

**Bolsover District Council**

**Licensing and Gambling Acts Sub-Committee on**  
**07 March 2024**

**Report of the Environmental Health Team Manager (Licensing)**

<b>Classification</b>	This report is public.
<b>Contact Officer</b>	Samantha Crossland - Licensing and Enforcement Officer

**PURPOSE/SUMMARY OF REPORT**

To consider whether to suspend or revoke a Personal Licence, under the Licensing Act 2003, following a licence holder's convictions for relevant offences.

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**REPORT DETAILS**

**1. Background**

1.1 Bolsover District Council is responsible for granting Personal Licences under the Licensing Act 2003 ('the Act').

1.2 The Licensing Act 2003 is clear that four statutory objectives, each of equal importance, must be addressed by the Council when discharging its functions under the legislation.

Those licensing objectives are:

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

1.3 In addition to the legislation, the Council must have regard to the Revised Guidance issued under section 182 of the Licensing Act 2003 and to the Council's own licensing policy.

1.4 In 2019 the Council adopted its current Statement of Licensing Policy under the Licensing Act 2003 ('the Policy'). Paragraphs 2.1 and 2.2 of the Policy outline the general principles of the Policy and the Act:

*2.1 In exercising their functions under the Licensing Act 2003, licensing authorities must have regard to the licensing objectives as set out in section 4 of the Act.*

*The licensing objectives are:*

*(a) the prevention of crime and disorder;*

*(b) public safety;*  
*(c) the prevention of public nuisance; and*  
*(d) the protection of children from harm.*  
*Each has equal importance.*

2.2 *In carrying out its licensing functions, the Licensing Authority must also have regard to the licensing objectives, its Policy Statement and any statutory guidance under the Act and is bound by The Human Rights Act 1998. The Council must also fulfil its obligations under section 17 of the Crime and Disorder Act 1998 to do all that it reasonably can to prevent crime and disorder in Bolsover.*

1.5 Furthermore, Paragraph 7.32 of the Policy states the following:

*7.32 The Policing and Crime Act 2017 gives Licensing Authorities a discretionary power to revoke or suspend personal licences, with effect from 6 April 2017.*

*When a Licensing Authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months.*

## **2. Details of Proposal or Information**

2.1 Mrs Tracy Kay has held a Personal Licence issued by Bolsover District Council under the Licensing Act 2003 since 25 November 2005. A copy of her current Personal Licence is attached at **Appendix 1**.

Whilst Mrs Kay's licence shows an expiry date, the Deregulation Act 2015 amended the Act to remove the requirement to renew Personal Licences. Any licence still valid on 01 April 2015 remains valid indefinitely until such a time as the licence lapses or is revoked. There is no requirement for Personal Licences to be updated to remove the expiry date.

2.2 On 20 February 2023, the Licensing Team received information via local Police intelligence reports 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 18 July 2023, that Mrs Kay had been found guilty of a relevant offence, namely assault by beating. A copy of the notification is attached as **Appendix 2**.

2.3 Following a meeting with Derbyshire Constabulary on 03 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.

2.4 Subsequently, on 10 January 2024, in accordance with the legislation, the Licensing Team posted a notice to Mrs Kay, informing her that the Council were

considering whether to suspend or revoke her Personal Licence and invited her to make representations. A copy of this notice is attached at **Appendix 3**.

2.5 Mrs Kay has not made any representations in support of her Personal Licence.

2.6 The Council's Licensing Team contacted Chesterfield Magistrates' Court to confirm the outcome of the hearing. Chesterfield Magistrates' Court confirmed Mrs Kay was convicted of the below offence:

	<b>Date of Conviction</b>	<b>Conviction</b>	<b>Sentence</b>
Count 1	17 July 2023	Assault by beating	<ul style="list-style-type: none"><li>• Carry out unpaid work for 120 hours within the next twelve months.</li><li>• Exclusion – not to enter The Cavendish Pub in Bolsover until 16 July 2024</li><li>• To pay £170.00 towards the costs of the prosecution</li><li>• To pay victim surcharge of £114.00</li></ul>

A copy of the court extract is attached as **Appendix 4**.

2.7 Section 132A of the Act outlines the process that should be followed in the event a Personal Licence holder has been convicted of any relevant offence.

If the sub-committee decides not to revoke the Personal Licence, notice of the decision will be given to Derbyshire Constabulary who will be given 14 days to make representations. A supplementary report will then be prepared for the sub-committee to further consider the case.

2.8 Section 128 of the Act places a duty on Personal Licence holders to notify the Court that they hold a Personal Licence. Failure to comply with that duty is an offence and is punishable by a fine not exceeding £500.

On 16 January 2024 the Court confirmed that there are no notes to show that Mrs Kay disclosed her Personal Licence to the Court relating to her appearance on 7 July 2023. A copy of the confirmation is attached as **Appendix 5**.

