

## DECISIONS TO REVOKE OR SUSPEND PERSONAL LICENSES FOLLOWING CONVICTIONS

Committee name	Licensing Committee
Officer reporting	Beejal Soni - Legal Services
Papers with report	None
Ward	All

### HEADLINES

The Licensing Committee is requested to determine the procedures it wishes to implement when hearing applications to suspend/revoke Personal Licences issue

### RECOMMENDATIONS:

**That the Committee:**

- 1. Determine the procedure for disposing of applications to suspend/revoke personal licences and;**
- 2. Instruct Democratic Services, acting in conjunction with Legal Services and the Regulatory Services Team to implement its decision by making consequential amendments to the relevant Hearing Protocols**

### SUPPORTING INFORMATION

Since 06 April 2017, a Licensing Authority which issued a Personal Licence is now able to suspend (for up to 6 months) or revoke the Personal Licence where the Licensing Authority becomes aware that an individual holding a personal licence has been convicted of a "relevant offence" or a "foreign offence". A "foreign offence" being an equivalent offence committed in any place other than England and Wales. A list of relevant offences has previously been circulated to Members of the Licensing Committee and is also attached at Appendix A.

Where the Licensing Authority becomes aware that a holder of a Personal Licence has been convicted of a relevant offence or foreign offence, a Notice must be sent to the holder of a Personal Licence inviting the Personal Licence Holder to make representations regarding the conviction within 28 days. This notice cannot be sent until after the period for lodging an appeal against the conviction for a relevant offence has passed. Where an appeal has been lodged, it appeal must be decided and the conviction upheld in order for the Licensing Authority to exercise its powers.

This notice can be issued by a member of the Regulatory Services Team. At the expiry of this 28 day period, the Licensing Authority must determine whether or not to suspend/revoke the licence. Where the Licensing Authority is minded not to revoke the licence, it must notify the

Commissioner of the Metropolitan Police Services of this decision. The Commissioner may make representations within 14 days of being notified of the Licensing Authority's proposed decision. A final decision on the suspension/revocation of the Personal Licence can be made after the expiry of the 14 day period. The Personal Licence Holder may appeal the conviction to the Magistrates Court.

### **Options for Delegation of power to Suspending/Revoking a Personal Licence**

The Policing and Crime Act 2017 does not set out any hearing procedures for determining whether or not to suspend/revoke Personal Licences. The Section 182 Guidance issued by the Secretary of State specifies at paragraph 4.45 that a Licensing Committee or Sub-Committee should determine the application to revoke a Personal Licence. It does not specify whether or not a hearing needs to take place.

S7(1) of the Licensing Act 2003 empowers a Licensing Committee to determine the decision-making procedures for applications under the Licensing Act 2003. It is therefore open to the Licensing Committee to elect to dispose of these hearings by:

1. Delegating to the Licensing Sub-Committee the power to determine the Application on the papers without a formal hearing; or
2. Delegating the decision-making powers for these applications to a Licensing Sub-Committee. The hearing procedure and timescales that apply to contested Personal Licence Applications can apply to Applications to revoke/suspend Personal Licences.

The Committee may wish to reach a view on how it sees best to determine such matters.

### **Implications on related Council policies**

The new powers are designed to strengthen the ability of the Licensing Committee to prevent crime and disorder.

### **How this report benefits Hillingdon residents**

The exercise of powers to suspend/revoke personal licences will ensure that safety and security of residents and patrons of licensed establishments.

### **Financial Implications**

None directly from this report.

### **Legal Implications**

Legal comments and implications have been integrated into this report.

## **BACKGROUND PAPERS**

Policing and Crime Act 2017

<http://www.legislation.gov.uk/ukpga/2017/3/section/138/enacted>

In relation to convictions in English or Welsh Courts, the following are relevant offences under the Licensing Act 2003 and must be declared on your personal application for. Spent convictions do not need to be declared. See below for details of spent convictions.

### **Attempted / conspiracy offences**

- An offence under Section 1 of the Criminal Attempts Act 1981 of attempting to commit an offence that is a relevant offence.
- An offence under Section 1 of the Criminal Law Act 1977 of conspiracy to commit an offence that is a relevant offence.

### **Copyright and trademark offences**

- An offence under Section 1 of the Trade Descriptions Act 1968 (false trade description of goods) in circumstances where the goods in question are or include alcohol.
- An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 —
  - (a) Section 107(1)(d)(iii)(public exhibition in the course of a business of article infringing copyright);
  - (b) Section 107(3)(infringement of copyright by public performance of work etc.);
  - (c) Section 198(2)(broadcast etc. of recording of performance made without sufficient consent);
  - (d) Section 297(1)(fraudulent reception of transmission);
  - (e) Section 297A(1)(supply etc. of unauthorised decoder).

