



Leicester  
City Council

**WARDS AFFECTED**  
**All**

**FORWARD TIMETABLE OF CONSULTATION AND MEETINGS:**  
**Licensing and Public Safety Committee**

**1 February 2019**

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**LICENSING AUTHORITY POWERS TO REVOKE OR SUSPEND PERSONAL LICENCES**

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**Report of the Director of Neighbourhood and Environmental Services**

**1. Purpose of Report**

- 1.1. The purpose of this report is to advise members of changes to the Licensing Act 2003 which came into force on 6<sup>th</sup> April 2017 and to introduce revised procedures.
- 1.2. On the 6<sup>th</sup> April 2017, Section 138 of the Policing and Crime Act 2017 came into effect which amended the Licensing Act 2003 enabling licensing authorities the power to revoke or suspend personal licenses. This power is discretionary and licensing authorities are not obliged to consider all personal licenses who have been subject to convictions for relevant offences, foreign offences or immigration matters.
- 1.3. Section 132A of the Licensing Act 2003 sets out the process that licensing authorities must undertake should they wish to use these powers. The decision to revoke or suspend a personal licence must be made by the Licensing Committee or Sub-Committee, but the preceding actions required may be made at officer level.
- 1.4. This report details the process that Leicester City Council will take when considering whether to revoke or suspend a personal licence.

**2. Recommendations**

- 2.1. Members are recommended to note the content of the report.
- 2.2. Approve the general processes as set out in Appendix A and B.
- 2.3. Approve any minor changes to the procedure as required at officer level.

### **3. Background**

- 3.1. Prior to April 2017, the magistrates' court was the only authority which had the power to revoke or suspend a personal licence upon the holder being convicted of a relevant offence.
- 3.2. Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 by introducing section 132A. This is detailed within Appendix C.
- 3.3. The change gave licensing authorities the power to revoke or suspend personal licensed taking effect as of 6<sup>th</sup> April 2017.
- 3.4. The implication is that if a licensing authority has granted a personal licence and subsequently becomes aware that the 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. Section 132A of the Licensing Act 2003 details the process licensing authorities must follow to suspend or revoke a personal licence. Appendix C details this process.
- 3.6. Section 10(4)(a)(xiii) of the Licensing Act 2003 confirms that the final decision to revoke or suspend a personal licence may not be delegated to an officer.
- 3.7. With consideration of the legislative requirements, this report outlines a general process for considering these changes and is detailed within Appendix A and a procedure for Sub-Committee hearings as detailed in Appendix B.

### **5 Financial, Legal and Other Implications**

#### **Financial Implications**

- 5.1 There are no significant financial implications arising from this report.

*Colin Sharpe, Head of Finance, ext. 37 4081*

#### **Legal Implications**

- 5.2 Section 138 of the Policing and Crime Act 2017 and section 132A of the Licensing Act 2003 relate to this report.  
There are no legal implications arising from this report

*John Moss, Solicitor - Legal Services*

## 6 Other Implications

<b>OTHER IMPLICATIONS</b>	<b>YES/ NO</b>	<b>Paragraph/References Within the Report</b>
Equal Opportunities	No	
Policy	Yes	Appendix A and B
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	
Corporate Parenting	No	
Health Inequalities Impact	No	

## 7 Background Papers

None

## 8 Consultations

None

## 9 Appendices

Appendix A – General Procedure for revoking or suspending 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

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## APPENDIX A

### **General Procedure for Revoking or Suspending a Personal Licence**

1. Officers become aware of a conviction of a “relevant offence” or immigration penalty.

*Note: The personal licence holder should inform the local authority and also the magistrates’ court should also be informing the local authority.*

2. After officer determines that it is a relevant offence, and due consideration will be made by the officer whether it may appropriate for the licence to be revoked or suspended.

3. If the officer believes it may be appropriate to revoke or suspend the licence, a notice must be given to the licence holder confirming the intention.

4. Officer also collects any addition information that may be relevant to the case

5. The licence holder has 28 days to provide any relevant information as explained in the notice.

6. Representation made by the licence holder will be taken into account along with any other information received from the officer’s investigation. This could involve any evidence and statements provided by the police or Home Office in regards to the circumstances surrounding the convictions.

7. Report will be produced for Sub-Committee detailing the convictions received and relevant offence, information supplied by licence holder and any further information gathered during course of investigation.

8. A Sub-Committee hearing will be held where the report will be presented and the licence holder invited to attend to provide a submission and answer any questions from members.

9. Members will have the option of 4 decisions that can be made:

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

10. If the decision made is to take no action, send a warning letter or suspend the personal licence, the officer must then notify the chief of police and/or Home Office of the decision and give them 14 days to make any comments.

