

Bolsover District Council

**Licensing and Gambling Acts Sub-Committee on
Monday, 29th July 2024**

Report of the Environmental Health Team Manager (Licensing)

Classification	This report is public.
Contact Officer	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 conviction for relevant offences.

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 2024 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 7.47 of the Policy states the following:

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.

Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017. The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act and is contained within the Home Office Guidance.

2. Details of Proposal or Information

2.1 Mr Mark Wayne Marriott has held a Personal Licence issued by Bolsover District Council under the Licensing Act 2003 since 19 July 2018. A copy of his current Personal Licence is attached at **Appendix 1**.

2.2 On 09 November 2023, the Licensing Team received information via local Police intelligence reports that Mr Marriott may have been involved in an assault at a licensed premises, and an investigation was ongoing. Confirmation was subsequently received from Derbyshire Constabulary on 21 March 2024, that Mr Marriott had been found guilty of a relevant offence, namely assault by beating. A copy of the intelligence report is attached as **Appendix 2** and the confirmation of conviction is attached as **Appendix 3**.

2.3 On 27 March 2024 the Licensing Team contacted the Magistrate's Court to confirm the outcome of the hearing. Chesterfield Magistrate's Court confirmed Mr Marriott was convicted of the offence below:

	Date of Conviction	Conviction	Sentence
Count 1	21 March 2024	Assault by beating	<ul style="list-style-type: none"> • FVS – Surcharge, to pay a surcharge of £55.00 • COLLO – Collection order made, Make payments as ordered. • PDATE – Pay by date, date to pay in full by 04 April 2024 • FCPC – Costs to Crown Prosecution Service. To pay costs of £85.00 to the Crown Prosecution Service. • FCOMP – Compensation, to pay compensation of £100.00 • FO – Fine, fined £138.00 • GPTAC – Guilty plea taken into account when imposing sentence.

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

- 2.4 On 05 April 2024, the Licensing Team received an email from Mr Marriott stating that he had been convicted of assault by beating. A copy of the email is attached at **Appendix 5**.
- 2.5 On 17 April 2024, in accordance with the legislation, the Licensing Team posted a notice to Mr Marriott at his home address, informing him that the Council were considering whether to suspend or revoke his Personal Licence and invited him to make representations. A copy of this notice is attached at **Appendix 6**.
- 2.6 Mr Marriott subsequently provided his representations and two character references, which can be found attached as **Appendices 7 - 9**
- 2.7 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 28 March 2024 the Court confirmed that the Court were aware that Mr Marriott holds a Personal Licence. However, the bench took no action. A copy of the confirmation is attached as **Appendix 10**.

- 2.8 Council records show that Mr Marriott has been the Designated Premises Supervisor at the George & Dragon, Cragg Lane, Newton, DE55 5TN since 07 August 2018.

Licensing Sub-Committee Decision

- 2.9 On 20 June 2024, in line with the procedure set out in legislation, the Licensing and Gambling Acts Sub-Committee convened to consider whether to suspend or revoke Mr Marriott's Personal Licence. After considering the facts of Mr Marriott's case, the sub-committee decided to suspend Mr Marriott's Personal Licence for a period of 2 months. A copy of the decision notice is attached as **Appendix 11**.

2.10 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 must 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.

2.11 On 21 June 2024, in accordance with the legislation, the Licensing Team gave notice to the chief officer of Derbyshire Constabulary that the sub-committee had decided not to revoke Mr Marriotts Personal Licence, and invited them to make representations regarding the issue of whether the licence should be suspended or revoked having regard to the crime prevention objective. A copy of the notice is attached as **Appendix 12**.

2.13 On 02 July 2024 the Licensing Team received a letter from Derbyshire Constabulary outlining their representations regarding the decision taken by the Licensing Sub-Committee. A copy of the letter is attached as **Appendix 13**.

2.14 Having received representations from the chief officer of Derbyshire Constabulary, the Council is now required to reconsider Mr Marriott's case, and the subsequent representation, and decide whether any further action should be taken in respect of Mr Marriott's Personal Licence.

3. Reasons for Recommendation

3.1 None

4 Alternative Options and Reasons for Rejection

4.1 None

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

<p>Is the decision a Key Decision? 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: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>No</p>
<p>Is the decision subject to Call-In? <i>(Only Key Decisions are subject to Call-In)</i></p>	<p>No</p>

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

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

DOCUMENT INFORMATION

Appendix No	Title
1	Personal Licence
2	Intelligence report from Police
3	Notification of conviction from Police
4	Court Extract
5	Notification from Mr Marriott
6	Notice to Mr Marriott
7	Representations from Mr Marriott
8	Character Reference from S Renshaw
9	Character Reference from K Flint
10	Confirmation from court that no action was taken
11	Decision Notice
12	Notice to the chief officer of police
13	Representations from Derbyshire Constabulary

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.