

LICENSING SUB COMMITTEE 4
MONDAY 9 NOVEMBER 2020 AT 10.00AM

PRESENT: Councillors Bainbridge, Meller and Sherriff.

ALSO PRESENT: Councillor Ms Patrick

OFFICERS: Assistant Solicitor
Licensing Manager
Licensing Officer
Regulatory Compliance Officer (Apprentice)

There were no objections to the three Members of the Licensing Sub Committee, Councillor Ms Patrick remained for the duration of the meeting..

LSC.04.01/20 APPOINTMENT OF CHAIRMAN FOR THE MEETING

RESOLVED – That Councillor Bainbridge be appointed as Chair for Licensing Sub Committee 4 for this meeting. Councillor Bainbridge thereupon took the Chair.

LSC.04.02/20 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Dr Tickner.

LSC.04.03/20 DECLARATIONS OF INTEREST

There were no declarations of interest affecting the business to be transacted at the meeting.

LSC.04.04/20 PUBLIC AND PRESS

The Chair requested that the matter be considered in private due to the nature of the personal and business information contained within the report. The request was seconded and it was RESOLVED – That the consideration of suspension or revocation of a Personal Licence following conviction of a relevant offence – Licensing Act 2003 (GD.51/20) be moved into part B of the agenda to be considered when the public and press were excluded from the meeting in accordance with Section 100A(4) of the Local Government Act 1972. The decision was taken on the grounds that it involved the likely disclosure of exempt information as defined in paragraph number 1 of Part 1 of Schedule 12A of the 1972 Local Government Act.

LSC.04.05/20 CONSIDERATION OF SUSPENSION OR REVOCATION OF A PERSONAL LICENCE FOLLOWING CONVICTION OF A RELEVANT OFFENCE – LICENSING ACT 2003

(Public and Press excluded by virtue of Paragraph 1)

The Licensing Manager submitted report GD.51/20 regarding a Personal Licence Holder who had been convicted of offences contrary to The Food Safety Act 1990. The Offences were relevant under the Licensing Act 2003.

In addition to the Council's Licensing Manager, Licensing Officer, Assistant Solicitor and Democratic Services Officer, the following people attended the meeting to take part in proceedings:

Personal Licence Holder
Personal Licence Holder's Witness
Trading Standards Representative

The Assistant Solicitor outlined the procedure for the meeting. All parties confirmed that they had received and read the Licensing Officer's report and that they were happy to represent themselves.

The Licensing Officer set out the Personal Licence Holder's background, the circumstances leading to the conviction, the subsequent charges and fines.

The Licensing Officer reported that the Personal Licence Holder had been informed that he had to notify the Licensing Office of the conviction of three offences contrary to Food Safety Act 1990 Sections 15(1)(a), 35(2), 33(1)(b) and 35(1), to return his Personal Licence for endorsement and of any intention to appeal. The appeal period passed, the Personal Licence Holder was given a deadline, via letter, to return his Personal Licence for endorsement.

The Personal Licence Holder did not return his Personal Licence which was an offence contrary to Section 134(5) of The Licensing Act 2003. The Personal Licence Holder was then given notification that the Licensing Authority was to consider suspension or revocation of his Personal Licence and he had 28 days to forward representations.

The Trading Standards Officer responded to a Member's question and clarified some of the background to the reason for the conviction.

The Personal Licence Holder addressed the Sub Committee. He apologised to the Sub Committee, he explained his personal circumstances and the situation which led to the conviction. He detailed the impact the conviction had on his personal life and his business and gave reasons for the delay in providing his Personal Licence to the Licensing Office.

The Personal Licence Holder's Witness informed the Sub Committee of his relationship with the Personal Licence Holder and outlined his professional background. He detailed his involvement in the circumstances which led to the conviction adding that he had acted on good faith and had been very shocked by the conviction. He reiterated the Personal Licence Holder's circumstances and the impact the conviction had on him and his business.

In response to questions the Personal Licence Holder's Witness clarified some of the details within the conviction, where licensed premises could purchase alcohol from and what agreements may be in place between licensed premises and their landlords.

The Licensing Manager reported that there was an Alcohol Wholesaler Registration Scheme which approved producers and wholesalers for the sale of alcohol. Licensed premises were only able to purchase alcohol through the approved wholesalers.

The Licensing Officer outlined the relevant Legislation and the options open to the Sub Committee.

The Personal Licence Holder summed up by asking the Sub Committee for leniency and apologising for the situation.

At 10.48am Sub Committee Members, Assistant Solicitor and the Democratic Services Officer withdrew from the meeting to give detailed consideration to the matter.

The Sub Committee returned at 11.05am to present their decision.

The Sub Committee's decision was:

CONSIDERATION OF SUSPENSION OR REVOCATION OF A PERSONAL LICENCE FOLLOWING CONVICTION OF A RELEVANT OFFENCE – LICENSING ACT 2003

The matter concerned a Personal Licence Holder who had been convicted of three offences contrary to The Food Safety Act 1990. The offences were relevant under the Licensing Act 2003.

The Sub Committee had considered report GD.51/20 and the representations made at the meeting and had taken into account the evidence before it. In particular, it had listened to the submission made by:

Licensing Authority
Personal Licence Holder
Personal Licence Holder's Witness

And the written submission made by:

Trading Standards

The matter was determined in accordance with S132A of the Licensing Act 2003, the Statement of Licensing Policy and para 4 of the S182 guidance issued by the Secretary of State.

In reaching the decision the Sub Committee had regard to the 4 Licensing Objectives and the Licensing Policy as well as the legislation and s182 guidance.

The Sub Committee considered the options available namely:

- To take no action
- To suspend the Personal Licence for a period not exceeding 6 months
- To revoke the Personal Licence

After careful consideration the sub Committee had unanimously decided to revoke the Personal Licence.

The reasons for the decision were:

1. The Personal Licence Holder had not met the licensing objective of public safety by selling a drink, unknown to the public, under another label
2. The Personal Licence Holder had cheated his customers selling a cheaper drink under a more expensive brand label
3. The Personal Licence Holder was convicted of criminal offences contrary to 3 sections of the Food Safety Act 1990
4. The Personal Licence Holder displayed obstructive behaviour to Trading Standards
5. The Personal Licence Holder did not purchase alcohol from an approved wholesaler
6. The Personal Licence Holder had a duty to report the convictions to the Licensing Authority under s132 of the Licensing Act 2003 and failed to do so
7. The Personal Licence Holder failed to return his Personal Licence to the Licensing Authority contrary to s134(5) of the Licensing Act 2003

The Personal Licence Holder had the right of appeal to the Magistrates Court. The decision would be confirmed in writing.

(The meeting ended at 11.11am)