

## The Highland Licensing Board

Meeting – 27 October 2020

Agenda Item	7.1
Report No	HLB/071/20

### Application for personal licence – Alan Michael Tomlin

#### 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 5 August 2020, an application for a personal licence was received from Mr Alan Michael Tomlin.
- 1.3 Under section 73 of the Act, Police Scotland have timeously given notice confirming that the applicant has convictions for relevant or foreign offences. A copy of the notice received from Police Scotland dated 24 August 2020 is attached (**Appendix 1**).
- 1.4 Police Scotland have included in their notice a recommendation under section 73(4) that the personal licence application be refused.  
  
They have 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 As a hearing cannot be held in person due to coronavirus, the applicant and a representative from Police Scotland have been given the opportunity to be heard by alternative methods. Consequently, both the applicant and Police Scotland have been invited to submit a written submission and/or attend a virtual hearing. Both have been advised of the hearing procedure which will be followed at the meeting.

## 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 73(A), 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/RSL/L/7362  
Author: Julie Traynor  
Date: 6 October 2020  
Appendix: Letter from Police Scotland dated 24 August 2020