

LICENSING & GAMBLING ACTS SUB COMMITTEE

Minutes of a meeting of the Licensing & Gambling Acts Sub Committee of the Bolsover District Council held in Committee Room 1, The Arc, Clowne on Thursday, 7th March 2024 at 10:00 hours.

PRESENT:-

Members:-

Councillors David Bennett and Amanda Davis and Emma Stevenson.

Officers:- Louise Arnold (Legal Team Manager (Deputy Monitoring Officer)), Charmaine Terry (Environmental Health Team Manager – Licensing), Samantha Crossland (Licensing and Enforcement Officer), Amy Bryan (Governance and Civic Manager) and Matthew Kerry (Governance and Civic Officer).

Also in attendance at the meeting, observing, was Councillor Sally Renshaw.

LGASC1-23/24 ELECTION OF CHAIR FOR THE MEETING

Moved by Councillor David Bennett and seconded by Councillor Amanda Davis
RESOLVED that Councillor Emma Stevenson be elected as Chair for the meeting.

Councillor Emma Stevenson in the Chair

LGASC2-23/24 APOLOGIES FOR ABSENCE

There were no apologies for absence.

LGASC3-23/24 URGENT ITEMS OF BUSINESS

There were no urgent items of business to consider.

LGASC4-23/24 DECLARATIONS OF INTEREST

There were no declarations of interest made.

LGASC5-23/24 MINUTES OF A MEETING ON 24TH NOVEMBER 2022

Moved by Councillor Emma Stevenson and seconded by Councillor David Bennett
RESOLVED that the minutes of a meeting of the Licensing and Gambling Acts Sub Committee held on 23rd November 2022 be approved as a true and correct record.

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LGASC6-23/24 TO CONSIDER WHETHER TO SUSPEND OR REVOKE A PERSONAL LICENCE, UNDER THE LICENSING ACT 2003, FOLLOWING A LICENCE HOLDER'S CONVICTIONS FOR RELEVANT OFFENCES

The Chair introduced the item and welcomed those present.

The Legal Officer confirmed that Mrs. Tracy Kay, whose Personal Licence was under consideration, was not present. A copy of the report had been posted to Mrs. Kay's home address, but no response or representation had been received.

The Sub Committee agreed that it was in the public interest to continue with the hearing and to consider whether to suspend or revoke Mrs. Kay's Personal Licence in their absence.

The Chair explained the procedure that would be followed and stated that the hearing was not a court and as such strict court rules would not apply. Any evidence given would not be given under oath, but the Chair reminded parties that providing untrue statements was a criminal offence under the Licensing Act 2003.

With all those present confirming that they had received the relevant documents, the Chair proceeded and asked the Licensing Officer to present the report.

The Licensing Officer began by stating that the Council was responsible for granting Personal Licences under the Licensing Act 2003 ('the Act'). The Act set out four statutory objectives, each of equal importance, that had to be addressed by the Council when discharging its functions under the legislation. Those licensing objectives were:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and,
- The protection of children from harm.

In addition to the legislation, the Council had to have regard to the Revised Guidance issued under Section 182 of the Act and to the Council's own Statement of Licensing Policy.

The report set out that in 2019 the Council had adopted its current Statement of Licensing Policy ('the Policy') under the Act. The report set out paragraphs 2.1 and 2.2 of the Policy, which outlined the general principles of the Policy and the Act. The report also set out paragraph 7.32 of the Policy.

The Licence Holder, Mrs. Kay, had held a Personal Licence issued by the Council under the Act since 25th November 2005. A copy of the Personal Licence was attached as Appendix 1.

The Licensing Officer explained that whilst Mrs. Kay's licence showed an expiry date, the Deregulation Act 2015 had amended the Act to remove the requirement to renew Personal Licences, any licence still valid on 1st April 2015 remained valid indefinitely until such a time when the licence lapsed or was revoked – there was no requirement for Personal Licences to be updated to remove the expiry date.

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On 20th February 2023, the Licensing Team had received information via local police intelligence that Mrs. Kay may have been involved in an assault at a licensed premises, and an investigation was ongoing. Confirmation was subsequently received from Derbyshire Constabulary on 18th July 2023, that Mrs. Kay had been found guilty of a relevant offence, namely assault by beating. A copy of the notification was attached as Appendix 2.

Following a meeting with Derbyshire Constabulary on 3rd January 2024, to discuss local intelligence, it was brought to the attention of the Licensing Team that formal notification of Mrs. Kay's offence had not been received from the Magistrates' Court.

