



# Doncaster Council

## Report

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To the Chair and Members of the

## **LICENSING SUB-COMMITTEE**

**Licensing Act 2003 – Application for considering the Suspension or Revocation of a Personal Licence.**

### **EXECUTIVE SUMMARY**

1. To request that members of the Sub-Committee consider the suspension or revocation of a Personal Licence where the authority are aware that the holder has been convicted of a relevant offence or foreign offence or is required to pay an immigration penalty. The procedure for considering the application is set out at Appendix A.

### **RECOMMENDATIONS**

2. It is recommended that the Sub-Committee determine this application having regard to the representations made and the evidence before it.

### **WHAT DOES THIS MEAN FOR THE CITIZENS OF DONCASTER**

3. The Licensing Act 2003 requires the Licensing Authority to exercise its obligations in determining if a Personal Licence should be suspended or revoked where the authority is aware that the holder has received a conviction for a relevant offence, foreign offence or immigration penalty.

### **EXEMPT REPORT**

4. A copy of this report has been given to the Personal Licence Holder and to the members of the Licensing Sub-Committee.
5. Appendix B to this report is not for publication because it contains exempt information by virtue of Paragraph 1 (information relating to an individual), of Schedule 12A of the Local Government Act 1972, as amended.
6. The hearing (i.e. consideration of Appendix B) will not be open to the public to attend.

## **BACKGROUND**

7. Section 128 of the Licensing Act 2003 places a duty on the holder of a Personal Licence, when charged with a relevant offence, that they must notify the Court that they hold a Personal Licence.
8. Schedule 4 of the Licensing Act 2003 sets out the relevant offences in regards to a Personal Licence.
9. On conviction of a relevant offence the Court may order the forfeiture of the licence, or order its suspension for a period not exceeding six months.
10. On this occasion, the Court did not suspend or revoke the Personal Licence.
11. Section 132A of the Licensing Act 2003 details the powers available to the licensing authority once it becomes aware that the holder of a Personal Licence, which has been granted by that authority, has been:
  - a. Convicted of any relevant offence or foreign offence, or
  - b. Required to pay an immigration penalty.
12. Details of the Personal Licence Holder and the conviction or penalty of which the authority has become aware, are attached as Appendix B to this report.
13. In accordance with the requirements of the Act, the Licensing Authority has given notice to the Personal Licence Holder that they are considering whether to suspend or revoke their Personal Licence and has invited the holder to make representations, within 28 days, regarding
  - a. The relevant offence, foreign offence or immigration penalty that has caused the Licensing Authority to issue the notice,
  - b. Any decision of a court under section 129 or 130 in relation to the licence, and
  - c. Any other relevant information (including information regarding the licence holder's personal circumstances).
14. No representations have been received from the Licence Holder.

## **OPTIONS CONSIDERED**

15. Under the Licensing Act 2003, statutory guidance issued under section 182 of the Act and the Licensing Authority's statement of Licensing Policy, any Personal Licence which has been issued by the authority, where the authority becomes aware that the holder of that licence has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty, and, the Licensing Authority is considering whether to suspend or revoke the licence, must be determined by the Licensing Sub-Committee having regard to the evidence before it.
16. Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
  - Take no action,
  - Suspend the licence for a period not exceeding six months, or

- Revoke the licence
17. Where the Licensing Authority determines not to revoke, the authority must give notice of the decision to the Chief Officer of Police / Secretary of State, as applicable, and invite them to make representations to the authority within 14 days.
  18. If representations are received, a second hearing will be held for the Licensing Authority to consider them and the evidence from the first hearing and then make a decision whether to suspend or revoke the licence.
  19. A decision notice will be given to the licence holder and the chief officer of police / secretary of state, as applicable, which will include the reasons for the Licensing Authorities decision.
  20. A decision does not have effect until the end of the 21 day appeal period, or, in the case of an appeal, until the appeal is disposed of.

## IMPACT ON THE COUNCIL'S KEY OUTCOMES

21.

