
MARK RIZK
HEAD OF SERVICE

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12th March 2019

Dear Sir/Madam,

LICENSING ACT SUB-COMMITTEE

You are requested to attend a Meeting of the Licensing Act Sub-Committee at the **Coltman VC Room, Town Hall, Burton upon Trent** on **Wednesday 27th March 2019** at **10.00am.**

Yours faithfully,

Mark Rizk
Head of Service

To: **The Chairman and Members of the Licensing Act Sub-Committee:**

Councillors: Mrs P L Ackroyd
Ms A Legg
B G Peters

PUBLIC ACCESS TO INFORMATION

Members of the Public may attend this Meeting and are also entitled to see the background papers to any report which is not likely to be considered in private. Copies of the public Agenda, background papers, and reports will also be supplied on payment of a copying charge.

Please contact: Monica Henchcliffe (01283) 508608
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AGENDA

1. **APOLOGIES FOR ABSENCE**
2. **DECLARATIONS OF INTEREST**
3. **APPOINTMENT OF CHAIRMAN**
4. **URGENT BUSINESS**

5. **PERSONAL LICENCE – MR SHAUN PETER DOYLE – THE NAVIGATION, 120 HORNINGLOW ROAD, BURTON UPON TRENT DE14 2PT**

The Report of the Head of Service regarding a current Application for a Personal Licence currently issued under the Licensing Act 2003.

Reason for consideration by the Committee

Information has been received by the Licensing Department at East Staffordshire Borough Council that Mr Shaun Doyle has recently received a conviction. A letter was sent to Mr Shaun Doyle on the 18th February 2019 regarding this.

Mr Shaun Doyle notified the Licensing Department of East Staffordshire Borough Council of said Conviction on the 5th March 2019.

Current Personal Licence details:

Applicant's Name:	Shaun Peter Doyle
Applicants Address:	The Navigation 120 Horninglow Road Horninglow Burton upon Trent DE14 2PT
Personal Licence Number:	PA0878
Issued:	28 th January 2010

A copy of the Personal Licence paper part is attached **Appendix 05a**.

6. **Relevant Representations**

The Licensing Department have become aware that Mr Shaun Doyle has recently been convicted of a Relevant Offence for the purposes of the Licensing Act 2003 – namely, Battery. This information came to light as a result of an article in the local, Burton Mail Newspaper on Thursday 17th January 2019, which is attached **Appendix 05b**.

A letter was sent to Mr Shaun Doyle at both his address on his Personal Licence, The Navigation, 120 Horninglow Road, Horninglow, Burton upon Trent, DE14 2PT and also to the Anchor Inn, 5 New Street, Burton upon Trent, DE14 3QN which is where Mr Doyle was residing as per the Burton Mail newspaper article. These letters are attached **Appendix 05c**.

Mr Shaun Doyle advised the Licensing Department of East Staffordshire Borough Council of this Conviction on the 5th March 2019 in writing. This is attached **Appendix 05d**.

Since becoming aware of Mr Doyle's conviction the Licensing Department has obtained a copy of the Court Extract from Staffordshire Magistrates Court detailing the Offence and outcome of Mr Doyle's case. This is attached **Appendix 05e**.

7. **Law**

(1) 132A Convictions etc. of Licence-Holder: Powers of Licensing Authority

(1) This Section applies where a Licensing Authority has granted a Personal Licence and it becomes aware (whether by virtue of Section 123(1), 131 or 132 or otherwise) that the holder of the Licence ("the Licence Holder") has been, at any time before or after the grant of the Licence—

(a) Convicted of any relevant offence or foreign offence, or

(b) Required to pay an immigration penalty.

(2) But this section does not apply at any time when in the case of a Licence Holder who has been convicted of any relevant offence or foreign offence—

(a) the Licence Holder has appealed against a conviction for, or any sentence imposed in relation to, a relevant offence or foreign offence and that appeal has not been disposed of, or

(b) The time limit for appealing against such a conviction or sentence has not expired.

(3) The relevant Licensing Authority may—

(a) Suspend the licence for a period not exceeding six months, or

(b) Revoke the licence.

(4) If the relevant Licensing Authority is considering whether to suspend or revoke the licence, the Authority must give notice to the Licence Holder.

(5) A notice under subsection (4) must invite the Licence Holder to make representations regarding—

(a) The relevant offence, foreign offence or immigration penalty that has caused the relevant 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).

(6) The Licence Holder may make representations under subsection (5) to the relevant Licensing Authority within the period of 28 days beginning with the day the Notice was issued.