### **Drugs and drink/drug-driving offences**

- An offence under any of the following provisions of the Misuse of Drugs Act 1971 —
  - (a) Section 4(2)(production of a controlled drug);
  - (b) Section 4(3)(supply of a controlled drug);
  - (c) Section 5(3)(possession of a controlled drug with intent to supply);
  - (d) Section 8 (permitting activities to take place on premises).

### **Firearms offences**

- Any offence under the Firearms Act 1968.
- Any offence under the Firearms (Amendment) Act 1988.
- Any offence under the Firearms (Amendment) Act 1997.

### **Fraud, forgery and duty-evasion offences**

- An offence under either of the following provisions of the Customs and Excise Management Act 1979 —
  - (a) Section 170 (disregarding subSection (1)(a))(fraudulent evasion of duty etc.);
  - (b) Section 170B (taking preparatory steps for evasion of duty).
- The offence at common law of conspiracy to defraud.
- Any offence under the Fraud Act 2006.
- Any offence under the Forgery and Counterfeiting Act 1981 (other than an offence under Section 18 or 19 of that Act).

### **Licensing offences**

- Any offence under the Licensing Act 2003.
- Any offence under any of the following enactments—

- (a) Schedule 12 to the London Government Act 1963 (public entertainment licensing);
- (b) the Licensing Act 1964;
- (c) the Private Places of Entertainment (Licensing) Act 1967;
- (d) Section 13 of the Theatres Act 1968;
- (e) the Late Night Refreshment Houses Act 1969;
- (f) Section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982;
- (g) the Licensing (Occasional Permissions) Act 1983;
- (h) the Cinemas Act 1985;
- (i) the London Local Authorities Act 1990.

### **Theft offences**

- An offence under any of the following provisions of the Theft Act 1968 —
  - (a) Section 1 (theft);
  - (b) Section 8 (robbery);
  - (c) Section 9 (burglary);
  - (d) Section 10 (aggravated burglary);
  - (e) Section 11 (removal of articles from places open to the public);
  - (f) Section 12A (aggravated vehicle-taking), in circumstances where sub Section (2)(b) of that Section applies and the accident caused the death of any person;
  - (g) Section 13 (abstracting of electricity);
  - (h) Section 15 (obtaining property by deception);
  - (i) Section 15A (obtaining a money transfer by deception);
  - (j) Section 16 (obtaining pecuniary advantage by deception);
  - (k) Section 17 (false accounting);
  - (l) Section 19 (false statements by company directors etc.);
  - (m) Section 20 (suppression, etc. of documents);
  - (n) Section 21 (blackmail);
  - (o) Section 22 (handling stolen goods);
  - (p) Section 24A (dishonestly retaining a wrongful credit);
  - (q) Section 25 (going equipped for stealing etc.).
- An offence under either of the following provisions of the Theft Act 1978 — (a) Section 1 (obtaining services by deception); (b) Section 2 (evasion of liability by deception).

An offence under either of the following provisions of the Food Safety Act 1990 in circumstances where the food in question is or includes alcohol—

- (a) Section 14 (selling food or drink not of the nature, substance or quality demanded);
- (b) Section 15 (falsely describing or presenting food or drink).

An offence under Section 92(1) or (2) of the Trade Marks Act 1994 (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.

An offence under regulation 6 of the Business Protection from Misleading Marketing Regulations 2008 (offence of misleading advertising) in circumstances where the advertising in question relates to alcohol or to goods that include alcohol.

An offence under regulation 8, 9, 10, 11 or 12 of the Consumer Protection from Unfair Trading Regulations 2008 (offences relating to unfair commercial practices) in circumstances where the commercial practice in question is directly connected with the promotion, sale or supply of alcohol or of a product that includes alcohol. List of relevant offences

An offence under any of the following provisions of the Psychoactive Substances Act 2016—

- (a) Section 4 (producing a psychoactive substance);
- (b) Section 5 (supplying, or offering to supply, a psychoactive substance);
- (c) Section 7 (possession of psychoactive substance with intent to supply);
- (d) Section 8 (importing or exporting a psychoactive substance).

An offence under any of the following provisions of the Road Traffic Act 1988 —

- (a) Section 3A (causing death by careless driving while under the influence of drink or drugs);
- (b) Section 4 (driving etc. a vehicle when under the influence of drink or drugs);
- (c) Section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit); (d) Section 6(6) (failing to co-operate with a preliminary test).

An offence under either of the following provisions of the Tobacco Products Duty Act 1979 —

- (a) Section 8G (possession and sale of unmarked tobacco);
- (b) Section 8H (use of premises for sale of unmarked tobacco).

An offence under Section 3 of the Private Security Industry Act 2001 (engaging in certain activities relating to security without a licence).

An offence under Section 7(2) of the Gaming Act 1968 (allowing child to take part in gaming on premises licensed for the sale of alcohol).

An offence under Section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect. Sexual offences

A sexual offence, being an offence —

- (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under Section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts));
- (b) an offence under Section 8 of the Sexual Offences Act 1956 (intercourse with a defective);
- (c) an offence under Section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).

### **Violent offences**

A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition).