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## LICENSING SUB-COMMITTEE

**When: 6.00 pm**  
**Monday 7 December 2020**

**Where: Online**

A link will be made available to those entitled to participate by no later than noon the day before the meeting. Members of the public can observe proceedings at <https://www.youtube.com/user/MiltonKeynesCouncil>

### **Members of the Sub-Committee**

Councillor      Legg (Chair)  
Councillors     Cryer-Whitehead and Miles

### **Enquiries**

Please contact Jane Crighton on 01908 252333 or [jane.crighton@milton-keynes.gov.uk](mailto:jane.crighton@milton-keynes.gov.uk)

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# AGENDA

## 1. Election of Chair

The Chair of the Licensing Committee, shall Chair meetings of the Licensing Sub-Committee, if present. In the absence of the Chair, the Vice-Chairs of the Licensing Committee, shall Chair meetings of the Licensing Sub-Committee. In the absence of both the Chair and the Vice Chairs, the Licensing Sub-Committee will, as its first item of business, elect a Chair for the meeting.

## 2. Chair's Announcement

The Chair to welcome Councillors, officers and the public to the meeting and introduce Councillors and officers who are present.

## 3. Apologies of Absence

## 4. Declarations of Interest

Councillors to declare any disclosable pecuniary interests, or personal interests (including other pecuniary interests), they may have in the business to be transacted, and officers to disclose any interests they may have in any contract to be considered.

## 5. Licensing Sub-Committee Procedure

The Chair will outline the procedure to be followed by the Sub-Committee in the determination of a Determination of a Personal Licence Application, which is set out at Item 5 (**Pages 4 to 5**).

## 6. Exclusion of Public and Press

To consider excluding the public and press representatives by virtue of Paragraph 2 (Information which is likely to reveal the Identity of an Individual) of Part I of Schedule 12A of the Local Government Act 1972, in order that the Sub-Committee may continue with the hearing.

Determination of a Personal Licence Application

## 7. Determination of a Personal Licence Application

To consider Item 7 (**Pages 6 to 9**)

		Page(s)
<b>Annex A</b>	<b>Application and Supporting Documentation (circulated under separate cover)</b>	
<b>Annex B</b>	<b>Objection from Thames Valley Police (circulated under separate cover)</b>	



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Guidance from the Department for Communities and Local Government can be viewed at:  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/343182/140812\\_Openness\\_Guide.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/343182/140812_Openness_Guide.pdf)

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**PROCEDURE FOR THE DETERMINATION OF A PERSONAL LICENCE BY THE  
LICENSING SUB-COMMITTEE**

1. At the start of the hearing the Chair will introduce the Sub-Committee Councillors and colleagues and explain their roles for the purpose of the hearing.
2. The Chair will explain the procedure to be followed by the Sub-Committee, which will normally take the form of:
  - (a) The Licensing Officer(s) will present the relevant details, but make no recommendations regarding a decision on the application to the Sub-Committee, together with information regarding any details relevant to the application, which may have come to light since the report was written.
  - (b) The applicant (licensee) or his/her representative can present his/her case, including calling any witnesses. Questions may then be put to the applicant, through and with the consent of the Chair, by the other parties and the Sub-Committee.
  - (c) The other parties will present their case, but only where representations are unresolved. Responsible authorities (within the meaning of the legislation) will present their cases before interested parties. Questions may then be put to those persons, through and with the consent of the Chair, by the other parties and the Sub-Committee.
  - (d) The Licensing Officer(s) will be invited to sum up their case.
  - (e) The other parties will be invited to sum up their case.
  - (f) The applicant or his/her representative will be invited to sum up his/her case.
  - (g) The Sub-Committee will be invited to adjourn to come to its decision. Upon adjournment, all parties will withdraw, directly or through retirement of the Sub-Committee. The only colleagues who may remain with the Sub-Committee during its adjournment shall be the legal advisor and the Committee Manager.
  - (h) Where the Sub-Committee has to make a decision at the end of the hearing, all parties will be called back and informed orally of the decision of the Sub-Committee and any conditions made, with the reasons for those conditions.

3. The Sub-Committee will be permitted to retire to deliberate in private on any matter it chooses. The Sub-Committee may seek legal advice on a point of law at any point but the substance of any advice given in private must be repeated in open session.

# Licensing Sub-Committee report



7 December 2020

## LICENSING ACT 2003 DETERMINATION OF A PERSONAL LICENCE APPLICATION

Report author **Adam Ward**  
Licensing Officer  
01908 252 431

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](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)