(7) Before deciding whether to suspend or revoke the Licence the relevant Licensing Authority must take into account—

(a) Any representations made by the Licence Holder under this Section,

(b) Any decision of a Court under Section 129 or 130 of which the Licensing Authority is aware, and

(c) Any other information which the Authority considers relevant.

(8) Having taken into account the matters described in subsection (7) the relevant Licensing Authority may make a decision whether to suspend or revoke a licence, unless subsection (9) applies.

(9) This subsection applies where the relevant Licensing Authority has taken into account the matters described in subsection (7) and proposes not to revoke the Licence.

(10) Where subsection (9) applies the Authority must—

(a) Give notice to the Chief Officer of Police for its area that it proposes not to revoke the Licence, and

(b) Invite the officer to make representations regarding the issue of whether the Licence should be suspended or revoked having regard to the crime prevention objective.

(11) The Chief Officer of Police may make representations under Subsection (10)(b) to the relevant Licensing Authority within the period of 14 days beginning with the day the Notice was received.

(12) Where the relevant Licensing Authority has given notice to the Chief Officer of Police under subsection (10)(a), the Authority must take into account—

(a) Any representations from the Officer, and

(b) The matters described in subsection (7),

and then make a decision whether to suspend or revoke the Licence.

(13) The relevant Licensing Authority must give notice of any decision made under subsection (8) or (12) to the Licence Holder and the Chief Officer of Police, including reasons for the decision.

(14) A decision under this Section does not have effect—

(a) Until the end of the period given for appealing against the decision, or

(b) If the decision is appealed against, until the appeal is disposed of.

(15) A decision under subsection (8) or (12) may be appealed (see paragraph 17(5A) of Part 3 of Schedule 5 (appeals: personal licences)).

Regulation 14 Licensing Act 2003 (Hearings) Regulations 2005

(1) Subject to paragraph (2), the Hearing shall take place in public.

(2) The Licensing Authority may exclude the public from all or part of a Hearing where it considers that the public interest in so doing outweighs the public interest in the Hearing, or that part of the Hearing, taking place in public.

- (3) For the purposes of paragraph (2), a party and any person assisting or representing a party may be treated as a member of the public.

Section 4(2) Licensing Act 2003 – provides that the Licensing Objectives are:

- (a) the Prevention of Crime and Disorder;
- (b) Public Safety;
- (c) the Prevention of Public Nuisance;
- (a) the Protection of Children from harm.

8. **National Guidance – Guidance issued under section 182 of the Licensing Act 2003**

Please see following document for National Guidance relating to the Application

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf (April 2018)

Licensing Authority powers to Revoke or Suspend Personal Licences

- 4.45 The Policing and Crime Act 2017 gives Licensing Authorities the power to revoke or suspend Personal Licences, with effect from 6 April 2017. This is a discretionary power; Licensing Authorities are not obliged to give consideration to all Personal Licence Holders subject to Convictions for relevant offences, Foreign offences or Civil penalties for Immigration matters. 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. This applies to Convictions received and Civil Immigration penalties which a person has been required to pay at any time before or after the Licence was granted, as long as the Conviction was received after 6 April 2017, or the requirement to pay the Civil penalty arose after 6 April 2017. 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. The decision to revoke or suspend a Personal Licence must be made by the Licensing Committee or Sub-Committee, but the actions required before making a final decision may be made by a Licensing Officer.
- 4.46 The Licensing Authority may not take action if the Licence Holder has appealed against the Conviction or the Sentence imposed in relation to the offence, until the Appeal is disposed of. Where an appeal is not lodged, the Licensing Authority may not take action until the time limit for making an appeal has expired.
- 4.47 If a Licensing Authority is considering revoking or suspending a Personal Licence, the Authority must give notice to the Licence Holder. This Notice must invite the Holder to make representations about the conviction, any decision of a Court in relation to the Licence, or any decision by an appellate Court if the Licence Holder has appealed such a decision. The Licence Holder may also decide to include any other information, for example, about their personal circumstances. The Licence Holder must be given 28 days to make their representation, beginning on the day the Notice was issued. The

Licensing Authority does not need to hold a Hearing to consider the representations. Before deciding whether to revoke or suspend the Licence the Licensing Authority must consider any representations made by the Licence Holder, any decisions made by the Court or appellate Court in respect of the Personal Licence of which the Licensing Authority is aware, and any other information which the Licensing Authority considers relevant. The Licensing Authority may not be aware of whether the Court considered whether to revoke or suspend the Licence, and there is no obligation on the Licensing Authority to find this out before making a decision themselves. Where the Court has considered the Personal Licence and decided not to take action, this does not prevent the Licensing Authority from deciding to take action itself. Licensing Authorities have different aims to Courts in that they must fulfil their statutory duty to promote the Licensing Objectives, and therefore it is appropriate for the Licensing Authority to come to its own decision about the Licence.

