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Please ask for:  
Helen Johnson

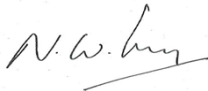
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8 May 2019

Dear Councillor

You are requested to attend a meeting of the WELWYN HATFIELD BOROUGH COUNCIL LICENSING SUB-COMMITTEE to be held on Friday 17 May 2019 at 2.30 pm in the Council Chamber, Council Offices, The Campus, Welwyn Garden City, Herts, AL8 6AE.

Yours faithfully



Corporate Director  
Public Protection, Planning and Governance

**AGENDA**  
**PART 1**

**PROCEDURE**

1. **APPOINTMENT OF CHAIRMAN**

To appoint a Chairman of the Sub-Committee for the meeting.

2. **DECLARATIONS OF INTERESTS BY MEMBERS**

To note declarations of Members' disclosable pecuniary interests, non-disclosable pecuniary interests and non-pecuniary interests in respect of items on the Agenda.

3. **APPLICATION FOR REVIEW OF A PERSONAL LICENCE** (Pages 5 - 22)

Report of the Corporate Director (Public Protection, Planning and Governance) to consider an application to review a Personal Licence.

Circulation: Councillors H.Bower  
J.Cragg

A.Chesterman

Press and Public (except Part II Items)

If you require any further information about this Agenda please contact Helen Johnson, Governance Services on 01707 357467 or email – [democracy@welhat.gov.uk](mailto:democracy@welhat.gov.uk)

# Agenda Annex

## **LICENSING AND REGULATED ENTERTAINMENT HEARINGS PROCEDURE**

This is the procedure that the Council has adopted under the Licensing Act 2003 (Hearings) Regulations 2005 for all of its licensing hearings to achieve a consistent approach. The hearing is started by the Chairman stating that the Sub-Committee is considering. It is then explained to all the parties that this is a mixed quasi judicial and administrative function. The hearing will take the form of a discussion led by the authority. The strict rules of evidence will not apply although the rules will be observed to a great extent because this is considered to be the best way of presenting the evidence. Documentary or other information produced at the hearing may be taken into account with the consent of all the parties.

All parties will be given an equal maximum period of time to exercise their rights to make representations and provide supporting information to the Sub-Committee as provided for in this procedure. The Chairman will ask those appearing to speak concisely and only on the points that have been raised in the representations submitted. If several representations have been received on similar lines the parties will be invited to appoint a spokesperson. The Sub-Committee will seek to avoid hearing repetitious representations.

- (1) Once all the parties are present in the room and seated the Sub-Committee will enter and the hearing will be convened.
- (2) The Chairman will introduce the Sub-Committee and the Officers serving the Sub-Committee.
- (3) The applicant and/or his representative should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (4) The objectors and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (5) The responsible authorities and/or their representatives should confirm their identity to the Sub-Committee and that of any other person they have requested permission to appear, having given the requisite notice of their attendance before the hearing. The Sub-Committee will consider any request by a party for another person to appear at the hearing and such permission will not be unreasonably withheld.
- (6) The Chairman will invite the Licensing Officer to present his report.
- (7) The applicant may then state their case, calling any witnesses they consider necessary, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (8) With the Chairman's permission members may ask the applicant or their witnesses questions. These questions should be for further information or clarification.

- (9) The objectors then state their case calling any witnesses, the requisite notice of their attendance having been given before the hearing. Cross-examination is only permitted if the Chairman considers it is required as part of the hearing.
- (10) The members may ask the objectors or their witnesses questions. These questions should be for further information or clarification.
- (11) The objectors are then asked if they wish to make a final address to the Sub-Committee.
- (12) The applicant or representative is then given the same opportunity to address the Sub-Committee.
- (13) The Sub-Committee will then retire to consider the representations which have been made and to make its decision. The Sub-Committee will be accompanied by the Legal Adviser and Committee Manager.
- (14) A decision is then taken.
- (15) The Sub-Committee will then return to inform all the parties of the decision. Notice of the determination will be given in writing after the hearing. For certain applications the determination will be made within five working days of the hearing.

If any legal clarification is needed during the Sub-Committee's deliberations, the Legal Adviser will return to inform all the parties of the point considered, together with the advice given and will invite comment on that.

## COMMENTS

Should the Sub-Committee decide to grant a licence it may only add conditions or restrictions which are necessary for promoting the licensing objectives and which do not duplicate other statutory requirements. However, the powers to add conditions are confined by the fact that any condition or restriction must be reasonable. The Courts have ruled that a public body in a privileged position of being able to exercise its discretion in dealing with applications for licences and consents of various kinds, when coming to a decision, must exercise that discretion reasonably and fairly and relate it to the subject concerned. A public body is not at liberty to use its powers for an ulterior object, that is one which is not within the ambit or intended purpose of the statutory provision under which the power is exercised however desirable that object may seem in the public interest.

The Sub-Committee will disregard any information which is not relevant to the matter being considered.

The Sub-Committee may exclude all the parties and the public from a hearing or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing.

The Sub-Committee may require any person attending a hearing who in its opinion is behaving in a disruptive manner to leave the hearing.