Subsequently, on 10th January 2024, in accordance with the legislation, the Licensing Team had posted a notice to Mrs. Kay, informing her that the Council was considering whether to suspend or revoke her Personal Licence and invited her to make representations. A copy of this notice was attached as Appendix 3.

The Licensing Officer confirmed that Mrs. Kay had not made any representations in support of her Personal Licence.

The Council's Licensing Team had contacted Chesterfield Magistrates' Court which had confirmed that Mrs. Kay had been convicted of assault by beating on 17th July 2023. A copy of the court extract was attached as Appendix 4.

The report set out the requirements of Sections 128, 132 and 132A of the Act. Section 132A of the Act outlined the process that should be followed in the event a Personal Licence holder had been convicted of any relevant offence.

Section 128 of the Act placed a duty on Personal Licence holders to notify the Court that they held a Personal Licence. On 16th January 2024, the Court had confirmed that there were no notes to show that Mrs Kay had disclosed her Personal Licence to the Court relating to her appearance on 7th July 2023. A copy of the confirmation was attached as Appendix 5.

Section 132 of the Act placed a duty on Personal Licence holders to notify the Licensing Authority of any conviction for a relevant offence. The Licensing Officer confirmed that Mrs. Kay had not formally notified the Council of the conviction.

The Licensing Officer highlighted paragraph 2.10 of the report, which stated that Section 127 of the Act, placed a duty on Personal Licence holders to notify the Licensing Authority of any change of name or address as stated on the Personal Licence. The Licensing Officer stated that Mrs. Kay had not formally updated the address on her licence.

Council records showed that Mrs. Kay ceased to be a DPS (Designated Premises Supervisor) on 31st July 2008, and was not currently nominated as a DPS at any Licensed Premises within the District.

A further check with Derbyshire Constabulary had confirmed that Mrs. Kay was not currently nominated as a DPS at any Licensed Premises in Derbyshire.

Having received confirmation of the offences, the Council was now required to determine whether any action should be taken in respect of Mrs. Kay's Personal Licence.

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Following receipt of the above-mentioned offence, a search of Council records had revealed that Mrs. Kay had been licensed as a Hackney Carriage/Private Hire Driver with the Council. Mrs. Kay had held a Hackney Carriage/Private Hire Driver's Licence from September 2018, but it had been revoked in July 2023.

A check of Mrs. Kay's Hackney Carriage/ Private Hire Driver record had revealed other convictions, that were relevant offences for the purpose of the Act, details of which were set out in the report.

Whilst Mrs. Kay had declared the existence of the offences from 2015 and had declared her new address on her application for a Hackney Carriage/Private Hire Driver's licence, the taxi licensing and Act functions were managed separately, and the legislation placed specific obligations on Personal Licence holders to notify the Council of any relevant offences and any change of address. Licence holders were required to follow a statutory process to update their licence accordingly.

Records showed that Mrs. Kay had not followed that process.

The Chair invited all parties to ask questions of the Licensing Officer.

In answer to a question on why the Licence Holder still had a Personal Licence, the Licensing Officer explained that the case regarding Mrs. Kay's conviction for a relevant offence had been prematurely closed by the Licensing Team.

A Member of the Sub Committee asked why the License Holder would keep their Licence if they were not currently working in a Licenced Premises. The Licensing Officer explained that the Deregulation Act 2015 had removed the requirement to renew Personal Licences, and any licence still valid on 1st April 2015 remained valid indefinitely so a Licence Holder could retain it should they wish to use it again in future.

A Member of the Sub Committee asked if there was not a system in place for identifying relevant convictions across different types of licence. The Licensing Officer repeated that because the previous Licensing Officer had closed the case before leaving the Council, they had been unaware of the License Holder's history. However, a process had been brought in to address this.

The Chair stated that as the Licence Holder was not present the Sub Committee would move to hear closing statements.

The Licensing Officer confirmed that they had nothing further to add.

The hearing was adjourned at 10:20 hours. The Licensing Officers left the room for the Sub Committee to deliberate.

The hearing reconvened at 10:29 hours. The Licensing Officers returned to the meeting.

The Chair invited the Legal Officer to set out the Sub Committee's decision.

The Legal Officer stated that, after taking into consideration the Licensing Act 2003, the Revised Guidance issued under Section 182 of that Act, and the Council's own Statement of Licensing Policy, the Sub Committee had made the decision to **REVOKE** the Personal Licence.

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The decision would be sent to the Licence Holder and there was a right of appeal.

The meeting concluded at 10:30 hours.