



Agenda

Licensing Hearing

Date:	Friday 18 May 2018 – 2:00pm
Venue:	Town Hall, St Annes, FY8 1LW
Committee members:	Councillor Angela Jacques (Convenor) Councillor Brenda Blackshaw Councillor Shirley Green Councillor Ray Thomas (Reserve)

Item		PAGE
1	Declarations of Interest: Declarations of interest, and the responsibility for declaring the same, are matters for elected members. Members are able to obtain advice, in writing, in advance of meetings. This should only be sought via the Council's Monitoring Officer. However, it should be noted that no advice on interests sought less than one working day prior to any meeting will be provided.	1
2	Procedure for the Conduct of Hearings	3 - 4
3	Application for a Personal Licence - JAB	5 - 8

Contact: Sharon Wadsworth - Telephone: (01253) 658546 – Email: democracy@fylde.gov.uk

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<http://fylde.cmis.uk.com/fylde/DocumentsandInformation/PublicDocumentsandInformation.aspx>

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LICENSING ACT 2003

THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005

PROCEDURE FOR THE CONDUCT OF HEARINGS

1. Preliminary

- 1.1. Under the regulations, the Licensing Authority is required to determine the procedure that it proposes to follow at any hearing under the Act. This document sets out the procedure that Fylde will normally follow.
- 1.2. A panel may decide to follow a different procedure at any hearing. If it does, it will specifically draw attention to any departures from the procedures set out in this document and the reasons for them.
- 1.3. Please refer to the regulations for other rules about procedure

2. Interpretation

In this procedure, the following words or phrases have the following meanings:

applicant	an applicant for a licence or any person who has a licence which may be reviewed or revoked as a result of the hearing
act	The Licensing Act 2003
licence	Includes any consent or permission under the act
panel	A sub-committee established by Fylde Borough Council under section 10 of the act
regulations	The Licensing Act 2003 (Hearings) Regulations 2003, and any reference to a numbered regulation is to the regulation so numbered in that statutory instrument
witness	A person given permission to appear at the hearing under regulation 8(2)

3. Before the hearing

- 3.1. At least ten days before the hearing, the panel will meet to consider:
 - 3.1.1. If the circumstances set out in regulation 9(1) apply, whether to dispense with holding a hearing;
 - 3.1.2. What, if any, particular points it considers it will want clarification on at the hearing from a party under regulation 7(1)(d), and
 - 3.1.3. What time limit to set under regulation 24.
- 3.2. If it is not practicable for the panel to meet to consider these matters, the convenor may ascertain the views of panel members separately and give effect to the majority view as if it had been reached in a meeting of the panel.

4. *Opening the hearing*

- 4.1. The convenor will identify all parties to the hearing who are present. The convenor will also identify any persons who are present who intend to assist or represent any party and any witnesses.
- 4.2. The convenor will then explain to the parties the procedure to be followed at the hearing, specifically drawing attention to any departures from the procedures set out in this document and the reasons for them. The convenor will also inform the parties that the proceedings will be recorded.
- 4.3. The panel will then consider any request by a party under regulation 8(2) for another person to appear at the hearing. The convenor will give any party who has made such a request (or their representative) which the panel proposes to deny an opportunity to address the panel about their request. The panel will then re-consider the request.
- 4.4. The convenor may invite any officer to carry out any functions under this paragraph.

5. *Listening to the parties*

- 5.1. Each of the parties will then be invited to:
 - 5.1.1. Open their case by addressing the panel;
 - 5.1.2. Give any further information requested by the panel under regulation 7(1)(d);
 - 5.1.3. Present the evidence of any witness; and
 - 5.1.4. Conclude their case by addressing the panel.
- 5.2. The order in which the parties will be invited to put their cases will be in the discretion of the panel, except that a party who is an applicant will be invited to put their case last.

6. *Questioning the parties*

- 6.1. Members of the panel may, following the conclusion of the case of each party, ask questions of that party or any witness appearing for them.
- 6.2. A party or their representative may only question another party if they have asked for permission from the panel after the panel members have finished questioning that party or their witness. The panel will only give permission if it is satisfied that the questioning will provide useful information about a matter relevant to their determination which is unlikely to be placed before the panel without such questioning

7. *Time limits*

Each party will be limited to the time set by the panel under regulation 24 in which to exercise their rights provided in paragraphs 5 and 6.2. The convenor will require the party or their representative to close their case or cease their questioning immediately this time limit is reached.

8. *Considering the decision*

- 8.1. The panel will consider their decision in private.
- 8.2. No officers will retire with the panel except for the committee administrator. The committee administrator may, if requested to do so, provide procedural, but not legal or technical, advice to the panel. The committee administrator will also assist the panel by drafting and finalising the wording of the panel's decision, if requested by the panel.
- 8.3. The panel may, while it is considering its decision, seek advice from legal or licensing officers. Officers will limit their advice to the specific issue identified by the panel and will leave the room where the panel is considering its decision as soon as that advice has been given and understood.

