

The Highland Licensing Board

Meeting – 12 January 2021

Agenda Item	11.1
Report No	HLB/020/21

Hearing to consider Police Scotland report of conduct inconsistent with licensing objectives Personal licence holder – Juan Rafael Paulo Rodriquez (HC/INBS/6709)

Report by the Clerk to the Licensing Board

Summary

This report relates to a hearing under section 84A of the Licensing (Scotland) Act 2005 (“the 2005 Act”). This is a mandatory hearing which the Board must hold following receipt from Police Scotland of a report advising that the Chief Constable considers that a personal licence holder has acted in a manner inconsistent with any of the licensing objectives.

1. Background

- 1.1 A personal licence is required to allow any individual to supervise or authorise the sale of alcohol.
- 1.2 Juan Paulo Rodriguez was granted a personal licence on 25 April 2019 and, subject to the terms of the 2005 Act, the licence will expire on 24 April 2029.
- 1.3 In terms of section 84A of the 2005 Act, Police Scotland have submitted to the Board a report dated 25 November 2020 that the Chief Constable considers that personal licence holder, Juan Paulo Rodriguez, has acted in a manner inconsistent with the licensing objectives, namely preventing crime and disorder and securing public safety. In addition, the Chief Constable considers that by acting in this manner, the personal licence holder has demonstrated that he is no longer a fit and proper person to be the holder of such a licence. A copy of this report detailing the conduct in question is attached as **Appendix 1**.

Section 84A(2) of the 2005 Act provides that where the Board receives from Police Scotland a report of this nature, the Board must hold a hearing.

- 1.4 As a hearing cannot be held in person due to coronavirus, the licence holder and a representative from Police Scotland have both been given the opportunity to be heard by alternative methods. Consequently, both the applicant and Police Scotland have been invited to attend a virtual hearing and/or submit a written submission to state their case. Both have been advised of the hearing procedure which will be followed at the meeting.

2. Legal position

- 2.1 At the hearing, the Board may after giving the licence holder, Police Scotland and such other persons as they consider appropriate an opportunity to be heard, make an order revoking, suspending or endorsing the licence if the Board is satisfied that it is necessary to do so for the purposes of any of the licensing objectives. The period of any suspension may not exceed 6 months. Alternatively, the Board may decide to take no action.
- 2.2 Separately, where, at the hearing, the Board are satisfied that, having regard to the licensing objectives, the licence holder is not a fit and proper person to be the holder of a personal licence, the Board must make an order revoking the licence.
- 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 hear from the representative of Police Scotland and from the personal licence holder and then to determine whether to make any order revoking, suspending or endorsing the personal licence.

Reference: HC/PERS/6709

Date: 8 December 2020

Author: Marjory Bain

Appendices: Appendix 1 - Letter from Police Scotland dated 25 November 2020