

REPORT TO	ON
Licensing Act 2003 Committee	20 November 2018



TITLE	REPORT OF
Delegation of Powers to Sub Committee	Head of Licensing

Is this report confidential?	No
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1. PURPOSE OF THE REPORT

- 1.1 The purpose of this Report is to inform the Committee of amendments to the Licensing Act 2003 made by the Policing and Crime Act 2017. The amendments give the Licensing Authority powers to suspend or revoke a personal licence – previously only the Magistrates Court had such powers.
- 1.2 Officers are recommending that this Authority confirm that the decision-making powers relating to the suspension or revocation of a personal licence will be undertaken by Sub-Committees of the Licensing Act 2003 Committee. In addition the hearing procedure and timescales that currently apply to contested applications for the grant of a personal licence (as laid down in the Licensing Act 2003 (Hearings) Regulations 2005) will similarly apply to the procedures for decisions on whether to revoke or suspend a personal licence.

2. CORPORATE PRIORITIES

The report relates to the following corporate priorities:

Excellence and Financial Sustainability	x
Health and Wellbeing	
Place	

3. RECOMMENDATIONS

- 3.1 That Members note the amendments to the Licensing Act 2003, made by the Policing and Crime Act 2017, which give the Licensing Authority powers to suspend or revoke a personal licence.
- 3.2 That the Committee confirm that Licensing Sub-Committee panels of the Licensing Act 2003 Committee hold the authority to suspend or revoke a personal licence.

- 3.3 That the hearing procedure and timescales, that currently apply to contested applications for the grant of a personal licence (as laid down in the Licensing Act 2003 (Hearings) Regulations 2005), will apply to the procedures for decisions on whether to revoke or suspend a personal licence.
- 3.4 Approve the general procedure in regards to revoking or suspending a Personal Licence as set out in Appendix A.

4. BACKGROUND

- 4.1 A personal licence allows a person to authorise the sale of alcohol. Every premises where alcohol is supplied under the authority of a premises licence requires a Designated Premises Supervisor (DPS) and such individuals must have a personal licence. Every premises licensed for the sale of alcohol requires at least one personal licence holder. The only exception to this rule is community premises which have been granted a dispensation from the requirement to have a DPS by the Licensing Authority. Club Premises where alcohol is supplied to members rather than being sold are also exempt from this requirement.
- 4.2 The personal licence is designed to ensure that anybody running or managing a business that sells or supplies alcohol will do so in a professional fashion. Once an individual receives their personal licence they can act as the person who authorises sales for any business that sells or supplies alcohol.
- 4.3 Personal licence holders have a duty to notify the relevant Licensing Authority in writing if they have been convicted of a relevant offence. This is a requirement under Section 132 of the Licensing Act 2003. Relevant offences are listed in Schedule 4 to the Licensing Act 2003 (as amended) (Appendix B). Failure by a personal licence holder to notify the Licensing Authority of any relevant convictions is an offence
- 4.4 Previously 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. Section 138 of the Policing and Crime Act 2017 has inserted a new section into the Licensing Act 2003 (section 132A). The amendments to the 2003 Act now give this power to Licensing Authorities for convictions received on or after 6 April 2017. The new Section 132A of the Licensing Act 2003 states where a Licensing Authority, which has granted a personal licence, 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 this date, the Authority has the discretionary power to revoke the licence or suspend the licence for a period of up to six months.
- 4.5 Section 138(2) of the Policing and Crime Act 2017 also amended S10 of the Licensing Act 2003 as follows:-

“In section 10(4)(a) (functions that may not be delegated to an officer) after sub-paragraph (xii) insert—

“(xiii)section 132A(8) and (12) (revocation or suspension of licence by local authority where it becomes

aware of convictions or immigration penalties),”.

This dictates that these discretionary powers to revoke or suspend a licence once the Authority becomes aware that the licence holder has been convicted of a relevant offence cannot be delegated to Officers. However the discretionary nature of the powers allows officer consideration as to whether a personal licence holder should be referred to a hearing for determination to take place. Such considerations will necessarily be carried out on a case by

case basis.

1. Before making a decision regarding the status of a personal licence, the Authority must invite the licence holder to make representations regarding:
 - a. the relevant offence,
 - b. any decision of the Court in relation to the personal licence, and
 - c. any other relevant information (including information regarding the licence holder's personal circumstances).
2. A period of 28 days must be given in order for the licence holder to make the above representations. The proposed procedure is that an Officer will write to the licence holder inviting the representations.
3. Once the relevant information is gathered, licensing officers in consultation with the legal department consider whether it is a case which should be referred to a licensing sub-committee panel hearing.
4. If a decision is made to refer to a sub-committee licensing panel, then a report is prepared with the information gathered and presented at a Licensing sub-committee hearing.
5. Sub-Committee considers case and determines outcome:
 - No further action
 - To issue a warning letter
 - To suspend the personal licence for a period not exceeding 6 months
 - To revoke personal licence
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).
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
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.
9. In all cases, having made their decision Sub-Committee must record the outcome of that decision and the reasons for the decision reached.
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 the Magistrates Court within 21 days. Any suspension or revocation of the licence will not take effect until the end of the period for the submission of an appeal or if an appeal is submitted until such time as the appeal is determined.

Guidance is issued to Licensing Authorities by the Home Office in relation to the processing and review of licences under the Licensing Act 2003. A relevant extract from the current guidance, on the subject of the suspension or revocation of personal licences can be found at Appendix C of this report.

5. DELEGATION TO THE SUB-COMMITTEE PANEL

- 5.1 Section 7.1 of the Licensing Act 2003 states that all licensing functions under the Act are referred to the Licensing Committee.
- 5.2 Section 10 of the Licensing Act 2003 allows the Licensing Committee to delegate any of its functions to a sub committee (a Hearing Panel) or to an officer. However, in respect of the discretionary powers outlined above, these powers can only be delegated to a Hearing Panel.

- 5.3 South Ribble Council's current Table of Delegations under the Licensing Act 2003 delegates other types of functions where there is representation or objection to a Hearing Panel. This enables the applicant or licence holder to have a fair hearing before a decision is made.
- 5.4 In order to be consistent with South Ribble Borough Council's current delegations it is recommended that this Committee also delegates the new power to revoke or suspend a personal licence to a hearing panel made up of 3 members of the Committee that deals with licensing matters.

6. FINANCIAL IMPLICATIONS

- 6.1 Whilst the Council could incur additional costs as a result of an increase in licensing hearings, these are not anticipated to be significant in the context of the Council's overall finances. However any increase in costs would need to be managed within the areas current budget envelope.

7. LEGAL IMPLICATIONS

The relevant statutory provisions and legal procedures are raised in the body of the report and there are no additional legal implications.

8. COMMENTS OF THE STATUTORY FINANCE OFFICER

As set out in section 6 above, any additional costs are expected to be minimal and contained within existing budgets.

9. COMMENTS OF THE MONITORING OFFICER

Failure to have a delegation in place would mean that any cases which potentially could be considered under S138, would have to be dealt with by the full Licensing Committee, rather than a Sub-Committee panel, which would be inconsistent with other functions are discharged by that

11. OTHER IMPLICATIONS:

▶ HR & Organisational Development	None
▶ ICT / Technology	None
▶ Property & Asset Management	None
▶ Risk	None
▶ Equality & Diversity	None

12. BACKGROUND DOCUMENTS

None

13. APPENDICES

Appendix A- Procedure relating to Convictions

Appendix B- List of relevant offences

Appendix C- Extract from the Sec 182 Guidance

N/A

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