11. If Police and/or Home Office respond and ask for the revocation of personal licence, a second hearing will be held for members to consider the original information, the new representations from police or Home Office and give a final

decision. Following consideration of the new information, the same four options apply:

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

12. If no response is received from Police or Home Office, or the response indicates it is for information only, then Sub-Committee will need to confirm if the original decision stands. This may be done via email/phone or similar method rather than a second hearing. Alternatively they may decide to convene a second hearing as item 11 above

13. Once a final decision has been made, a decision letter will be sent to licence holder, police and/or Home Officer detailing the decision made and reasons for it. All parties will have 21 days to appeal to magistrates.

## Appendix B

### **Sub-Committee Hearing Procedure for Revoking or Suspending a Personal Licence**

1. Licensing Sub-Committee Hearings to consider a Personal Licence under the Licensing Act 2003 will not be open to the public to attend.
2. Present at the hearing will be members of the Licensing Sub-Committee (minimum 3 members), Officer from the Licensing Authority, a Legal Officer who will be the Sub-Committee's legal advisor and a member of Democratic Services. The applicant and their representative may be present.
3. At the start of the hearing the Chair of the Sub-Committee will open the meeting, introduce the members of the committee and officers present and explain the procedure to be followed.
4. The Officer will outline the report and present any information considered relevant in relation to the case.
5. Members may ask any relevant questions of the Officer.
6. The Chair will invite the personal licence holder or their representative to ask any questions of the Officer.
7. The Chair will invite the personal licence holder or their representative to put the applicant's case to the committee. The Chair will have the discretion to determine whether the Sub-Committee will hear from additional speakers (for example a character witness for the personal licence holder).
8. Members may ask any relevant questions of the personal licence holder and/or their witnesses.
9. The Officer may ask any relevant questions to clarify the information that has been given.
10. If the police or Home Office (as appropriate) are a party at the hearing, they will present their case.
11. Members may ask any relevant questions of the police / Home Office representative.
12. The Officer may ask any relevant questions to clarify the information that has been given.
13. The Chair will invite any additional relevant parties (for example the police or Home Office) to put forward any additional information relevant to the Hearing.
14. When all the information has been offered, the Chair will invite all parties to summarise their points if they wish.
15. The Chair will ask all parties if they are satisfied that they have had the opportunity to say everything that they wish to say.
16. The Chair will invite the Legal Advisor to the Sub-Committee to give any legal advice that the Adviser considers to be appropriate.

17. The Sub-Committee will then consider their decision in private, everyone, except the members of the Sub-Committee and the officer from Democratic Services, will be asked to leave the room; alternatively the Sub-Committee may withdraw to another room. The Sub-Committee may invite the Legal Advisor to join them. Any legal advice given to the Sub-Committee when they are withdrawn will be reported back to the hearing before the Chair resumes it.

18. The Sub-Committee may reconvene the meeting in order to seek clarification of the facts.

19. In reaching its decision, the Sub-Committee will disregard any information given by a party, or any person who has been permitted to appear at the hearing, which is not relevant to;

**a.** the application, representations or notice (as applicable) or in the case of another person, the application, representations or notice of the party requesting their appearance, and

**b.** The promotion of the licensing objectives or, in relation to a hearing to consider a notice given by the Police, the crime prevention objective.

20. For the Hearing, the decisions open to members are as follows:

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

20 When the decision has been made the Chair will announce this to the applicant.

21 Members must give their reasons for any decision made.

22 Following the full hearing process (first Sub-Committee Hearing and second Sub-Committee decision/Hearing) and the final decision made, the Council will write to both the applicant and police / Home Office with formal notification of the final decision of the Licensing Sub-Committee, and also informing them both of any right of appeal to the Magistrates Court and the time within which the appeals must be submitted.

Appendix C: Section 132A of the Licensing Act 2003

**132A Convictions etc of licence-holder: powers of licensing authority**

(1) This section applies where a licensing authority has granted a personal licence and it becomes aware (whether by virtue of section 123(1), 131 or 132 or otherwise) that the holder of the licence (“ the licence holder ”) has been, at any time before or after the grant of the licence—

- (a) convicted of any relevant offence or foreign offence, or
- (b) required to pay an immigration penalty.

(2) But this section does not apply at any time when in the case of a licence holder who has been convicted of any relevant offence or foreign offence—

- (a) the licence holder has appealed against a conviction for, or any sentence imposed in relation to, a relevant offence or foreign offence and that appeal has not been disposed of, or
- (b) the time limit for appealing against such a conviction or sentence has not expired.

(3) The relevant licensing authority may—

- (a) suspend the licence for a period not exceeding six months, or
- (b) revoke the licence.

(4) If the relevant licensing authority is considering whether to suspend or revoke the licence, the authority must give notice to the licence holder.