2.9 Section 132 of the Act places a duty on Personal Licence holders to notify the Licensing Authority of any conviction for a relevant offence. Failure to comply with that duty is an offence and is punishable by a fine not exceeding £500.

Council records show that Mrs Kay has not formally notified the Council of the conviction.

2.10 Section 127 of the Act places a duty on Personal Licence holders to notify the Licensing Authority of any change of name or address as stated in the Personal Licence. Failure to comply with that duty is an offence and is punishable by a fine not exceeding £500.

Council records show that Mrs Kay has not formally updated the address on her licence.

- 2.11 Council records show that Mrs Kay ceased to be a Designated Premises Supervisor on 31 July 2008 and is not currently nominated as a Designated Premises Supervisor at any Licenced Premises within the Bolsover District Council area.

A further check with Derbyshire Constabulary has confirmed that Mrs Kay is not currently nominated as a Designated Premises Supervisor at any Licensed Premises in Derbyshire.

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

### **Driver History**

- 2.13 Following receipt of the above-mentioned offence a search of Council records revealed that Mrs Kay was previously licensed as a Hackney Carriage/ Private Hire Driver with Bolsover District Council. Mrs Kay was first licensed in September 2018 and had her licence revoked in July 2023 under delegated powers.

- 2.14 A check of Mrs Kay's Hackney Carriage/ Private Hire Driver record revealed the following additional convictions:

Nature of Offence	Offence Date	Date of Conviction	Sentence
Common assault Criminal Justice Act 1988 s.39	15 May 2015	01 March 2016	One Sentence was handed down in respect of all four offences which was: <ul style="list-style-type: none"> <li>• Community Order 1 Year supervision requirement*</li> <li>• Unpaid work requirement 100 hours*</li> <li>• Restraining Order for two years until 28 February 2018 – Protection from harassment.</li> <li>• Compensation £40</li> </ul> *Order revoked 25 August 2016 on the grounds of good progress
Common assault Criminal Justice Act 1988 s.39	15 May 2015	01 March 2016	
Common assault Criminal Justice Act 1988 s.39	15 May 2015	01 March 2016	
Common assault Criminal Justice Act 1988 s.39	15 May 2015	01 March 2016	

2.15 These offences are also relevant offences for the purpose of the Licensing Act 2003.

2.16 Whilst Mrs Kay did declare the existence of the offences from 2015 and declared her new address on her application for a Hackney Carriage/Private Hire Driver's licence, the taxi licensing and Licensing Act 2003 regimes remain separate and the Act places specific obligations on Personal Licence holders to notify the Council of any relevant offences and any change of address. Licence holders are required to follow a statutory process to update their licence accordingly.

Records show that Mrs Kay has not followed that process.

### 3. Reasons for Recommendation

3.1 None

### 4 Alternative Options and Reasons for Rejection

4.1 None

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## RECOMMENDATION(S)

In accordance with section 132A of the Licensing Act 2003 the Council may:

- Suspend the Personal Licence for a period not exceeding 6 months;
- Revoke the Personal Licence; or
- Take no action.

Approved by N/A

### IMPLICATIONS.

**Finance and Risk:**            Yes             No

**Details:**

An appeal against any decision would incur costs in preparing a defence case and to attend Court. Costs may be recovered at the discretion of the Magistrates in the event that the application is dismissed. Costs could be awarded against the Authority in the event that the appeal is successful.

On behalf of the Section 151 Officer

**Legal (including Data Protection):**            Yes             No

**Details:**

The aforementioned parties have the right to make an appeal to the Magistrates' Court if they are not satisfied with the outcome/conduct of this or any future hearing.

On behalf of the Solicitor to the Council

**Environment:** Yes  No

Details:

**Staffing:** Yes  No

Details:

On behalf of the Head of Paid Service

## DECISION INFORMATION

<b>Is the decision a Key Decision?</b> A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds:  <b>Revenue - £75,000</b> <input type="checkbox"/> <b>Capital - £150,000</b> <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
<b>Is the decision subject to Call-In?</b> (Only Key Decisions are subject to Call-In)	No

<b>District Wards Significantly Affected</b>	None
<b>Consultation:</b> <b>Leader / Deputy Leader</b> <input type="checkbox"/> <b>Executive</b> <input type="checkbox"/> <b>SLT</b> <input type="checkbox"/> <b>Relevant Service Manager</b> <input type="checkbox"/> <b>Members</b> <input type="checkbox"/> <b>Public</b> <input type="checkbox"/> <b>Other</b> <input checked="" type="checkbox"/>	Yes  Details: Derbyshire Constabulary

<b>Links to Council Ambition: Customers, Economy and Environment.</b>
All

DOCUMENT INFORMATION	
Appendix No	Title
1	Personal Licence
2	Email from Police confirming conviction
3	Notice to Licence Holder
4	Record of conviction from Court
5	Confirmation from Court of non notification of offence

**Background Papers**

*(These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Executive, you must provide copies of the background papers).*

Application, supporting documentation and historical records.