

Report for: **Licensing Sub Committee 16th April 2019**

Item number:

Title: **Consideration of suspension or revocation of a Personal licence following conviction under the Licensing Act 2003.**

Report authorised by : **Daliah Barrett-Licensing Team Leader – Regulatory Services.**

Ward(s) affected **N/A**

**Report for Key/
Non Key Decision: Not applicable**

1. Describe the issue under consideration

- 1.1 The Licensing Sub Committee are asked to consider the suspension or revocation of a personal licence following a conviction of a relevant offence by the holder of that licence.
- 1.2 Since 06 April 2017, a Licensing Authority which issued a Personal Licence is now able to suspend (for up to 6 months) or revoke the Personal Licence where the Licensing Authority becomes aware that an individual holding a personal licence has been convicted of a "relevant offence" or a "foreign offence". A "foreign offence" being an equivalent offence committed in any place other than England and Wales. A list of relevant offences is attached at Appendix 1.
- 1.3 Where the Licensing Authority becomes aware that a holder of a Personal Licence has been convicted of a relevant offence or foreign offence, a Notice must be sent to the holder of a Personal Licence inviting the Personal Licence Holder to make representations regarding the conviction within 28 days. This notice cannot be sent until after the period for lodging an appeal against the conviction for a relevant offence has passed. Where an appeal has been lodged, it must be decided and the conviction upheld in order for the Licensing Authority to exercise its powers.
- 1.4 This notice can be issued by The Licensing Team Leader at the expiry of the 28 day period, the Licensing Authority must determine whether or not to suspend/revoke the licence. Where the Licensing Authority is minded not to revoke the licence, it must notify the Commissioner of the Metropolitan Police of this decision. The Commissioner may make representations within 14 days of being notified of the Licensing Authority's proposed decision. A final decision on the suspension/revocation of the Personal Licence can be made after the expiry of the 14 day period. The Personal Licence Holder may appeal the decision to the Magistrates Court.

2 Policy considerations

2.1 The Policing and Crime Act 2017 does not set out any hearing procedures for

Determining whether or not to suspend/revoke Personal Licences. The Section 182 Guidance issued by the Secretary of State specifies at paragraph 4.45 that a Licensing Committee or Sub-Committee should determine the application to revoke a Personal Licence. However, it does not specify whether or not a hearing needs to take place.

2.2 The personal licence holder should inform the local authority and also the Court should also be informing the local authority of the conviction. After the licensing officer determines that it is a relevant offence, a decision will be made by the officer whether it may be appropriate for the LSC to consider whether the licence should be revoked or suspended.

2.3 A notice must be given to the licence holder confirming the intention to take the matter to LSC for consideration.
Officers also collect any additional information that may be relevant to the case. The licence holder has 28 days to provide any relevant information as explained in the notice. 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 conviction.

2.4 A report will be produced for Sub-Committee detailing the conviction and relevant offence, information supplied by licence holder and any further information gathered during course of investigation. 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.

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

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

If the decision made is to take no action, 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, any representations from the licence holder and give a final decision. Following consideration of the new information, the same four options apply:
- To take no action
 - 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 without a second hearing but they may decide to convene a second hearing. All communication on this matter will be in writing.
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. The licence holder is the only that can appeal and will have 21 days to appeal to Magistrates.