

Licensing & Regulatory Committee

Minutes of the meeting held on Monday 19 February 2018, at the Town Hall, Royal Leamington Spa at 5.00 pm.

Present: Councillor Illingworth (Chairman); Councillors Ashford, Mrs Cain, Davies, Gallagher, Gill, Miss Grainger, Heath, Mrs Hill, Mrs Knight, Murphy, Mrs Redford and Mrs Stevens.

29. Apologies and Substitutes

- (a) There were no apologies for absence;
- (b) There were no substitutes.

30. Declarations of Interest

There were no declarations of interest.

31. Minutes

The minutes of the meeting held on 11 January 2018 were agreed and signed by the Chairman as a true record, subject to the addition of the word 'intention' page 1 and the removal of a sentence on page 2.

32. Revisions to the Scheme of Delegation

The Committee received a report from Health and Community Protection which proposed a revision to the Scheme of Delegation within the Constitution in relation to the revocation or suspension of Personal Licenses issued under The Licensing Act 2003.

The report advised that on 6 April 2017, the Policing and Crime Act 2017 inserted Section 132A into the Licensing Act 2003 to give Licensing Authorities the power to revoke or suspend a Personal Licence if they become aware that the holder of the licence had been, at any time before or after the grant of the licence, convicted of a relevant or foreign offence or been required to pay an immigration penalty.

A list of relevant offences had been provided by the Government and was attached as appendix 1 to the report. A foreign offence was detailed as any offence for which a person had been convicted in a court of law of another country. If an offence was committed which was not a relevant offence or foreign offence, the Licensing Authority had no powers.

Before the amendment to the Act was made, only a Magistrates Court had the power to revoke a Personal Licence at the time of sentencing for a relevant offence. However, it was the licence holder's responsibility to make the Magistrates Court aware that they held a Personal Licence.

As a result of the amendment, when the Licensing Authority became aware of a conviction, foreign offence or immigration penalty, officers must notify the personal licence holder that they intend to refer them to a Licensing Sub-Committee to consider whether to revoke or suspend their Personal Licence.

If the Scheme of Delegation amendment was agreed, the Licensing and Regulatory Sub-Committee would have the powers to make the decision to revoke or suspend a Personal Licence or to do nothing.

If the Licensing and Regulatory Sub-Committee decided not to revoke or suspend a Personal Licence, the Chief Officer of Police was given 14 days to make a representation. If a representation was received, a further Committee must convene to decide if having received the new information the personal licence should be revoked or suspended.

In line with other decisions under the Licensing Act the Personal Licence holder would have 21 days to appeal a decision to revoke or suspend a Personal Licence to the Magistrates Court.

S7(1) of the Licensing Act 2003 empowered a Licensing Committee to determine the decision making procedures for applications under the Licensing Act 2003. It was therefore open to the Licensing and Regulatory Committee to elect to dispose of these hearings by Licensing and Regulatory Committee or a Sub-Committee.

The report proposed that these hearings be heard by a Sub-Committee. The report reminded Members that the Council must also take into account the cost of holding the hearings and, as there was no legal onus on the Licensing Authority to convene the whole Licensing and Regulatory Committee, this should be considered. This would also fall into line with the current policy for hearing Personal Licence applications, where Warwickshire Police had made objections, which were currently heard by a Licensing Sub-Committee.

The report suggested that for the first 12 months, all Personal Licence holders who received a relevant conviction, immigration conviction or an immigration fine would be brought before one of the Licensing and Regulatory Committees Sub-Committee. After 12 months, a review would take place to establish if all relevant offences must still be taken to a Sub-Committee.

A list of the relevant offences issued under the Licensing Act 2003 was attached as Appendix 1 to the report.

An alternative option was that Members could decide not to amend the Scheme of Delegation. However, as outlined section 6.2 of the report, the Licensing Authority had no powers to revoke or suspend a Personal Licence. Therefore, persons who had committed relevant offences could continue to hold a Personal Licence with Warwick District Council.

A further alternative was that Members could decide that the decision to suspend or revoke a Personal Licence should be made by the Licensing and Regulatory Committee but this was not recommended for the reasons set out in section 3 of the report.

Members recognised that Licensing & Regulatory Panels were described as a 'Sub-Committee' for the purposes of the report. In addition, an amendment was required to paragraph 3.10 of the report to replace the word 'Committee' with 'Panel' and to paragraph 3.4 to read 'becomes aware of a conviction'.

Members also felt that recommendation 2.1 should be reworded to read as follows; "Following conviction or a relevant offence, foreign offence or immigration penalty, to notify the licence holder of the intention to suspend or revoke their



Personal Licence under The Licensing Act 2003 and refer all cases to a Licensing and Regulatory Sub-Committee.”

Following a question from Councillor Murphy, officers confirmed that prior to 1 April 2018, the Licensing team were not aware of any personal licence holders with a relevant conviction nor would officers be actively seeking this information. Members were reminded that the onus was on the personal licence holder to provide this information to the Council.

The Committee therefore

Resolved that

- (1) the proposal to amend the Scheme of Delegation under Health and Community Protection to include *“Following conviction or a relevant offence, foreign offence or immigration penalty, to notify the licence holder of the intention to suspend or revoke their Personal Licence under The Licensing Act 2003 and refer all cases to a Licensing and Regulatory Sub-Committee”* is supported;
- (2) subject to agreement by the Executive/Council, the decision to suspend or revoke a Personal Licence when a licence holder has been convicted before the court of a relevant offence, immigration offence or an immigration fine is delegated to a Licensing & Regulatory Sub-Committee; and
- (3) if Council approves these revisions, the work involved in relation to (2) shall be delegated to the Licensing & Regulatory Sub-Committees as the appropriate body to consider such matters.

(The meeting ended at 5.16 pm)

Signature redacted

Signed by the Chairman on Monday 16th April

