

Runnymede Borough Council

LICENSING SUB-COMMITTEE  
(Hearing under the Licensing Act 2003)

20 March 2019 at 7.45pm

Members of the

Sub- Committee Present: Councillors Mrs J Gracey, S A Lewis and Ms A Sheppardson

540. ELECTION OF CHAIRMAN

Councillor Mrs J Gracey was elected as Chairman for the meeting.

541. FIRE PRECAUTIONS

Councillor S A Lewis advised those present of the procedures to be followed in the event of fire or other emergency.

542. PROCEDURE FOR THE CONDUCT OF BUSINESS

The Chairman asked those present to note the procedure for the conduct of business, as set out in the published agenda; she stressed that the Hearing would take the form of an informal discussion and sought to put the personal licence holder, Mr X, at his ease.

543. LICENSING ACT 2003 – PERSONAL LICENCE HOLDER DUTY TO INFORM LICENSING AUTHORITY OF CONVICTION

By resolution of the Committee, the press and public were excluded from the meeting during the consideration of this matter under Section 100A(4) of the Local Government Act 1972 on the grounds that the discussion would be likely to involve the disclosure of exempt information of the description specified in paragraphs 1, 3 and 7 of Schedule 12A to Part 1 of the Act.

The Sub-Committee received and considered a report concerning the failure of a Personal Licence holder to notify the Licensing Authority of a conviction relevant to his employment and a change in address.

The personal licence holder attended the meeting to present his own case but had not exercised his right to be legally represented.

Also present were:

Mr Robert W Smith, Senior Licensing Officer

Mr Piero Ionta, Solicitor

Miss Clare Pinnock, Democratic Services

The meeting was also attended by Councillor Mrs M T Harnden as an observer; she took no part in the meeting.

Mr Smith was invited to present his report to the meeting.

Mr Smith confirmed that the personal licence holder, Mr X, had held a personal licence since May 2016 and had no issues arising prior to being convicted for the relevant offence which was recorded as 'driving or attempting to drive with alcohol above limit' in September 2018. The sentence was disqualification from driving for 14 months and he was fined £120. Mr X had not notified the Licensing Authority of his conviction nor had he advised of a change of address to that given when he applied for a personal licence.

Both of these he was required to do under Sections 132(2)(a) and 127 of the Licensing Act respectively.

The Police advised the Licensing Authority of Mr X's conviction in January 2019 and Mr Smith had served notice on Mr X in February 2019, having located him at temporary accommodation in the borough.

Mr Smith confirmed that under Section 138(2) of the Policing and Crime Act 2017 the power to suspend or revoke a personal licence could not be delegated to Officers, but that the discretionary nature of the powers allowed Officers to refer the matter to a Hearing for determination, which Officers had concluded was appropriate in this case.

Mr Smith directed Members towards the relevant Guidance concerning convictions, to Mr X's written representation which explained some of the background to his conviction including the mitigating personal circumstances and he confirmed that the conviction did not record any decision regarding the personal licence. Mr Smith also advised the Hearing that there was no provision in the Licensing Act to take into account an offence of using a vehicle while uninsured which had been revealed when Mr X had given Mr Smith permission to view his online driving record.

Mr Smith confirmed that at the time of serving the notice under Section 132A(4) of the Licensing Act 2003, Mr X was homeless but living in accommodation at a local public house.

Mr X was then invited to present his case. He gave a full and frank account of the events which led to his conviction for 'drink driving' and the situation in which he found himself which was both distressing and had affected him personally and professionally. Of particular note were unsubstantiated claims made by a family member which had not been pursued by the Police but which nevertheless had a significantly detrimental effect on his mental and physical wellbeing as well as leading to the breakdown of family relationships. Mr X explained the importance of holding a personal licence; the independence it gave him and the flexibility it afforded to him in terms of where and when he could work. Mr X stated that there were some discrepancies around the circumstances of the conviction and some administrative confusion caused by the Police and courts which had contributed to the matter. Mr X stressed that the conviction was out of character and wholly attributable to events in his private life, events that were ongoing and had led to his being homeless and relying on the kindness of friends and acquaintances to keep going. Mr X professed not to be a regular drinker of alcohol and certainly not to excess. Mr X was hopeful of finding employment and had, that day, attended an interview for which holding a personal licence would be an advantage although not essential.

The panel asked whether Mr X was still homeless. Mr X replied that yes, he was currently still residing in his car.

The panel asked Mr X what effect having a personal licence had on his ability to earn a living. Mr X replied that he could still earn money but that having a personal licence gave him more responsibility and the freedom to work on his own and to 'step in' at short notice to work at a licensed premises if required.

In his closing statement, Mr Smith clarified that a person did not need a personal licence to sell alcohol, they could do so on behalf of the holder of a personal licence. However, it did help to have one's own personal licence, confirming what Mr X had said, who added in his closing statement that the Police prefer that a personal licence holder is the person selling alcohol.

The panel Hearing had no further questions and retired to consider their decision at 8.08pm. Mr X was invited to stay to hear the decision or he would be notified in writing. Mr X elected to stay.

The Hearing reconvened at 8.40pm and the Chairman read their considered decision which was to suspend Mr X's personal licence for a period of six months. The reason was due to the accepted failures to notify the Licensing Authority of the drink driving conviction. The panel considered that the appropriate decision was to suspend the licence for a period of 6 months. The Chairman stated that it was the panel's hope that this would afford Mr X the time to move positively forward.

The right of appeal to the Magistrates Court within 21 days of receiving notification of the decision was also noted. Mr X stated that he did not wish to appeal and he handed over his personal licence badge to Mr Smith.

After consideration of the case, the representations made and hearing the evidence as presented at the meeting it was:

**RESOLVED that –**

**the personal licence held by Mr X be suspended for a period of 6 months from the date of the decision notice to be issued by the Council's Legal advisor to the meeting.**

Chairman

(The meeting finished at 8.43pm)