

The Highland Licensing Board

Meeting – 29 March 2016

Agenda Item	10.2
Report No	HLC/031/16

Personal Licence Section 84A Hearing

Licence Holder: **Mary Cowie**

Licence Number: **HC/CSER/2034**

Report by the Clerk of the Licensing Board

Summary

A report has been received from the Chief Constable under Section 84A of the Licensing (Scotland) Act 2005 confirming that a personal licence holder has been convicted of a relevant offence and recommending that the personal licence be revoked, suspended or endorsed.

The Board must hold a hearing to consider the report.

1. Background

In terms of section 84A of the Licensing (Scotland) Act 2005 if the Chief Constable considers that a personal licence has acted in a manner which is inconsistent with any of the licensing objectives, he may report the matter to the Licensing Board.

2. Notice submitted under section 84A

A report under Section 84A, in the form of a letter dated 5 February 2016, 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, Mary Cowie, was convicted on 22 January 2016 of an offence under the Road Traffic Act 1988 section 5. 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 revoked, suspended or endorsed.

3. Hearing

Section 84A(2) of the Act provides that where the Board receives a report from the Chief Constable the Board must hold a hearing.

A copy of this report and the section 84A report 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 84(6) and (7) of the Act the Board may, after giving the licence holder and the Chief Constable's representative an opportunity to be heard 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.

Date: 7 March 2016
Author: G Sutherland

Background Papers: Licensing (Scotland) Act 2005.

Appendix 1: report on behalf of the Chief Constable dated 5 February 2016

5 February 2016

Your Ref:
Our Ref: NJ8148/15



Clerk to the Highland Licensing Board:
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Dear Sir

**HIGHLAND LICENSING BOARD – CAITHNESS, SUTHERLAND & EASTER
ROSS**

NOTIFICATION OF CONVICTION

CONVICTED PERSON: MARY COWIE, B.27/05/1951

PERSONAL LICENCE HOLDER: HC/CSER/2034

OFFENCE: ROAD TRAFFIC ACT 1988 SEC 5 (1)(A)

I refer to the abovementioned convicted person and in terms of the Licensing (Scotland) Act 2005 Sec 84 A I am of the opinion that Mary Cowie has acted in a manner inconsistent with one of the licensing objectives:

1) Preventing Crime and Disorder

About 2255 hours on Saturday 19 December 2015 Ms Cowie was detected, by police, driving her motor vehicle on the A9 approximately 3 miles south of Thurso. Due to the manner of her driving she was stopped by police and was subsequently reported for a contravention of the Road Traffic Act 1988 sec. 5 (1)(a) where she had a breath alcohol count of more than four times the legal limit. As a result Ms Cowie was convicted at Wick Sheriff Court on 22 January 2016 where she was fined £500 and disqualified from driving for 32 months. This was her second drink driving conviction within a three year period. She was previously convicted for a similar offence on 23 April 2012 where she was fined £500 and disqualified from driving for 2 years. At the time of this most recent offence Ms Cowie was returning home to Watten from her place of work, where she is a partner, at The Captains Gallery Seafood Restaurant, Scrabster.

The circumstances leading to Ms Cowie's latest conviction shows that she had consumed alcohol to excess and thereafter drove on public roads whilst intoxicated, for a second time, and in the opinion of the Police Service of Scotland Ms Cowie was acting in a manner inconsistent with the Preventing Crime and

Disorder licensing objective in relation to this offence and her failure to notify the Licensing Board contrary to the Licensing (Scotland) Act 2005 Sec 82 (1) & (2)(a).

Within the terms of the Licensing (Scotland) Act 2005 Sec 82 (2) and (5) Ms Cowie is to be reported for this offence. In terms of the Licensing (Scotland) Act 2005 Sec 84A (1) in relation to the prevention of crime and disorder and securing public safety objectives the Police Service of Scotland recommend that Ms Cowie's personal licence be either revoked, suspended or endorsed.

Yours sincerely

Mairi MacInnes
Chief Inspector
Divisional Co-ordination Unit