	<b>Outcomes</b>	<b>Implications</b>
	<p><b>Doncaster Working:</b> Our vision is for more people to be able to pursue their ambitions through work that gives them and Doncaster a brighter and prosperous future;</p> <ul style="list-style-type: none"> <li>• Better access to good fulfilling work</li> <li>• Doncaster businesses are supported to flourish</li> <li>• Inward Investment</li> </ul>	<p>It is recognised that personal licences are, quite often, required by those who work in businesses and places of employment which carry out the sale of alcohol. The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives, will have regard to this outcome when making licensing decisions. The licensing objectives are:</p> <ol style="list-style-type: none"> <li>1. Prevent crime and disorder</li> <li>2. Prevent public nuisance</li> <li>3. Public safety</li> <li>4. Protection of children from harm</li> </ol>
	<p><b>Doncaster Living:</b> Our vision is for Doncaster's people to live in a borough that is vibrant and full of opportunity, where people enjoy spending time;</p> <ul style="list-style-type: none"> <li>• The town centres are the beating heart of Doncaster</li> <li>• More people can live in a good quality, affordable home</li> <li>• Healthy and Vibrant</li> </ul>	<p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p>

	<p>Communities through Physical Activity and Sport</p> <ul style="list-style-type: none"> <li>• Everyone takes responsibility for keeping Doncaster Clean</li> <li>• Building on our cultural, artistic and sporting heritage</li> </ul>	
	<p><b>Doncaster Learning:</b> Our vision is for learning that prepares all children, young people and adults for a life that is fulfilling;</p> <ul style="list-style-type: none"> <li>• Every child has life-changing learning experiences within and beyond school</li> <li>• Many more great teachers work in Doncaster Schools that are good or better</li> <li>• Learning in Doncaster prepares young people for the world of work</li> </ul>	<p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p>
	<p><b>Doncaster Caring:</b> Our vision is for a borough that cares together for its most vulnerable residents;</p> <ul style="list-style-type: none"> <li>• Children have the best start in life</li> <li>• Vulnerable families and individuals have support from someone they trust</li> <li>• Older people can live well and independently in their own homes</li> </ul>	<p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p>
	<p><b>Connected Council:</b></p> <ul style="list-style-type: none"> <li>• A modern, efficient and flexible workforce</li> <li>• Modern, accessible customer interactions</li> <li>• Operating within our resources and delivering value for money</li> <li>• A co-ordinated, whole person, whole life focus on the needs and aspirations of residents</li> <li>• Building community resilience and self-reliance by connecting community assets and strengths</li> <li>• Working with our partners and residents to provide effective leadership and governance</li> </ul>	<p>The Licensing Committee/Sub-Committee, subject to the general principles set out in the Council's Statement of Licensing Policy and the overriding need to promote the 4 licensing objectives (see above), will have regard to this outcome when making licensing decisions.</p>

## RISKS AND ASSUMPTIONS

22. There are no risks or assumptions other than those referred to in the Legal Implications below.

## **LEGAL IMPLICATIONS [Officer Initials HW Date 20/1/20]**

23. The Licensing Authority must ensure it complies with its obligations under the Licensing Act 2003 and associated Regulations which includes, but is not limited to the following:-

In considering an application, the committee must have regard to the 4 licensing objectives (Prevent crime and disorder, Prevent public nuisance, Public safety, Protection of children from harm), take into account the statutory guidance issued by the Home Office and the Council's statement of licensing policy. The committee shall consider the application in accordance with both the Licensing Act 2003 and the Licensing Act 2003 (Hearings) Regulations 2005, and amending secondary legislation. The committee must make its decision based on evidence submitted in accordance with the legislation and give reasons for reaching its decision.

The 2005 Regulations also set out the pre-hearing requirements including to whom notice of hearings and details of the representations received must be sent. The report confirms we have complied with the statutory requirements.

An appeal against the decision of the Licensing Authority may be made to the Magistrates' Court.

Legal advisors shall be present at the hearing to give specific legal advice.

## **FINANCIAL IMPLICATIONS [Officer R Taylor - Standard Implications Agreed 2/3/18]**

24. The costs associated with applications of this nature and their determinations are met from fees paid to the Council by applicants for Authorisations/Licences under the Licensing Act 2003 and there are no further financial considerations.

