing Board:
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Dear Sir

**HIGHLAND LICENSING BOARD – INVERNESS, NAIRN, BADENOCH &
STRATHSPEY DIVISION**

NOTIFICATION OF CONVICTION

CONVICTED PERSON: [REDACTED]

PERSONAL LICENCE HOLDER

OFFENCE: MISUSE OF DRUGS ACT 1971 SEC 5 (2)

I refer to correspondence of 30 October 2014 and in terms of the Licensing (Scotland) Act 2005 Sec 83 (4)(b) I am able to confirm the existence of the above conviction notified by [REDACTED] and that it relates to a relevant offence.

In terms of the Licensing (Scotland) Act 2005 Sec 83 (5)(b) Police Scotland per the Chief Constable make recommendation to the effect that [REDACTED] Personal Licence be either endorsed or suspended for the purposes of three of the licensing objectives on the following grounds;

- 1) Prevention of Crime
- 2) Securing Public Safety
- 3) Protecting and Improving Public Health

On receipt of this notification relevant criminal history checks carried out reveal that this declared conviction was originally reported as being concerned in the supply of controlled drugs (cannabis and methylethcathinone (mephedrone)) [REDACTED] ultimately plead guilty to possession of these drugs and this plea was accepted by the Crown.

Police records also show that on 10 June 2012 whilst attending Rock Ness [REDACTED] was found in possession of a personal quantity of herbal cannabis and amphetamine and she was subsequently reported to the Procurator Fiscal on two counts of a contravention of the Misuse of Drugs Act 1971 Sec 5(1)

& (2). In this instance the Procurator Fiscal decided to take no action against [REDACTED] [REDACTED] However this incident coupled with the subsequent conviction for possession of a controlled drug [REDACTED] by [REDACTED] would not be deemed conduct conducive with her position as a personal licence holder.

Yours sincerely

[REDACTED]

Mairi MacInnes
Chief Inspector
Divisional Co-ordination Unit

RECEIVED

30 OCT 2014

To Whom It May Concern,

I am a personnel license holder employed by The Co-operative Group, in a food retail store in Inverness. When I met with an LSO at the Inverness Police Station ~~and~~, we discussed a pending case that the crown had against me involving possession of a controlled substance (~~ecstasy~~ ^{cannabis}) in February 2013. On the 1st of October 2014 the case against me proceeded to trial and I plead guilty to possession. The plea was accepted and I was fined £300. The LSO I met informed me that I would need to inform the Licensing Board of the outcome so that it could be taken into account against my license. I would be very pleased to be allowed to continue holding my Alcohol License and look forward to hearing from you in the future.

Kind Regards

Sadie Ross