- 4.48 If the Licensing Authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the Licence it must give notice to the Chief Officer of Police in the Licensing Authority's area, and invite the Chief Officer to make representations about whether the Licence should be suspended or revoked, having regard to the prevention of crime. The Chief Officer may make representations within the period of 14 days from the day they receive the Notice from the Licensing Authority. Any representations made by the Chief Officer of Police must be taken into account by the Licensing Authority in deciding whether to suspend or revoke the Licence. Convictions may come to light via Police in another area, for example if the Personal Licence Holder no longer lives in the area of the Licensing Authority which issued the Licence, or if the offence took place in another Police Force area. In this instance it would be good practice for the Police providing the information to notify the Police Force in the Licensing Authority area, because it is the local Chief Officer who must provide representations if the Licensing Authority proposes not to revoke the Licence. Where the Licence Holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the Licensing Authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 4.49 The Licensing Authority must notify the Licence Holder and the Chief Officer of Police of the decision made (even if the Police did not make representations). The Licence Holder may appeal the Licensing Authority's decision to revoke or suspend their Personal Licence. A decision to revoke or suspend the Licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.
- 4.50 If the Personal Licence Holder is a DPS, the Licensing Authority may notify the Premises Licence Holder once the decision to revoke or suspend the Licence has been made if it becomes necessary to do so in order for the Licensing Authority to be able to carry out their functions. The Licensing Authority may also notify any person who has declared an interest in the premises under Section 178 of the 2003 Act if it becomes necessary to do so in order for the Licensing Authority to be able to carry out their functions. The Licensing Authority may invite the Premises Licence Holder to make representations about the Personal Licence Holder before deciding whether to revoke or suspend the licence; this is not a legal requirement and may not be appropriate in all circumstances.

Relevant offences

4.51 Relevant offences are set out in Schedule 4 to the 2003 Act. If a person has been required to pay a civil penalty for immigration matters on or after 6 April 2017, this may be taken into consideration in the same way as a relevant offence. Offences added to the list of relevant offences with effect from 6 April 2017 may only be taken into consideration if the conviction was received on or after 6 April 2017.

9. Local Policy Considerations

East Staffordshire Borough Council – Statement of Licensing Policy

3.1. In carrying out its duties under the Act, the Licensing Authority will actively promote the licensing objectives, namely:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance, and
- The Protection of Children from Harm

3.2. The Licensing Authority will view each objective with equal importance and pay due regard to any guidance issued by the Secretary of State under Section 182 of the Act. However it should be stressed that irrespective of the content of this Policy, it is the right of any individual or company to make an Application under the Act and have the facts of the case considered on its individual merits.

3.3. The Licensing Authority has the ability to deviate from both the Guidance issued by the Secretary of State and/or this statement of Licensing Policy where the facts of a case merit it. If such an occasion does arise then full reasons for such deviation will be given as part of the published decision.

3.4. Nothing in this Statement of Policy should be seen as restricting or overriding the right of a person to make representations on an application or to seek a review of a Licence or Certificate, in circumstances where the Act allows it.

10. Decision Options

Licensing Sub-Committee is requested to determine whether too:

- a. Take no action
- b. Suspend the Personal Licence
- c. Revoke the Personal Licence

11. Appeals

Personal Licence – Suspended – Applicant may appeal

Personal Licence – Revoked - Applicant may appeal

12. **Details of who has been invited to attend**

The Personal Licence Holder, Shaun Doyle and/or a representative
Staffordshire Police Licensing Department

13. **Date and Time of Hearing**

Wednesday 27th March 2019 at 10.00am.

14. **List of Appendices**

1. Mr Shaun Doyle's Personal Licence Paper Part
2. Burton Mail newspaper article
3. 2 x letters sent to Shaun Doyle dated 18th February 2019
4. Mr Shaun Doyle's letter dated 5th March 2019 advising of Conviction
5. Court extract from Staffordshire Magistrates Court for Mr Shaun Doyle

Report created by: Helen Farman-McKenna - Licensing Officer