

Minutes of **Licensing Act 2003 Sub-Committee**

Meeting date **Thursday, 7 July 2022**

Committee Councillor Matthew Lynch (Chair), and Councillors
Members present: Mark Clifford and Jean Sherwood

Officers: Elizabeth Walsh (Senior Solicitor), Coral Astbury
(Democratic and Member Services Officer) and Usman
Gazra (Enforcement Officer (Licensing))

1 **Declarations of Any Interests**

There were no declarations of any interest.

2 **Procedure**

The Chair outlined the procedure to be followed for the hearing.

3 **Exclusion of the Public and Press**

Resolved:

That the press and public be excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972.

4 **Determination of whether to suspend or revoke a Personal Licence- DT**

The Director of Planning and Development submitted a report for the Licensing Act 2003 Sub-Committee to inform members that the Personal Licence holder has been convicted of a relevant offence and to request that members decide whether to suspend or revoke the licence.

The Personal Licence Holder (PLH) was not present at the hearing.

The Enforcement Officer (Licensing) advised that the PLH was granted his licence on 6 August 2018 and on 19 September 2019 the licence holder duly notified the Council of a change of address and a replacement licence was issued.

On 29 April 2022, the licence holder was convicted of driving a motor vehicle with the breath alcohol limit exceeding the prescribed limit. The prescribed limit is 35 micrograms per 100 milliliters of breath. The licence holder's breath contained 109 micrograms of alcohol per 100 milliliters of breath, over 3 times the legal limit. The vehicle was being driven on Pall Mall, Chorley.

The Enforcement Officer (Licensing) explained that Section 128 of the Licensing Act 2003 requires a PLH charged with a relevant offence to produce a copy of their licence to the Court and that the licence holder had failed to comply with this duty. In addition, Section 132 of the Act requires a PLH convicted of a relevant offence to give the Licensing Authority, as soon as reasonable practicable after the conviction, a notice containing details of the nature and date of the conviction and any sentence imposed in respect of it. The licence holder had also failed to comply with this duty.

Members asked if the PLH would be aware of what a relevant offence was. In response, the Enforcement Officer (Licensing) explained that PLH undergo training which provides information on the relevant offences they must comply with.

Members referred to the representation received from the PLH on 17 May 2022 and asked if any representations had been received in support of the PLH such as military veterans or medical evidence. It was confirmed by the Enforcement Officer (Licensing) that no additional supporting representations had been received.

Members asked if the Council's Statement of Licensing Policy distinguished between being slightly over the limit and being three times over the limit, as in the PLH case. The Enforcement Officer (Licensing) confirmed it did not.

In response to a question from the Sub-Committee's Legal Advisor, the Enforcement Officer (Licensing) confirmed that the PLH did not declare his personal licence to the Court and had provided no explanation to Officers as to why he did not declare it.

The Enforcement Officer (Licensing) confirmed that the PLH was not currently employed in a premises where he was acting as licence holder.

RESOLVED:

The Licensing Sub Committee considered the request whether to suspend or revoke the Licence. Members considered the Licensing Objectives as follows:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

Members are under a duty as the licensing authority to take such steps as it deems appropriate to promote the licensing objectives in the interests of the wider community and not those of the individual licence holder.

In coming to its decision, Members had regard to:

- Section 182 Guidance of the Licensing Act 2003, specifically paragraphs 4.45
- The Council's Statement of Licensing Policy effective from 2021-2026
- The Licensing Act 2003

The Licensing Sub Committee carefully considered the representations in relation to the Personal Licence Holder's relevant conviction. Members were disappointed that the Licence Holder did not attend the committee to explain what had happened.

It is noted that the Court was not aware the PLH was a Personal Licence Holder, therefore the Court was unable to comment on his Personal Licence or make a decision regarding that Personal Licence. Members took this into account. Members were minded that the function of the Court and its aims are different to that of the Licensing Authority and that the Authority must carry out its functions with a view to promoting the Licensing Objectives.

The Sub Committee have considered the amended guidance issued under Section 182 of the Licensing Act, together with the Council's Statement of Licensing Policy, in particular those paragraphs referred to within the report.

After careful consideration, Members resolved to revoke the Personal Licence, for the following reasons:

- The Seriousness of the offence
- Failure to notify the Council about the offence and his failure to notify his change of address (2 years)
- That he failed to notify the Court about his Personal Licence.

Chair

Date