

Item

## LICENSING AUTHORITY POWERS TO REVOKE OR SUSPEND PERSONAL LICENCES



**To:**

Licensing Committee

**Report by:**

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**Wards affected:**

All

### 1. Executive Summary

- 1.1 The purpose of this report is to advise members of changes to the Licensing Act 2003 which came into force on 6th April 2017 and to introduce new procedures relating to these changes.
- 1.2 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave licensing authorities the power to revoke or suspend personal licenses with effect from 6th 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.
- 1.3 Should licensing authorities choose to use this power, 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 Licensing Act 2003. The decision to revoke or suspend a personal licence must be made by the Licensing Committee or Sub-Committee, but the action

required before making a final decision may be made by a licensing officer.

- 1.4 This report proposes the process that Cambridge City Council will take when deciding whether to revoke or suspend a personal licence.

## **2. Recommendations**

2.1 Members are recommended to:

2.1.1 Note the content of the report and consider the legislative changes.

2.1.2 Approve the general procedure in regards to revoking or suspending a Personal Licence as set out in Appendix A.

2.1.3 Approve the Sub-Committee Hearing procedure in regards to revoking or suspending a Personal Licence as set out in Appendix B.

## **3. Background**

3.1. Prior to April 2017, only the magistrates' court had the power to revoke or suspend a personal licence where the licence holder had been convicted of a relevant offence.

3.2 However, Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003, by introducing Section 132A (see Appendix C).

3.3 This new section, gave licensing authorities the power to revoke or suspend personal licenses with effect from 6<sup>th</sup> April 2017.

3.4 The implication is that if a licensing authority has granted the personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or has been required to pay an immigration penalty on or after 6<sup>th</sup> April 2017, the authority has the discretionary power to revoke the licence or suspend it for a period of up to six months.

3.5 The process that must be followed by the licensing authority to suspend or revoke a personal licence is detailed within Section 132A of the Licensing Act 2003 (see Appendix C).

3.6 Section 138 of the Policing and Crime Act 2017 additionally confirmed that the decision to revoke or suspend a personal licence (following a relevant conviction or immigration penalty) may not be delegated to an officer.

3.7 Having considered the legislative changes and requirements, this report therefore outlines a general process for considering the revocation or

suspension of personal licences; contained within Appendix A, and the proposed Sub-Committee Hearing procedures; contained in Appendix B.

3.8 In summary the general proposed process includes:

3.8.1 Officer becomes aware of relevant conviction or immigration fine

3.8.2 Officer determines revocation or suspension of personal licence may be appropriate and serves Notice (see Appendix D)

3.8.3 Personal licence holder has 28 days to respond

3.8.4 Relevant information gathered and a report presented at a Licensing Sub-Committee Hearing

3.8.5 Sub-Committee considers case and determines if:

- No further action
- To issue a warning letter
- To suspend the personal licence for a period not exceeding 6 months
- To revoke personal licence

3.8.6 If Sub-Committee determines to take no action, send a warning letter or suspend, then officer notifies chief of police and/or Home Office (as appropriate).

3.8.7 Any comments, or lack of comments, received from chief of police or Home Office within 14 days must be considered by Sub-Committee and a final decision made. Where those comments request revocation a second Sub-Committee hearing will occur. Where other comments, or no comments, are received Sub-Committee will determine if the original decision stands or if a second hearing will take place

3.8.8 Where the chief of police or Home Office have made comments and Licensing Sub-Committee determines an action other than revocation, then they have a right to appeal to the magistrates' court.

3.8.9 In all cases, having made their decision Sub-Committee must record the outcome of that decision and the reasons for the decision reached.

3.8.10 After the full process and once a final decision has been made, in all cases officers will write to both the personal licence holder and the chief of police / Home Office (as appropriate) confirming the final decision reached by Licensing Sub-Committee and confirming their right to appeal to magistrates' court within 21 days.

## **4. Implications**

### **(a) Financial Implications**

There are no financial implications.

### **(b) Staffing Implications**

There are no staffing implications.

### **(c) Equality and Poverty Implications**

There are no Equality and Poverty implications.

### **(d) Environmental Implications**

There are no environmental implications.

### **(e) Procurement Implications**

There are no procurement implications.

### **(f) Community Safety Implications**

There are no community safety implications.

## **5. Consultation and communication considerations**

There has been no requirement to consult on this process.

## **6. Background papers**

Background papers used in the preparation of this report:

- (a) Licensing Act 2003
- (b) Guidance published under section 182 of the Licensing Act 2003
- (c) Policing and Crime Act 2017

## **7. Appendices**

Appendix A – General Procedure for revoking or suspended a personal licence.

Appendix B – Sub-Committee Hearing Procedure for Revoking or Suspending a Personal Licence

Appendix C - Section 132A of the Licensing Act 2003

Appendix D – Copy of Notice to be sent to Personal Licence holder

## **8. Inspection of papers**

To inspect the background papers or if you have a query on the report please contact Luke Catchpole, Technical Officer, tel: 01223 - 457818, email: [luke.catchpole@cambridge.gov.uk](mailto:luke.catchpole@cambridge.gov.uk)