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**REPORT TO: MORAY LICENSING BOARD 30 SEPTEMBER 2020**

**SUBJECT: LICENSING (SCOTLAND) ACT 2005 – PERSONAL LICENCE REVIEW HEARING FOLLOWING REPORT CONDUCT INCONSISTENT WITH THE LICENSING OBJECTIVES BY THE CHIEF CONSTABLE (REFERENCE CASE NUMBER 3 OF 2020)**

**BY: CLERK TO THE BOARD**

**1. REASON FOR THE REPORT**

- 1.1 This report is to notify the Board that notice of a report of conduct alleged to be inconsistent with the licensing objectives has been received from the Chief Constable under s.84A(1) of the Act and is attached at **Appendix 1**;
- 1.2 The Chief Constable has confirmed to the Clerk that, in the Chief Constable's opinion, the applicant (reference case number 3 of 2020) has acted in a manner which is inconsistent with the licensing objectives namely; Protecting and Improving Public Health; and the Chief Constable has made a recommendation that the Board should consider all options open to them under Section 84(7) or 84(7A) of the Act.
- 1.3 That, as a result, s.84A(2) of the Act requires the Board to hold a hearing to consider and determine whether further action is required in relation to the personal licence.

**2. RECOMMENDATIONS**

**2.1 It is recommended that the Board:-**

- i) note the Chief Constable's report means that the Board must hold a hearing to consider the allegations;**
- ii) hear from the parties, consider the matter and determine whether further action is required in relation to the personal licence and, if so, whether to endorse the Personal Licence, suspend the Licence for a period not greater than 6 months or revoke the licence; and**

- iii) **note that where it has been determined by the board that the licence holder is no longer a fit and proper person then under S84(7A) the Board must revoke the licence.**

### 3. **BACKGROUND**

- 3.1 On the 3 August 2020 the Clerk received a report from the Chief Constable whereby in terms of Section 84A of the Licensing (Scotland) Act 2005 it was alleged that the personal licence holder Steven Taylor has acted in a manner which is inconsistent with one or more of the licensing objective set out at Section 4(1) of Act, in particular Protecting and Improving Public Health.
- 3.2 A copy of the Chief Constable's letter has been provided to the licence holder and is attached at **Appendix 1**.
- 3.3 The Chief Constable has recommended that the Board consider all options open to them under Section 84(7) or 84(7A) of the Act.
- 3.4 As a result of the Chief Constable's report Section 84A(2) of the Act requires the Board to hold a hearing.
- 3.5 If a hearing is to proceed then at the hearing the Licensing Board must, after having regard to the Chief Constable's Report and after giving the licence holder concerned and the Chief Constable an opportunity to be heard:
- If satisfied that, having regard to the licensing objectives, the applicant is not a fit and proper person to be the holder of a personal licence revoke the licence; or
  - If satisfied that it is otherwise necessary for the purposes of any of the licensing objectives, endorse the licence, suspend the licence for no greater than 6 months or revoke the licence or
  - If not so satisfied take no further action.
- 3.6 The licensing objectives are:
- 3.6.1. Preventing crime and disorder
  - 3.6.2. Securing public safety
  - 3.6.3. Preventing public nuisance
  - 3.6.4. Protecting and improving public health
  - 3.6.5. Protecting children and young persons from harm

### 4. **SUMMARY OF IMPLICATIONS**

#### **(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

The provisions of alcohol licensing directly relate to the priorities within the 10 Year Plan (Moray 2023) in relation to healthier citizens, a growing and diverse economy and safer communities. Alcohol and alcohol dependency influence the health of the population. The alcohol industry in terms of production, retail

and the positive effects on tourism all aid a growing economy. Regulation of the sale of alcohol contributes to a safer community.

**(b) Policy and Legal**

Legal implications have been explained above.

**(c) Financial Implications**

None

**(d) Risk Implications**

The Board is to have regard to any of the licensing objectives, particularly the crime prevention objective and decide whether the risk justifies intervention on such grounds.

**(e) Staffing Implications**

None.

**(f) Property**

None.

**(g) Equalities**

There are no issues in this case.

**(h) Consultations**

Consultation is not required.

**5. CONCLUSION**

**5.1 It is proposed that the Board note the existence of the report given by the Chief Constable;**

**5.2 It is proposed that the Board, having regard to the report from the Chief Constable, and determine whether to endorse, suspend or revoke the licence for the purposes of any of the licensing objectives.**

Author of Report: Sana Sarwar, Solicitor

Background Papers:

1. Report from Chief Constable

Ref: SS