

**SUBJECT: INTRODUCTION OF POWERS TO ALLOW SUSPENSION AND REVOCATION OF PERSONAL LICENCES UNDER SECTION 132A OF THE LICENSING ACT 2003**

**DIRECTORATE: COMMUNITIES & ENVIRONMENT**

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## **1. Purpose of 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 and to introduce new procedures relating to these changes.

## **2. Executive Summary**

- 2.1 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 licences. 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.
- 2.2 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 (**Appendix A**). 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.
- 2.3 This report proposes the procedure that the City of Lincoln Council will take when deciding whether to revoke or suspend a personal licence.

## **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 The amendments to the 2003 Act now give this power to Licensing Authorities for convictions received on or after 6 April 2017. 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. Relevant offences are listed in Schedule 4 to the Licensing Act 2003 (as amended) (**Appendix B**).

- 3.3 Section 138(2) of the Policing and Crime Act 2017 dictates that these powers 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 committee for determination to take place. Such considerations will necessarily be carried out on a case by case basis.
- 3.4 Before making a decision regarding the status of a personal licence, the Authority must invite the licence holder to make representations regarding:
- the relevant offence, foreign offence or immigration penalty,
  - any decision of the Court in relation to the personal licence, and
  - any other relevant information (including information regarding the licence holder's personal circumstances).

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.

- 3.5 The Policing & Crime Act 2017 does not set out any hearing procedures for determining whether or not to revoke/suspend personal licences. The s.182 guidance issued by the Secretary of State specifies that a Licensing Committee or a Sub-Committee should determine the application to revoke a personal licence, however the licensing authority does not need to hold a hearing to consider the representations. The options are explored further at paragraph 6.2 below.
- 3.6 If the Licensing Authority is not minded to revoke the personal licence then notice of such a decision must be given to Lincolnshire Police. The notice must ask the Police whether in their opinion the licence should be suspended or revoked. In such a scenario the Licensing Authority must reconsider its decision not to revoke if the Police indicate that, in their opinion, the licence should be suspended or revoked having regard to the crime prevention objective.
- 3.7 If the personal licence is suspended or revoked, then the licence holder has 21 days to submit an appeal against the decision to the Magistrates Court. 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.
- 3.8 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**.

#### **4. Proposed procedure**

- 4.1 The proposed procedure to be undertaken when determining suspension or revocation of a personal licence can be found at **Appendix D**

#### **5. Strategic Priorities**

- 5.1 Let's drive economic growth  
N/A

5.2 Let's reduce inequality  
N/A

5.3 Let's deliver quality housing  
N/A

5.4 Let's enhance our remarkable place  
N/A

5.5 High performing services  
N/A

## **6. Organisational Impacts**

6.1 Finance (including whole life costs where applicable)

6.1.1 As with all licensing decisions it is possible that if a Licensing Committee decision is appealed to the Magistrates Court and the appeal is upheld, costs may be awarded against the Council.

6.1.2 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 be managed within the areas current budget.

6.2 Legal Implications including Procurement Rules

6.2.1 The Policing & Crime Act 2017 does not set out any hearing procedures for determining whether or not to revoke/suspend personal licences. The s.182 guidance issued by the Secretary of State specifies that a Licensing Committee or a Sub-Committee should determine the application to revoke a personal licence, but does not specify whether or not a hearing needs to take place.

6.2.2 Section 7(1) of the Licensing Act 2003 empowers a Licensing Committee to determine the decision making procedures for applications under the Licensing Act 2003. It is therefore open to the Licensing Committee to elect to dispose of these hearings by:

1. Delegating to the Licensing Sub-Committee the power to determine the application on the papers without a formal hearing; or
2. Delegating the decision making powers to the Licensing Sub-Committee. The hearing procedure and timescales that apply to contested personal licence applications can apply to applications to revoke/suspend personal licences.

6.2.3 All relevant applicant types under the Licensing Act are already determined by a process of hearings by a Sub-Committee. If the Licensing Sub-Committee is further delegated to make these decisions, it will align with the functions of the Licensing Sub-Committee.

6.3 Equality, Diversity and Human Rights

The Public Sector Equality Duty means that the Council must consider all individuals when carrying out their day-to-day work, in shaping policy, delivering services and in relation to their own employees.

It requires that public bodies have due regard to the need to:

- Eliminate discrimination
- Advance equality of opportunity
- Foster good relations between different people when carrying out their activities

## **7. Risk Implications**

7.1 (i) Options Explored

7.2 (ii) Key risks associated with the preferred approach

## **8. Recommendation**

8.1 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.

8.2 That the Committee confirm that Licensing Sub-Committees of the Licensing Act 2003 Committee hold the authority to suspend or revoke a personal licence.

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

8.4 Confirm 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.

**Is this a key decision?** No

**Do the exempt information categories apply?** No

**Does Rule 15 of the Scrutiny Procedure Rules (call-in and urgency) apply?** No

**How many appendices does the report contain?** 4

**List of Background Papers:** None

**Lead Officer:**

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