

<b>Minutes of</b>	<b>Licensing Act 2003 Sub-Committee</b>
<b>Meeting date</b>	<b>Wednesday, 24 May 2023</b>
<b>Committee Members present:</b>	Councillor Matthew Lynch (Chair), and Councillors Michelle Le Marinel and Jean Sherwood
<b>Officers:</b>	Nathan Howson (Enforcement Team Leader (Licensing)), Stefanie Malcolmson (Senior Solicitor) and Clare Gornall (Democratic and Member Services Officer)

#### **20.11 Declarations of Any Interests**

There were none.

#### **20.12 Procedure**

The Chair outlined the procedure to be followed at the meeting.

#### **20.13 Exclusion of the Public and Press**

##### **Resolved:**

That the press and public be excluded for the following items of business on the ground that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A to the Local Government Act 1972.

#### **20.14 Determination of whether to suspend or revoke a Personal Licence**

The Chief Executive submitted a report for the Licensing Act 2003 Sub-Committee to inform members that a Personal Licence Holder had been convicted of a relevant offence following the grant of a licence.

The Personal Licence Holder (PLH), PB, was present at the hearing.

The Enforcement Team Leader (Licensing), Mr Nathan Howson, presented a report advising members that the PLH was granted his licence on 29 November 2012.

The report indicated that on 15 June 2021, the licence holder was convicted of an offence of theft by an employee.

Such an offence is a relevant offence under the Licensing Act 2003 by virtue of Schedule 4, Paragraph 14(c). A copy of the Certificate of Conviction from Preston Crown Court record attached at Appendix 2 to the report showed that the licence holder was, upon his own confession, convicted on indictment of theft by employee.

Section 128 of the Act requires a Personal Licence holder charged with a relevant offence to produce the licence to the Court. The licence holder had failed to comply with this duty.

Section 132 of the Act requires a personal licence holder convicted of a relevant offence to give the Licensing Authority, as soon as reasonably 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 failed to comply with this duty.

On 3 April 2023, the licence holder made written representations with regard to the Licensing Authority's review of the personal licence which included consideration whether to suspend or revoke the licence. The representations were appended to the sub committee's report.

In conclusion, Mr Howson drew attention to paragraphs 15 and 20 of the report stating that under the Act representations may be made regarding "any other relevant information (including information regarding the licence holder's personal circumstances)" and that the Authority must take into account "any other information which the Authority considers relevant".

In response to questions by the Chair, Mr Howson explained that the licence holder was formerly the designated premises supervisor at the premises, but at present his partner was the designated premises supervisor.

Mr Howson also confirmed that, other than one complaint regarding noise, for which no further action was taken, there had been no issues of concern at the premises or in respect of PB's personal licence.

Arising from questions by the sub committee, Mr Howson clarified that there were two elements to a personal licence, a paper copy which was appended to the report and a small plastic card. There was no requirement to display the paper element of the personal licence in the premises. The small plastic card did not list a personal licence holder's duties in the way the paper part did.

The licence holder was then invited to address the sub-committee in accordance with the procedure.

PB stated that with regard to his failure to inform the Council of his conviction, he was advised by his barrister that, due to the historical nature of the conviction, ((the offence had taken place some 3/4 years prior to his conviction) he did not have to inform the Council. He acknowledged, however, that he did not contact the Council to check his obligations with licensing officers. He apologised to the sub committee for the failure on his part.

PB described his personal circumstances at the time of the offence and made reference to the fact he was suffering from mental health issues at that time. PB confirmed he was now aware of the legal obligations in respect of his personal licence.

The sub-committee noted that at the time the failure to comply with the legal obligations of the licence had come to light the offence had been committed circa six years ago.

In accordance with the procedure, the personal licence holder and Mr Howson then left the room while the Sub Committee made its deliberations.

**Resolved:**

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

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

The Sub Committee directed itself that it is under a duty as the licensing authority to take such steps as deemed 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, the Sub Committee had regard to:

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

The Licensing Sub Committee carefully considered the representations made by the Personal Licence Holder and recognise that the Personal Licence Holder has fully repaid the fine and the money to his previous employer. The Personal Licence Holder was remorseful and apologetic to the Committee for failing to notify the Council of the offence.

After careful consideration, the Sub Committee resolved to suspend the Personal Licence for a period of 6 months, for the following reasons:

1. The seriousness of the offence albeit that there has been a lapse of circa six years since the offence took place
2. Failure to notify the Council about the offence
3. That he failed to notify the Court about his Personal Licence.

Chair

Date