## **HUMAN RESOURCES IMPLICATIONS [Officer D Knapp - Standard Implications Agreed 14/2/2018]**

25. There are no human resource implications to this type of report.

## **TECHNOLOGY IMPLICATIONS [Officer P Ward – Standard Implications Agreed 19/2/18]**

26. There are no specific technology implications in regards to this type of report. The Northgate M3 system is used to process the application and record the outcome of the decision.

## **HEALTH IMPLICATIONS [Officer R Suckling – Standard Implications Agreed 21/12/2019]**

27. There are no direct health implications in regards to this type of report.

## **EQUALITY IMPLICATIONS [DDS 14/01/2020]**

28. Decision makers must consider the Council's duties under the Public Sector Equality Duty at s149 of the Equality Act 2010. The duty requires the Council, when exercising its functions, to have 'due regard' to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the act, and to advance equality of opportunity and foster good relations between those who share a 'protected characteristic' and those who do not share that protected characteristic. There are no specific equality implications arising from this report. However, any activities arising from this report will need to be the subject of separate 'due regard' assessments.

## **CONSULTATION**

29. The Licensing Authority is required to give notice to the licence holder giving 28 days to make representations.
30. The chief officer of police / secretary of state is given notice of the decision of the sub-committee and, where the decision made is not to revoke, is invited to make representations within 14 days.
31. The Licensing Authority have procedures in place to ensure compliance with the above requirements.

## **BACKGROUND PAPERS**

32. The Licensing Act 2003.
33. Doncaster Council's Statement of Licensing Policy
34. Home Office Guidance issued under section 182 of the Licensing Act 2003

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**DONCASTER METROPOLITAN BOROUGH COUNCIL**

**LICENSING ACT 2003 – Hearing Procedure  
LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005**

**1. Meaning of Expressions used in this Document**

<i>“the Act”</i>	- Licensing Act 2003
<i>“the Regulations” or any particular reference to a “Regulation”</i>	- The Licensing Act 2003 (Hearings) Regulations 2005
<i>“the Authority”</i>	- Doncaster Metropolitan Borough Council, in its capacity as the relevant licensing authority under the Act, or where the context so admits the Committee
<i>“the Committee”</i>	- the Sub-Committee of the Authority’s Licensing Committee constituted under the Act to determine the matter before it
<i>“the Chair”</i>	- the member of the Committee appointed to act as Chairperson of the Committee
<i>“the Applicant”</i>	- the party making the application e.g. the licence/certificate holder or prospective holder, or the party seeking a review
<i>“responsible authorities”</i>	- the public or other bodies described in the Act as “responsible authorities” and who have made representations
<i>“party”</i>	- means person(s) to whom notice of hearing is to be given (including their representatives) and “party” and “parties” shall be construed accordingly

## **2. Rights of attendance, assistance and representation at hearings**

- (a) A party may attend the hearing and may be assisted or represented by any other person. There is no requirement that a party's representative is legally or otherwise professionally qualified.
- (b) The hearing shall take place in public, unless the Authority decides to exclude the public from all or part of the hearing because it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing taking place in public. A party and any person assisting or representing a party, may be treated as a member of the public.
- (c) The Authority may exclude from a public hearing any person attending who acts in a disruptive manner, and refuse to re-admit that person, or impose conditions on his/her re-admission. Any such excluded person may, before the end of the hearing, submit to the Authority in writing any such information that he/she would have been entitled to give orally.
- (d) The Authority may dispense with a hearing if all of the persons required by the Act agree that a hearing is unnecessary, have given notice to the Authority that they consider a hearing to be unnecessary, and the Authority have given notice to all parties that the hearing has been dispensed with.
- (e) The Authority has the power to consider adjournments and an extension of time limits provided for within the Regulations on the basis it is in the public interest to do so. When a request for an adjournment or an extension of time is received the request is referred to the Chair for agreement provided the request can be accommodated in the statutory time frame. If this is not possible the matter shall be determined by the Committee at the prelisted hearing.

