

# LICENSING (LIQUOR AND GAMBLING) PANEL

Date: 23 October 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 10.00 am

Present: Councillors: Andy Mercer  
Steven North  
Peter Wathen

## 1. APPOINTMENT OF CHAIRMAN

### RESOLVED:

That Councillor Peter Wathen be appointed Chairman of the Panel for this hearing.

## 2. APOLOGIES FOR ABSENCE

There were no apologies for absence.

## 3. DECLARATIONS OF INTEREST

The Licensing Enforcement Officer declared that she lived in the same village as the Licence Holder but that he was not known to her.

## 4. EXCLUSION OF PRESS AND PUBLIC

### RESOLVED:

That the public and press be excluded from the meeting during consideration of the following item of business because exempt information, as defined under paragraphs 1 and 7 of Schedule 12A of the Local Government Act 1972, may be disclosed.

## 5. CONSIDERATION OF A PERSONAL LICENCE

*(The Licence Holder was present at the Hearing).*

The Licensing Enforcement Officer presented a report which requested that the Licensing Panel considered the Personal Licence of the Licence Holder, following notification of his conviction for a relevant offence. The Licence Holder had appeared in the Magistrates' Court in July 2017 in relation to a charge of being drunk whilst in charge of a motor vehicle, to which he had pleaded guilty, contrary to section 5(1)(b) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988. The Licence Holder had notified the Magistrates' Court of his status as a Personal Licence Holder, as he was required to do by law, who had taken no action in relation to his Personal Licence.

The Licensing Enforcement Officer had written to the Licence Holder regarding the offence and he was invited to comment on the following:

- The relevant offence that caused the licensing authority to issue the notice;
- Any decision of a court under section 129 or 130 in relation to the notice; and
- Any other relevant information (including information regarding the Licence Holder's personal circumstances).

The Licence Holder had responded to the letter in September 2017. The Licensing Officer at Thames Valley Police had also been asked to comment on the Licence Holder and they had spoken very highly of him. Northamptonshire Police Licensing Officers were also invited to make representations.

### **Questions to the Licensing Enforcement Officer**

The Licence Holder had no questions of the Licensing Enforcement Officer.

In response to questions from the Panel, the Licensing Enforcement Officer clarified that both Northamptonshire Police and Thames Valley Police had been contacted about the Licence Holder as the Personal Licence had been issued within Northamptonshire but the Licence Holder had made reference to an officer of Thames Valley Police in his response.

### **Licence Holder's address to the Panel**

The Chairman invited the Licence Holder to address the Panel in support of his licence.

The Licence Holder apologised to everyone for being here today and he accepted full responsibility for his actions. He clarified that the disqualification of his driving licence had been due to the totting up process following a previous speeding offence and not due to repeat offending. Leading up to the offence, he had been under a significant amount of pressure at work as in his role, the premises had a 24/7 licence and he could be telephoned at anti-social hours. That had happened the night before the offence and he had subsequently only had about three hours sleep and during the following day he had also attended a course. A colleague was leaving so he had decided to attend their leaving drinks. He had felt he had stopped drinking long enough so that he would not be affected before he attempted to drive home, which he accepted was wrong and he had only stopped his vehicle due to extreme tiredness. He had worked in the gaming industry for 24 years and was required to declare any offences to the Gambling Commission, who had declared that they would not be taking any action against him. He had supplied two character references from his current and previous management. He stated that he had offered his resignation to his employer who had refused to accept it. However, having checked his employment contract, if his personal licence was revoked or suspended he could face dismissal from his job as it was part of the company's policy that senior management on site must have a personal licence. He was fully aware of the licensing objectives and gave examples of what work he had done under each objective. The impact of the loss of his driving licence had been hard. He was embarrassed and his family would be put at financial risk if he lost his job, including possibly losing their home. Following submitting his resignation, he had tried to find alternative employment but had not been successful. People around him were suffering due to his actions and the events had had an adverse effect on family, friends and his work. He again apologised for his actions and the potential risk he had put others under.

### **Questions to the Licence Holder from the Licensing Enforcement Officer**

The Licensing Enforcement Officer had no questions of the Licence Holder.

### **Questions to the Licence Holder from the Panel**

In response to questions from the Panel, the Licence Holder explained that he was getting to work by being driven by family members and by also using buses, trains and taxis, which was not very affordable. He explained that he had been relieved of his responsibilities as DPS following notification to his company of his offence as if he had lost his personal licence whilst still being DPS then the company would not be able to sell alcohol and as they could not take that risk, he was removed from that position. In the month before attending court, the Licence Holder could not see how he would be able to get to work, so that was why he had looked for alternative employment but that had not been successful. The Licence Holder confirmed that the Magistrates Court had already decided that the exceptional hardship argument had not been met as the Judge had felt that he could find alternative accommodation closer to where he worked, however the Licence Holder had felt that that would put pressure on his family.

### **Final statement from the Licensing Enforcement Officer**

The Licensing Enforcement Officer did not wish to make a final statement.

### **Final statement from the Licence Holder**

The Licence Holder only wished to reiterate his apologies for what had happened.

*At 10.30am the Panel adjourned to make their decision.*

*The Panel reconvened at 11.20am to announce their decision.*

### **RESOLVED**

The Licensing Panel has reviewed a personal licence and has taken into account the Licensing Enforcement Officer's report and all relevant representations and documents submitted.

The Panel considered the following documents before reaching their decision:

- Report by ENC's Licensing Enforcement Officer
- Agenda and attachments appendix 1-7
- ENC's Licensing Policy 1.8 and 2.4
- Section 182 Guidance
- Section 132A of the Licensing Act 2003 (amended by the Policing and Crime Act 2017)
- Representations made by the Personal Licence Holder
- Two references received from the Licence Holder's employer

After careful deliberation and consideration of the aforementioned, the Panel has reached a decision. The Panel has unanimously decided not to revoke or suspend the personal licence.

The reasons for the decision are as follows:-

- The Panel felt that the Personal Licence Holder was very remorseful and took all appropriate actions in regard to notifying all relevant parties.

- The Panel considered the personal impact that revocation or suspension of the said licence would have on the Licence Holder and his dependants and felt that such a loss would cause exceptional hardship.
- The Panel considered the personal references provided by his current and previous managers which demonstrated his reliability and professionalism.
- The Panel also gave weight to the comments from the Milton Keynes Police Licensing Officer as relayed to ENC's Licensing Enforcement Officer.

The Panel Members hereby request the issue of a written warning to the Licence Holder drawing his attention to his ongoing professional responsibilities.

The Panel Members received legal advice in terms of:

1. The Licensing Objectives
2. The options available to the Panel – Under the Licensing Act 2003
3. The legal test to be applied
4. Section 182 Guidance.
5. Section 132A of the Licensing Act 2003 (amended by the Policing and Crime Act 2017)

The Decision Notice will be sent out in writing. If aggrieved with the Panel's decision, the Applicant and any Party that has made representation has the Right to Appeal to the Magistrates' Court within 21 days of receiving the Decision Notification letter.

**Chairman**