9. *Announcing the decision*

- 9.1. When the panel has made its decision, the public part of the meeting will resume.
- 9.2. The convenor will read out the decision of the panel, or may invite the committee administrator to do so. The meeting will then close or move on to the next business.

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
RESOURCES DIRECTORATE	LICENSING PANEL	18 MAY 2018	3
APPLICATION FOR A PERSONAL LICENCE – JAB			

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

The Licensing Authority has received an application for the grant of a Personal Licence from JAB. There has been an objection from the Police, a responsible authority under the Licensing Act and this means that the Committee must consider and determine the application.

RECOMMENDATIONS

1. Reject the application if it considers it appropriate for the promotion of the crime prevention objective to do so, or
2. Grant the application in any other case.

SUMMARY OF PREVIOUS DECISIONS

No previous decisions made.

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	
Delivering the services that customers expect of an excellent council (Clean and Green)	
Working with all partners (Vibrant Economy)	
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	
Promoting Fylde as a great destination to visit (A Great Place to Visit)	

REPORT

1. The application is for the grant of a Personal Licence under section 117 of the Licensing Act 2003.
2. The application has been referred to the panel as a relevant offence has been disclosed to which the Police have made now served an objection notice.

Papers

3. The following papers are relevant and have been made available to panel members:
 - The application
 - The statutory guidance for licensing authorities issued by the Secretary of State under section 182 of the Licensing Act 2003
 - The Council's Statement of Licensing Policy
 - Copy of representation from the Police (as relevant).

Consideration

4. The licensing objectives are:
 - The prevention of crime and disorder;
 - Public safety
 - The prevention of public nuisance; and
 - The protection of children from harm
5. As an objection notice has been made, it is the duty of the panel to consider the application. As a result of the consideration of the notice, the Panel must reject the application if it considers it appropriate for the promotion of the crime and disorder objective or grant the application in any other case. The following parts of the Secretary of State's guidance appear to be particularly relevant to the application and the relevant representations:

Section 4	Personal licences
4.19 – 4.25	Relevant convictions
4.51	Relevant offences
9.31 – 9.41	Hearings

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the guidance.

6. The following parts of the council's statement of licensing policy appear to be particularly relevant to the application and the relevant representations:

8.1	The application process
9.5	Licensing Panel Hearings
16	Personal Licences
17	Designated Premises Supervisor (DPS)

However, the parties appearing in the hearing may wish to draw the panel's attention to other parts of the policy.

Procedure

7. The applicant and the makers of the relevant representations have been invited to attend or be represented at the hearing.

IMPLICATIONS	
Finance	There are no implications arising directly from the report.
Legal	There are no implications arising directly from the report.
Community Safety	There are no implications arising directly from the report.
Human Rights and Equalities	There are no implications arising directly from the report.
Sustainability and Environmental Impact	There are no implications arising directly from the report.
Health & Safety and Risk Management	There are no implications arising directly from the report.

LEAD AUTHOR	CONTACT DETAILS	DATE
Andy Hough	andy.hough@fylde.gov.uk & Tel 01253 658606	23 rd April 2018

BACKGROUND PAPERS		
Name of document	Date	Where available for inspection
S182 Guidance to the Licensing Act	April 2018	https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/702660/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf
Statement of Licensing Policy	January 2016	http://www.fylde.gov.uk/business/licensing/licensingact2003/licensingpolicystatement/

Attached documents

1. Police representation (redacted)



**Lancashire
Constabulary**
police and communities together

LICENSING DEPARTMENT

Western Division, Central Police Office, Bonny Street, Blackpool FY1 5RL
Tel: 01253 604073 / 604074

Licensing Service
Fylde Council

18th April 2018

Dear Sirs

**Re: Application for Personal Licence
JAB (detailed redacted by FBC licensing)**

I am in receipt of the personal licence application for the above named person. On behalf of the Chief Officer of Police, I make a formal objection to this application.

On 10th December 2015 the applicant was convicted at Rotherham Magistrates of Fraud by Abuse of Position and Making False Representation to Make Gain for Self or Another or Cause Loss to Other Theft by Employee. The applicant was sentenced for these offences on the 11th February 2016 at Sheffield Crown Court and received 24 months imprisonment suspended for 24 months, 300 hours unpaid work, Rehabilitation Activity Requirement, 6pm curfew with tag, £100 Surcharge and Confiscation Order.

The suspended sentence expired 11th February 2018 but is however a Relevant Offence under the Licensing Act 2003 as both offences are covered under the Fraud Act 2006 and is therefore unspent under the Rehabilitation of Offenders Act. The conviction not being spent until 11th February 2022.

If this application is granted, it is our belief it would seriously undermine the crime and disorder objective and also seriously undermine the status of Personal Licence Holders both within the licensed trade and to members of the public, police and media.

[REDACTED]

[REDACTED] Lancashire Constabulary has no choice but to resist the application whilst the applicants' latest convictions are unspent.

Yours sincerely

PS1747 Helen Parkinson
pp Chief Superintendent