

Licensing Sub-Committee report



7 December 2020

LICENSING ACT 2003 DETERMINATION OF A PERSONAL LICENCE APPLICATION

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Exempt / confidential / not for publication	None.
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1. Purpose

1.1 To determine an application for a personal licence under Section 120 of the Licensing Act 2003 (“The Act”).

2. Actions and Options

2.1 That the Sub-Committee must:

- (a) reject the application if it considers it appropriate for the Crime Prevention objective; or
- (b) in all other cases, grant the application.

3. Issues

3.1 Applications for personal licences are made by an applicant to the authority whose area in which they are ordinarily resident. To be granted a personal licence an application must be submitted to the Council confirming that the applicant:

- (a) is over the age of 18;
- (b) is entitled to work in the UK;
- (c) possesses a relevant Licensing qualification; and
- (d) has, or has not, been convicted of a relevant or foreign offence.

- 3.2 Where an applicant has been convicted of a relevant or foreign offence the Council must give notice to the Chief Officer of Police who has 14 days in which to consider the matter and if necessary, submit an objection notice to the Licensing Authority.
- 3.3 If an objection notice is made, the Licensing Authority must hold a hearing to determine if it is appropriate for the crime prevention objective of the Act to reject the application.
- 3.4 An application was submitted under section 117 of the Act by the applicant on 16 October 2020 and is attached at **Annex A** to the report, along with the documents submitted by the applicant in support of the application.
- 3.5 These documents included a basic Disclosure and Barring Service (DBS) criminal record and a signed declaration of convictions confirming that the applicant was convicted on 20 October 2016 for “Driving a Motor Vehicle with Excess Alcohol.”
- 3.6 The application was validated and processed by the Council on 26 October 2020 and on that day sent to the Police as required by the Act.
- 3.7 An objection notice was submitted by the Police to the Council on 6 November 2020 and is attached at **Annex B** to the report.
- 3.8 As the Licensing Authority has received an objection notice it must hold a hearing to consider that notice and, as required by the Act, it must reject the application if it considers it is appropriate to do so for the promotion of the Crime Prevention objective.
- 3.9 The Licensing Authority must also send a statement of its reasons to the Chief Officer of Police and, if the application is rejected, to the applicant as well. This statement will be taken from the reasons given by the Sub-Committee in its notice of determination.

4. Implications

4.1 Policy

Extracts of the Council’s statement of Licensing Policy relevant to this application, and extracts of the Section 182 guidance issued to Licensing Authorities by the Home Secretary are contained below at paragraph 5 of this report.

The Sub-Committee is required under the Act to have regard to its own statement of Licensing Policy and to the section 182 Guidance but is not obliged to follow those documents. However full reasons should be given where the Licensing Authority departs from them.

4.2 Legal

Section 120 (7)(b) requires the Sub-Committee to reject the application if it considers it is appropriate for the crime prevention objective. Conversely, if the Sub-Committee does not consider it is appropriate for the Crime Prevention objective, it may grant the application. In considering this matter the Sub-Committee is required by Section 4 to carry out its functions with a view to promote the Licensing Objectives and having had regard to its own statement of Licensing.

5. Extracts of Policy and Guidance

5.1 Extracts of Milton Keynes Council's Statement of Licensing Policy

23.6 ... The refusal of the application will be usual unless there are, in the opinion of the licensing sub-committee, exceptional and compelling circumstances that justify granting the application.

5.2 Extracts from the Section 182 Guidance relevant to Personal Licence Applications

4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder.

4.3 Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to be present on the premises or oversee each sale; it is sufficient that such sales are authorised.

4.5 Any individual may apply for a personal licence whether or not they are currently employed or have business interests associated with the use of the licence. The issues which arise when the holder of a personal licence becomes associated with particular licensed premises and is specified as the DPS for those premises are dealt with at paragraphs [4.31 to 4.38 of the section 182 guidance and not included in this report as] Licensing authorities may not therefore take these matters into account when considering an application for a personal licence.

4.23 Where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds the applicant is entitled to a hearing before the licensing authority.

4.24 A number of relevant offences never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that the applicant no longer has a propensity to re-offend, a licensing authority may consider that it is appropriate to grant the application on the basis that doing so would not undermine the crime prevention objective.

4.25 If an application is refused, the applicant will be entitled to appeal against the decision they make. Licensing authorities are therefore expected to record in full the reasons for any decision which they make.

List of Annexes

Annex A Application

Annex B Police objection notice

List of Background Papers

Statement of Licensing Policy

<https://www.milton-keynes.gov.uk/environmental-health-and-trading-standards/licensing/alcohol-and-entertainment/milton-keynes-council-licensing-policy>

Section 182 Guidance

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf