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Agenda for a meeting of the Bradford District Licensing Panel to be held on Wednesday, 11 October 2023 at 11.30 am in Committee Room 5 - City Hall, Bradford

Members of the Committee – Councillors

LABOUR	LIBERAL DEMOCRAT
Slater S Khan	Naylor

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
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- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

Asif Ibrahim
Director of Legal and Governance
Agenda Contact: Louis Kingdom
Phone: 07890 416570
E-Mail: louis.kingdom@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct – Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) *Members must consider their interests, and act according to the following:*

Type of Interest	You must:
<i>Disclosable Pecuniary Interests</i>	<i>Disclose the interest; not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.</i>
<i>Other Registrable Interests (Directly Related)</i> OR <i>Non-Registrable Interests (Directly Related)</i>	<i>Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak but otherwise not participate in the discussion or vote; and leave the meeting <u>unless</u> you have a dispensation.</i>
<i>Other Registrable Interests (Affects)</i> OR <i>Non-Registrable Interests (Affects)</i>	<i>Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being</i> <i>(a) to a greater extent than it affects the financial interests of a majority of inhabitants of the affected ward, and</i> <i>(b) a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest; in which case speak on the item <u>only if</u> the public are also allowed to speak but otherwise not do not participate in the discussion or vote; and leave the meeting <u>unless</u> you have</i>

a dispensation.

- (2) *Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (3) *Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (4) *Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Louis Kingdom– 07890 416570)

B. BUSINESS ITEMS

3. CONSIDERATION OF A PERSONAL LICENCE

1 - 14

The Assistant Director, Waste, Fleet and Transport Services will present a report (**Document “Q”**) which invites Members to consider a personal licence following a conviction of a relevant offence by the holder of that licence.

Recommended –

Members are invited to consider the information and documents referred to in this report and determine what action should be taken.

(Melanie McGurk – 01274 431873)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER



Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 11 October 2023.

Q

Subject:

To invite the panel to consider a personal licence holder, who has been convicted of a relevant offence (Section 132A of the Licensing Act 2003).

Summary statement:

The Licensing Panel are asked to consider a personal licence following a conviction of a relevant offence by the holder of that licence.

EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

Susan Spink
Assistant Director
Waste, Fleet & Transport Services

Report Contact: Melanie McGurk
Senior Licensing Officer
Phone: (01274) 431873
E-mail: melanie.mcgurk@bradford.gov.uk

Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The Licensing Panel are asked to consider a personal licence following a conviction of a relevant offence by the holder of that licence.

2. BACKGROUND

2.1 Personal Licence

Personal licences are issued by the Licensing Authority where the applicant resides, and applicants must hold an accredited licensing qualification. Once granted, a personal licence remains valid unless surrendered, suspended, revoked or declared forfeit by the Courts.

A personal licence was granted to Mr Brian Gee on 30 October 2013. A copy of the personal licence is attached at Appendix 1.

- 2.2** Since 06 April 2017, a Licensing Authority which issued a Personal Licence is now able to suspend (for up to 6 months) or revoke a 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, or if the holder has been required to pay an immigration penalty. This is a discretionary power.

A list of relevant offences is attached at Appendix 2.

- 2.3** LA 2003 Section 128 provides that 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 and the identity of the relevant licensing authority and of the reasons why he cannot produce the licence. A person commits an offence if he fails, without reasonable excuse, to comply with this section.

The Licensing Authority has been unable to obtain information from Bradford Crown Court, as to whether Mr Gee disclosed to the Court that he holds a personal licence.

- 2.4** LA 2003 Section 132 places an obligation on the licence holder to notify the Licensing Authority of any conviction of a relevant offence. A person commits an offence if he fails, without reasonable excuse, to comply with this section.

The Licensing Authority was notified by West Yorkshire Police that the personal licence holder had been convicted of a relevant offence as defined in Schedule 4 of the Act. Mr Gee did not inform the Council as Licensing Authority of the relevant offence.



Details of the offence are attached at Appendix 3.

- 2.5** Where the Licensing Authority becomes aware that a holder of a Personal Licence has been convicted of a relevant offence or foreign offence and is considering revocation or suspension of the licence, notice must be sent to the holder of the 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.

The Bradford Crown Court convicted Mr Gee of the offence of, "drove a motor vehicle, after consuming so much alcohol that the proportion of it in your breath, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988".

Mr Gee was convicted of the offence on 30 June 2023.

The Court ordered the following;

- 1 – Fine £120
- 2 – Costs £85
- 3 – Disqualification from driving reduced if course completed
- 4 – Disqualified from driving – obligatory 15 months
- 5 – Victim surcharge £48.

A copy of the notice served on Mr Gee is attached at Appendix 4.

- 2.6** Mr Gee has not responded to the notice.

3. OTHER CONSIDERATIONS

Legal Appraisal

- 3.1** The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:
- a) the prevention of crime and disorder
 - b) public safety
 - c) the prevention of public nuisance
 - d) the protection of children from harm
- 3.2** The Council must also have regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District.
- 3.3** LA2003 Section 132A This section applies where a licensing authority has granted



a personal licence and it becomes aware that the holder of the licence has been, at any time before or after the grant of the licence—

- (a) convicted of any relevant offence or foreign offence, or
- (b) required to pay an immigration penalty.

The relevant licensing authority may—

- (a) suspend the licence for a period not exceeding six months, or
- (b) revoke the licence.

If the relevant licensing authority is considering whether to suspend or revoke the licence, the authority must give notice to the licence holder.

The notice must invite the licence holder to make representations regarding—

- (a) the relevant offence, foreign offence or immigration penalty that has caused the relevant licensing authority to issue the notice,
- (b) any decision of a court under section 129 or 130 in relation to the licence, and
- (c) any other relevant information (including information regarding the licence holder's personal circumstances).

The licence holder may make representations to the relevant licensing authority within the period of 28 days beginning with the day the notice was issued.

Before deciding whether to suspend or revoke the licence the Licensing Authority must consider:

- a) any representations made by the licence holder
- b) any decision of a court to forfeit or suspend the personal licence of which the licensing authority is aware, or any suspension of that decision on appeal; and
- c) any other information which the authority considers relevant.

Statement of Policy Issues

- 3.4 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management and governance implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS



7.1 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.2 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.

7.3 COMMUNITY SAFETY IMPLICATIONS

The Licensing Authority is required to pay due regard to the prevention of crime and disorder objective referred to in 3.1 of this report.

7.4 HUMAN RIGHTS ACT

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest. The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

7.5 TRADE UNION

Not applicable.

7.6 WARD IMPLICATIONS

Not applicable.

7.7 IMPLICATIONS FOR CHILDREN AND YOUNG PEOPLE

There are no apparent implications.

7.8 ISSUES ARISING FROM PRIVACY IMPACT ASSESMENT

There are no apparent data protection or information security implications.

8. NOT FOR PUBLICATION DOCUMENTS



None.

9. OPTIONS

9.1 Members may:

- (a) take no further action
- (b) suspend the personal licence for a period not exceeding 6 months
- (c) revoke the personal licence

9.2 If Members propose not to revoke the licence, the Licensing Authority must give notice to the police and invite the police to make representations within 14 days of receipt of the notice.

9.3 Any representations made by the police must be taken into account by the Licensing Authority and a second hearing will be held for Members to consider the original information, any representations from the police or licence holder and give a final decision.

9.4 Should the personal licence holder feel aggrieved at any decision with regard to the licence they may appeal to the Magistrates Court. Where an appeal is made, any decision by the Licensing Authority does not have effect until the appeal is disposed of.

9.5 Where no appeal is made, the decision of the Licensing Authority comes into effect at the end of the period that an appeal can be made.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and determine what action should be taken.

11. APPENDICES

- 1. Personal Licence.
- 2. List of relevant offences.
- 3. Offence details.
- 4. Notice to the personal licence holder.

12. BACKGROUND DOCUMENTS

Legislation, guidance and regulations.



Licensing Service
Shearbridge Depot, Shearbridge Road, Bradford, BD7 1PU

Licensing Act 2003 - Personal Alcohol Licence

Licence Number: 093813

Licence Holder

Mr Brian Gee

██████████

██████████ Great Horton Road

Bradford

BD7 4AQ

Licence remains in force unless cancelled, suspended or revoked

Convictions

Conviction Date	Offences	Sentence

Date of Issue: 30 October 2013

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Relevant or Foreign Offences.**Schedule 4 - Section 113 Personal Licence: Relevant Offences**

1. An offence under this Act.
2. An offence under any of the following enactments-
 - (a) Schedule 12 to the London Government Act 1963 (c. 33) (public entertainment licensing); (b) the Licensing Act 1964 (c. 26); (c) the Private Places of Entertainment (Licensing) Act 1967 (c. 19); (d) section 13 of the Theatres Act 1968 (c. 54); (e) the Late Night Refreshment Houses Act 1969 (c. 53); (f) section 6 of, or Schedule 1 to, the Local Government (Miscellaneous Provisions) Act 1982 (c. 30); (g) the Licensing (Occasional Permissions) Act 1983 (c. 24); (h) the Cinemas Act 1985 (c. 13); (i) the London Local Authorities Act 1990 (c. vii).
3. An offence under the Firearms Act 1968 (c. 27).
4. An offence under section 1 of the Trade Descriptions Act 1968 (c. 29) (false trade description of goods) in circumstances where the goods in question are or include alcohol.
5. An offence under any of the following provisions of the Theft Act 1968 (c. 60)-
 - (a) section 1 (theft); (b) section 8 (robbery); (c) section 9 (burglary); (d) section 10 (aggravated burglary); (e) section 11 (removal of articles from places open to the public); (f) section 12A (aggravated vehicle-taking), in circumstances where subsection (2)(b) of that section applies and the accident caused the death of any person; (g) section 13 (abstracting of electricity); (h) section 15 (obtaining property by deception); (i) section 15A (obtaining a money transfer by deception); (j) section 16 (obtaining pecuniary advantage by deception); (k) section 17 (false accounting); (l) section 19 (false statements by company directors etc.); (m) section 20 (suppression, etc. of documents); (n) section 21 (blackmail); (o) section 22 (handling stolen goods); (p) section 24A (dishonestly retaining a wrongful credit); (q) section 25 (going equipped for stealing etc.).
6. An offence under section 7(2) of the Gaming Act 1968 (c. 65) (allowing child to take part in gaming on premises licensed for the sale of alcohol).
7. An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)-
 - (a) section 4(2) (production of a controlled drug); (b) section 4(3) (supply of a controlled drug); (c) section 5(3) (possession of a controlled drug with intent to supply); (d) section 8 (permitting activities to take place on premises).
8. An offence under either of the following provisions of the Theft Act 1978 (c. 31)-
 - (a) section 1 (obtaining services by deception); (b) section 2 (evasion of liability by deception).
9. An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2)-
 - (a) section 170 (disregarding subsection (1)(a)) (fraudulent evasion of duty etc.); (b) section 170B (taking preparatory steps for evasion of duty).
10. An offence under either of the following provisions of the Tobacco Products Duty Act 1979 (c. 7)-
 - (a) section 8G (possession and sale of unmarked tobacco); (b) section 8H (use of premises for sale of unmarked tobacco).
11. An offence under the Forgery and Counterfeiting Act 1981 (c. 45) (other than an offence under section 18 or 19 of that Act).
12. An offence under the Firearms (Amendment) Act 1988 (c. 45).
13. An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)-
 - (a) section 107(1)(d)(iii) (public exhibition in the course of a business of article infringing copyright); (b) section 107(3) (infringement of copyright by public performance of work etc.); (c) section 198(2) (broadcast etc. of recording of performance made without sufficient consent); (d) section 297(1) (fraudulent reception of transmission); (e) section 297A(1) (supply etc. of unauthorised decoder).
14. An offence under any of the following provisions of the Road Traffic Act 1988 (c. 52)-
 - (a) section 3A (causing death by careless driving while under the influence of drink or drugs); (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).
15. An offence under either of the following provisions of the Food Safety Act 1990 (c. 16) in circumstances where the food in question is or includes alcohol-
 - (a) section 14 (selling food or drink not of the nature, substance or quality demanded); (b) section 15 (falsely describing or presenting food or drink).
16. An offence under section 92(1) or (2) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark, etc. in relation to goods) in circumstances where the goods in question are or include alcohol.
17. An offence under the Firearms (Amendment) Act 1997 (c. 5).
18. A sexual offence, being an offence —
 - (a) listed in Part 2 of Schedule 15 to the Criminal Justice Act 2003, other than the offence mentioned in paragraph 95 (an offence under section 4 of the Sexual Offences Act 1967 (procuring others to commit homosexual acts)); (b) an offence under section 8 of the Sexual Offences Act 1956 (intercourse with a defective); (c) an offence under section 18 of the Sexual Offences Act 1956 (fraudulent abduction of an heiress).
19. A violent offence, being any offence which leads, or is intended or likely to lead, to a person's death or to physical injury to a person, including an offence which is required to be charged as arson (whether or not it would otherwise fall within this definition)."
20. An offence under section 3 of the Private Security Industry Act 2001 (c. 12) (engaging in certain activities relating to security without a licence).
21. An offence under Section 46 of the Gambling Act 2005 if the child or young person was invited, caused or permitted to gamble on premises in respect of which a premises licence under this Act had effect.
22. An offence under the Fraud Act 2006.

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From: Brown, Antony <antony.brown1@westyorkshire.police.uk>
Sent: Thursday, August 24, 2023 7:21 AM
To: Melanie McGurk <melanie.mcgurk@bradford.gov.uk>
Subject: RE: Personal Licence Holder OPL

Mr Gee, was sentenced on 30/06/2023 at Bfd Mags and received;

- 1 – Fine £120
- 2 – Costs £85
- 3 – Disqualification from driving reduced if course completed
- 4 – Disqualified from driving – obligatory 15 months
- 5 – Victim surcharge £48

Kind Regards

Tony

PC3607 Brown

Bradford District Licensing Officer

✉ **Email:** antony.brown1@westyorkshire.police.uk

☎ **Telephone:** 01274 471485 / 07713708359

📍 **Address:** 5th Floor, Sir Henry Mitchell House, Manchester Road, Bradford, BD5 0QL

🌐 **Website:** www.westyorkshire.police.uk



The offence that Mr Gee was charged with was that he ***“drove a motor vehicle, after consuming so much alcohol that the proportion of it in your breath, exceeded the prescribed limit. ‘Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.’”***

Kind Regards

Tony

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**Department of Place
Licensing Team**

Mr Brian Gee
[REDACTED]
[REDACTED] Great Horton Road
Bradford
BD7 4AQ

Shearbridge Depot, Shearbridge Road
Bradford, West Yorkshire
BD7 1PU

Tel: (01274) 432240
My Ref: LIC/093813
Your Ref:
E-Mail: licensing@bradford.gov.uk

Date: 27 July 2023

Dear Sir

**LICENSING ACT 2003 – Notice to consider whether to revoke or suspend a
Personal Licence.
Personal Licence – 093813**

I write regarding information provided by West Yorkshire Police stating that on the 30 June 2023, you were convicted of the following offence;

Drove a motor vehicle, after consuming so much alcohol that the proportion of it in your breath, exceeded the prescribed limit.); Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.

The Licensing Act 2003, Schedule 4 sets out the relevant offences in regards to a personal licence holder. A conviction under section 5, Road Traffic Act 1988, is classed as a relevant offence.

Under section 132A of the Licensing Act 2003, local authorities can revoke or suspend (maximum of 6 months) a personal licence.

In light of the above conviction, the licensing authority for City of Bradford Metropolitan District Council is giving you notice that they are considering revoking or suspending your personal licence, 093813.

You have 28 days beginning from the date this notice was issued to provide representations that will be considered before a final decision is made.

Your representation can make comments in regards to the following:

- The relevant offence that caused City of Bradford Metropolitan District Council to issue this notice,

- Any decision of the court under section 129 or 130 of the Licensing Act 2003 in relation to your personal licence. Section 129 allows the court to order the forfeiture of the licence or order its suspension for a period not exceeding six months. Section 130 relates to an appeal of the decision made by the court in regard to a decision made under section 129.

- Any other relevant information. This can include information regarding personal circumstances etc.

Please provide any representation by the 24 August 2023.

Once your representation is received, a meeting of the Licensing Sub-Committee will be held where a decision will be made to revoke your personal licence, suspend your personal licence, issue a written warning or take no further action. You will be informed of the date of the hearing and be invited to attend and speak if you wish to do so.

If the Sub-Committee decide to suspend, issue a written warning, or take no further action, we are required by law to inform the Chief of Police, and ask them to provide representations on your case considering the objective of the prevention of crime and disorder. Any response received from the police will be considered, and a second hearing may take place to consider the information available (e.g. if the police object to the original decision). Should such a second hearing be appropriate, then you will be informed of the date of the hearing and be invited to attend and speak if you wish to do so.

Following the hearing and decision process outlined above, you will be notified of the final decision.

If the decision of the Sub-Committee is to revoke or suspend your licence at either of these hearings you will have the right to appeal that decision. Further information will be provided to you in the event such a decision is made.

Yours faithfully

Mrs M McGurk
Senior Licensing Officer

C.C. West Yorkshire Police Licensing Section, Trafalgar House Police Station, Nelson Street, Bradford, BD5 0DX.

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