# Agenda Item 3

## Part II

Main author: Dennis Pennyfather

Executive Member: Fiona Thompson

Wards: Hatfield Central

WELWYN HATFIELD BOROUGH COUNCIL  
LICENSING SUB COMMITTEE – 17 MAY 2019  
REPORT OF THE CORPORATE DIRECTOR (PUBLIC PROTECTION, PLANNING AND GOVERNANCE)

### APPLICATION TO REVIEW A PERSONAL LICENCE

#### **Decision whether to suspend or revoke a personal licence – Rebecca Lansbury**

##### 1. **Summary of Application**

<b>Applicant(s)</b>
Rebecca Lansbury
<b>Address</b>
32 Birchwood Close Hatfield Herts. AL10 0PP

##### 2. **Background**

On 6 April 2006 Rebecca Lansbury applied to Welwyn Hatfield Borough Council and was granted a personal licence PA32356/070406 under the Licensing Act 2003. At that time she lived at the Builders Arms, 47 Heath Road, Little Heath, Potters Bar, Hertfordshire, EN6 1LR. **Appendix B.**

On 6 March 2019 it was reported in the Welwyn Hatfield Times, Central Herts Court round up that Rebecca Lansbury of 32 Birchwood Close, Hatfield was convicted of driving a White Ford Fiesta motor vehicle while over the drink drive limit on 2 February 2019. She was fined and banned from driving for 36 months. She was also banned from driving for a similar offence on 23 May 2016. **Appendix E (Police E Mail).**

Under the Licensing Act 2003 section 127, the holder of a personal licence must, as soon as practicable, notify the relevant licensing authority of any change in his name or address as stated in the personal licence,

Under section 128 of the Licensing Act 2003 where the holder of a personal licence is charged with a relevant offence he must produce to the court the personal licence, or notify the court of the existence of the personal licence, the relevant issuing licensing authority and the reasons why it cannot be produced.

Under section 132 of the Licensing Act 2003 where a personal licence holder is convicted of a relevant offence and the court has not notified the licensing authority then the personal licence holder must supply a notice containing details of the nature and date of the conviction and any sentence imposed on him.

The licensing Act 2003 Schedule 4 lists the personal licence relevant offences. Section 14 includes an offence under the following provisions of the Road Traffic Act 1988(c. 52)-

(b) section 4 (driving etc. a vehicle when under the influence of drink or drugs);

(c) section 5 (driving etc. a vehicle with alcohol concentration above prescribed limit).

### 3. **Explanation**

3.1 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,

The relevant licensing authority may—

(a) suspend the licence for a period not exceeding six months, or

(b) revoke the licence.

3.2 Having become aware that Rebecca Lansbury was convicted of a relevant offence and we had not been notified of this by the personal licence holder or the court, the memorandum of conviction was obtained from the Court administration.  
**Appendix C.**

3.3 Before the licensing authority can consider suspending or revoking the licence the authority must give a notice to the licence holder inviting them to make representation. This representation can have regard to the relevant offence, any decision of a court in relation to the licence and other relevant information (including information regarding the licence holder’s personal circumstances.) The decision to revoke or suspend a personal licence must be made by the licensing committee or subcommittee, but the actions required before making a final decision may be made by a licensing officer.

3.4 This notice was sent on the 13th March 2019 Appendix D following confirmation from the police that this person was the Rebecca Lansbury that we had issued A personal licence to. Appendix E.

3.5 The Personal Licence Rebecca Lansbury holder had 28 days to make their representation,

3.6 No representation from Rebecca Lansbury has been received.

In making its decision, the committee is also obliged to have regard to the National Guidance and the Councils own Licensing Policy. (Previously circulated).

### 4 **Licensing Guidance under sect 182 of the Licensing Act 2003**

4.1 (Section 4.47) If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the

licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances. The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant. The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.

4.2 (Section 4.48) If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority. Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence. Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence. Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.

4.3 (Section 4.49). The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

## **5 Welwyn Hatfield Statement of Licensing Policy**

### **5.1 Personal licences paragraph 18.5**

All holders of a Personal Licence issued by this Council must apply to this Council for the renewal of their Personal Licence, whether or not they continue to live or work within the Council boundary. The Council expects to be informed by Personal Licence holders of all changes to names and/or address, and any convictions for

relevant offences. The Council also expects to be informed by the Courts following the conviction of a holder of a Personal Licence issued by the Council.

## **6 Recommendations**

6.1 The committee is asked to determine the application in one of the following ways, having regard to the promotion of the Licensing Objectives.

- a) Taking into account the following matters
  - i) Any representations made by the licence holder
  - ii) Any decision of a court in relation to the personal licence
  - iii) Any other information which the authority considers relevant

The committee can decide not to revoke the licence in which case the police will be asked if they wish to make representation under the crime prevention objective.

- b) The committee may suspend the licence for a period not exceeding six months or
- c) Revoke the licence

Name of author	Dennis Pennyfather 01707 357509
Title	Licensing Technical Officer
Date	April 2019

### Appendices

- A. Newspaper Article
- B. Full Personal Licence - **CONFIDENTIAL**
- C. Memorandum of Conviction - **CONFIDENTIAL**
- C1. Letter to Magistrates Court - **CONFIDENTIAL**
- D. Notice inviting representation - **CONFIDENTIAL**
- E. Police email - **CONFIDENTIAL**



Section 14(2) of the Licensing Act 2003 (Hearings) Regulations provides the grounds for exemption

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