

The Highland Licensing Board

Meeting – 2 October 2018

Agenda Item	12.1
Report No	HLB/107/18

Application for personal licence – David Sirok

Report by the Clerk to the Licensing Board

Summary

This report invites the Board to hold a hearing to consider and determine an application for a personal licence under Section 72 of the Licensing (Scotland) Act 2005 (the Act).

1. Background

- 1.1 A personal licence is required to allow any individual to supervise or authorise the sale of alcohol.
- 1.2 On 7 September 2018, an application for a personal licence was received from David Sirok.
- 1.3 Under section 73 of the Act, Police Scotland have timeously given notice confirming that the applicant has a conviction for a relevant offence. A copy of the notice received from Police Scotland dated 11 September 2018 is attached (Appendix 1).
- 1.4 Police Scotland have not included in their notice a recommendation under section 73(4) that the personal licence application be refused.

They have not included additional information under section 73(5) which they consider may be relevant to consideration by the Board of the application.
- 1.5 Under section 73A of the Act, the Licensing Standards Officer (LSO) has also been given notice of the application and has offered no further information which he considers relevant to the consideration by the Board of the application.
- 1.6 The applicant failed to provide details of his conviction on his application form and in answer to the question in the form requiring disclosure of previous convictions for relevant or foreign offences he wrote 'None'.
- 1.7 The applicant is entitled to be heard and has been invited to attend the hearing along with Police Scotland.

2. Legal position

- 2.1 Section 74(6) of the Act requires that at the hearing the Board must refuse the application if, after having had regard to the Police Scotland notice, any information provided by Police Scotland under section 73(5) and any information provided by the LSO under section 73A), the Board is satisfied that a ground of refusal applies. If not so satisfied, the Board must grant the application.
- 2.2 The grounds of refusal are-
- (a) that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence,
 - (b) that it is otherwise necessary to refuse the application for the purposes of any of the licensing objectives.
- 2.3 For the purposes of the Act, the licensing objectives are-
- (a) preventing crime and disorder,
 - (b) securing public safety,
 - (c) preventing public nuisance,
 - (d) protecting and improving public health, and
 - (e) protecting children and young persons from harm.

Recommendation

The Board is invited to determine the application as follows:-

- (a) If, having had regard to the Police Scotland notice, any information provided under section 73(5) or 73A(2) and any submissions made by the applicant and/or the Police Scotland representative at the hearing, the Board is satisfied that a ground of refusal applies, the Board must refuse the application.
- (b) If the Board is not so satisfied, the Board must grant the application.

Ref.: HC/INBS/6397

Author: Marjory Bain

Date: 14 September 2018

Appendices: Appendix 1 - Letter from Police Scotland dated 11 September 2018

11/09/2018

Your Ref: HC/INBS/6397

Our Ref: 355141



**POLICE
SCOTLAND**

Keeping people safe

Clerk to the Highland Board
Town House
High Street
Inverness
IV1 1JJ

Iain Livingstone QPM
Chief Constable

Divisional Co-ordination Unit
Highland and Islands Division
Police HQ
Old Perth Road
INVERNESS
IV2 3SY

FOR THE ATTENTION OF SUSAN BLEASE

Dear Madam,

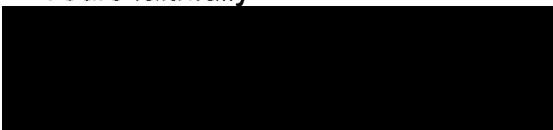
**LICENSING (SCOTLAND) ACT 2005 - APPLICATION FOR THE GRANT OF A
PERSONAL LICENCE
DAVID SIROK, B.28/11/1989
6 CROWN STREET, INVERNESS, HIGHLAND IV2 3AX**

I refer to the above application and in terms of Section 73(3)(b) of the Licensing (Scotland) Act 2005, I have to advise you that, based upon the information provided to Police Scotland, the applicant has been convicted of the following relevant offence(s).

Date	Court	Crime/Offence	Disposal
22/01/2018	Inverness JP Court	Misuse of Drugs Act 1971 Sec 5(2)	£100 fine

I am unable to confirm the existence of any foreign offence in respect of the applicant.

Yours faithfully



Iain Livingstone QPM
Chief Constable

For enquiries please contact the Licensing Department on 01463 720817.