## **3. Non-attendance of a party at the hearing**

- (a) If a party has informed the Authority that he/she does not intend to attend the hearing, or be represented at the hearing, the hearing may proceed in his/her absence.
- (b) If a party who has not so notified the Authority does not attend either in person or by his/her representative, the Authority shall adjourn the hearing to a specified date if it considers it in the public interest to do so, but it shall otherwise proceed with the hearing in that party's absence.
- (c) Where the hearing proceeds in the absence of a party, the Authority shall consider the application, representations or notice made by that party.
- (d) Where the hearing is adjourned, the Authority shall forthwith, notify the parties of the date, time and place to which the hearing has been adjourned.

#### 4. Procedure at the Hearing

The hearing shall take the form of a discussion led by the Authority. The following procedure is intended to give form to such a discussion to ensure that all parties are able to put their case. Each party shall have equal maximum time in which to address the Committee. The Committee may take into account documentary or other information provided by a party before the hearing, or with the consent of all other parties at the hearing. The Committee may change the procedure in individual cases, upon the application of a party, or upon its own motion, if it considers it necessary to properly determine the business before it.

- (a) At the commencement of the hearing, the Chair will make introductions and establish that all parties understand the procedure to be followed. The Committee will then receive and determine any application that a party may wish to make to permit another person to appear at the hearing, and any application that any party wishes to make to vary the following order of addresses.
- (b) The Applicant may then address the Committee and provide any further information that the Authority have requested. At the conclusion of the Applicant's address, members of the Committee may ask the Applicant questions. Following questions by Committee members, any other party that wishes to question the Applicant may request permission to do so. If granted, the party or parties receiving permission may question the Applicant.
- (c) Other parties entitled to address the Committee or given permission to do so under paragraph (a) above, may then do so; and also provide to the Committee any information that the Authority have requested. Following the address, the members of the Committee may question the party addressing the Committee. Following any Committee questions, any other party wishing to question the party that has addressed the Committee may seek the Committee's permission to do so. If granted, the party or parties receiving permission may question the Applicant.

#### **Order of Addresses under paragraph (c)**

Subject to any direction given by the Committee under paragraph (a) above, the order of addresses by other parties, under paragraph (c) above, shall be:-

- [1] Any representative of a "responsible authority" (as defined in the Act)
- [2] Any other party opposing the Applicant
- [3] Any other party not falling within category [1] or [2] above, or category [4] below
- [4] Any other party supporting the Application

## **Permission to question or cross-examine the Applicant or other party**

A party may question any other party appearing if given permission by the Authority.

The Committee will determine any application by a party to question another party on its merits.

Cross examination shall not be permitted unless the Authority considers that cross examination is required for it to consider the representations, application or notice, as the case may require.

The Committee shall determine any application by one party to permit cross examination of another on its merits.

Normally, permission will be given to one party to question or cross-examine another, only where:-

- (i) a material fact put forward by one party is disputed by another party and the dispute can be properly determined, only if cross examination is permitted; or
- (ii) the question that one party wishes to put to the other is non-contentious and is for the purpose of clarification only.

## **5. The Committee's Deliberations and Determination**

- (a) The Authority considers that normally, it will be in the public interest that the deliberations of the Committee are conducted in the presence of the note taker and legal adviser only, unless an application is made by any party present for these to be conducted in public. If any such application is made, the Committee shall determine such application. The function of the legal adviser shall be to advise the Committee on points of law and procedure only.
- (b) Subject to paragraph (a) above, the Chair shall formally exclude the public including, the parties and their representatives from the meeting under Regulation 14(2), to enable the Committee to deliberate. All persons required to vacate the room during the deliberations shall be required to take all their personal belongings out of the room except as may be directed by the Committee.
- (c) If during its deliberations, the Committee require any further information from any party in order to assist in its deliberations, the Chair shall reconvene the public hearing for the purpose of attempting to secure that further information.
- (d) Following the Committee's deliberations, the public shall be re-admitted to the hearing, whereupon the Chair shall announce the determination of the Authority, where the provisions of the Act or the Regulations require a determination to be made at the conclusion of the hearing or otherwise where the Committee is unable to announce its determination.

- (e) Following the announcement of any determination of the application, representations or notice before the Committee, the hearing shall conclude.

## **6. Record of proceedings**

A record of the hearing will be taken in a permanent and intelligible form. Any such record will be kept for a period of six years from the date that the application or review is finally determined (including any appeal or judicial review).