(5) A notice under subsection (4) must invite the licence holder to make representations regarding—

- (a) the relevant offence, foreign offence or immigration penalty that has caused the relevant licensing authority to issue the notice,
- (b) any decision of a court under section 129 or 130 in relation to the licence, and
- (c) any other relevant information (including information regarding the licence holder's personal circumstances).

(6) The licence holder may make representations under subsection (5) to the relevant licensing authority within the period of 28 days beginning with the day the notice was issued.

(7) Before deciding whether to suspend or revoke the licence the relevant licensing authority must take into account—

- (a) any representations made by the licence holder under this section,
- (b) any decision of a court under section 129 or 130 of which the licensing authority is aware, and
- (c) any other information which the authority considers relevant.



(8) Having taken into account the matters described in subsection (7) the relevant licensing authority may make a decision whether to suspend or revoke a licence, unless subsection (9) applies.

(9) This subsection applies where the relevant licensing authority has taken into account the matters described in subsection (7) and proposes not to revoke the licence.

(10) Where subsection (9) applies the authority must—

(a) give notice to the chief officer of police for its area that it proposes not to revoke the licence, and

(b) invite the officer to make representations regarding the issue of whether the licence should be suspended or revoked having regard to the crime prevention objective.

(11) The chief officer of police may make representations under subsection (10)(b) to the relevant licensing authority within the period of 14 days beginning with the day the notice was received.

(12) Where the relevant licensing authority has given notice to the chief officer of police under subsection (10)(a), the authority must take into account—

(a) any representations from the officer, and

(b) the matters described in subsection (7),

and then make a decision whether to suspend or revoke the licence.

(13) The relevant licensing authority must give notice of any decision made under subsection (8) or (12) to the licence holder and the chief officer of police, including reasons for the decision.

(14) A decision under this section does not have effect—

(a) until the end of the period given for appealing against the decision, or

(b) if the decision is appealed against, until the appeal is disposed of.

(15) A decision under subsection (8) or (12) may be appealed (see paragraph 17(5A) of Part 3 of Schedule 5 (appeals: personal licences)).

Please ask for: Licensing Enforcement  
Direct line: 0116 454 0049  
Email: [licensingenforcement@leicester.gov.uk](mailto:licensingenforcement@leicester.gov.uk)  
Our ref: N&ES/LEIPRSComm/Notice/ **LEIPRS Number**  
Date: [Click here to enter a date.](#)

### **Private & Confidential**

**Mr/s Name**  
**Address 1**  
Leicester  
**Postcode**

Dear **Mr/s Name**,

### **LICENSING ACT 2003 – NOTICE TO CONSIDER WHETHER TO REVOKE OR SUSPEND A PERSONAL LICENCE**

#### REFERRAL TO THE LICENSING ENFORCEMENT SUB-COMMITTEE HEARING

I refer to information received by HM Courts & Tribunals Service stating that on the [Click here to enter a date.](#) you were convicted of **list offence/s**.

The Licensing Act 2003, Schedule 4 sets out the relevant offences in regards to a personal licence holder. The conviction detailed above is classed as a relevant offence.

Under section 132A of the Licensing Act 2003, Licensing Authorities can revoke or suspend (maximum of 6 months) a personal licence.

In light of the above stated conviction/s, the Licensing Authority for Leicester City Council is giving you notice that they are considering revoking or suspending your personal licence, **LEIPRS...**

You have 28 days beginning from the date of this notice was issued to provide representations that will be considered before a final decision is made.

Your representation can make comments in regards to the following:

- The relevant offences that caused Leicester City Council to issue this notice, namely the stated convictions above.
- Any decision of the court under section 129 or 130 of the Licensing Act 2003 in relation to your personal licence.
- Any other relevant information. This can include information regarding personal circumstances etc.

Please provide any representation by the [Click here to enter a date.](#) This can be submitted either via post or via email at the relevant addresses detailed on this letter.

Once your representation is received a meeting of the Licensing Sub-Committee will be held where a decision will be made to revoke or suspend your personal licence, issue a written warning or take no further action. You will be informed of the date of the hearing and be invited to attend and speak if you wish to do so.

If the Sub-Committee decide to suspend, issue a written warning or take no further action, we are required by law to inform the Chief of Police, and ask them to provide representations on your case considering the objective of the prevention of crime and disorder.

Any response received from the police will be considered, and a second hearing may take place to consider the information available (e.g. if the police object to the original decision). Should such a second hearing be appropriate, then you will be informed of the date of the hearing and be invited to attend.

Following the hearing and decision process outlined above, you will be notified of the final decision.

If the decision of the Sub-Committee is to revoke or suspend your licence at either of these hearings you will have the right to appeal that decision. Further information will be provided to you in the event such a decision is made.

Yours sincerely,

**Choose an item.**

**Licensing Enforcement Team**

**cc: Force Licensing Officer, Leicestershire Police, Mansfield House, Leicester, LE1 3GG**