

Licensing Sub-Committee

Notification of determination

Hearing under Sections 132A of the Licensing Act 2003, and the Licensing Act 2003 (Hearings) Regulations 2005 In respect of the licensing authority having become aware that the applicant has been, at any time before or after the grant of the licence convicted of a relevant offence.

Date of hearing	28th August 2024
Place:	Town Hall, Oxford
Case No:	05/01415/PER
Applicant:	Hugh Wayne Anderson
Licensing Sub-Committee Councillors:	Councillor Lygo (Chair), Councillor Ottino, Councillor Yeatman
Legal Advisor:	Alison Daly
Licensing Officer:	Joshua Curnow
Responsible Authority:	Alex Bloomfield (Thames Valley Police)
Clerk:	Brenda McCollum

Joshua Curnow (JC), Supervising Senior Licensing Officer, noted that there is an error in the report. The option to 'issue a warning', is not available to the committee in this instance.

The Chair explained the hearing procedures to be followed and asked the attendees to introduce themselves.

The Sub-Committee heard representations from the following:

Licensing Authority: Joshua Curnow (Supervising Senior Licensing Officer)

Joshua Curnow (JC), Supervising Senior Licensing Officer, presented a summary of the licensing authority's report. JC stated that since August 2005 Mr Hugh Wayne Anderson has held a personal licence with Oxford City Council. A personal licence authorises the holder, to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. A personal licence is a requirement for any person wishing to become the designated premises supervisor of a premises licensed to sell alcohol.

JC stated that in April 2024, Mr Anderson was convicted of two counts of:

Sexual Assault on a female over 13 by way of intentionally touching a female (no penetration).

JC added that this is an offence deemed relevant under the Licensing Act 2003. **JC** said that the Sub-Committee should be made aware that when a personal licence holder is convicted of a relevant offence, there are a number of different sections in the Licensing Act 2003 that are set in motion. The first is section 128. This is the requirement that when charged, the personal licence holder notify the court, no later than the time he makes his first appearance in a Magistrates' Court, that they have a personal licence. A person commits an offence if they fail to do so, and the court has no record that Mr Anderson made that notification.

JC explained that the second is section 131. This is the courts duty to notify the licensing authority of a personal licence holder's relevant conviction. This did not occur, as the court was not apparently aware of Mr Anderson's personal licence.

JC stated that the third is section 132. This is the licence holder's duty to notify the licensing authority when convicted of a relevant offence. A person commits an offence if they fail to do so, and Mr Anderson did not notify the licensing authority in accordance with that duty. The licensing authority was made aware of Mr Anderson's conviction from a press article.

JC said that the final section is section 132A. This is the matter before the Sub-Committee in this instance. When a licensing authority becomes aware that the holder of a licence has been convicted of a relevant offence they may:

- Suspend the licence for a period not exceeding six months, or
- Revoke the licence.

JC explained that when the licensing authority considers these two options, they must serve a notice, inviting representations from the licence holder. This notice can be found at **Appendix Three**. Mr Anderson did not respond within the 28 days permitted, despite delivery of the notice being confirmed by recorded post with royal mail. **JC** stated that a notice inviting representations was then sent to Thames Valley Police, who provided a written representation, found at **Appendix Four**.

JC stated that the representation from Thames Valley Police provides further details as to the offences and evidence of Mr Anderson's character and behaviour, it recommends the licensing authority revoke Mr Anderson's Personal Licence.

Furthermore, **JC** said that the report recommends the revocation of Mr Anderson's personal licence and has taken into account:

- The serious nature of the offences resulting in convictions,
- The fact that the offences are relevant under the licensing act, and
- The fact that the offences took place on a licenced premises, where Mr Anderson is the premises licence holder.

When deciding whether to suspend or revoke Mr Anderson's personal licence, **JC** stated that the Sub-Committee must take into account:

- Any representations made by the licence holder – of which none were received.
- The decision of a court in relation to the licence – of which the Court stated it is a matter for Police and the licensing authority.

- And any other relevant information, including information regarding the licence holder's personal circumstances, as was outlined in more detail in the representation submitted by Thames Valley Police.

JC explained that the Sub-Committee can either:

- Take no action,
- Suspend the personal licence for no more than six months, or
- As recommended by this report and Thames Valley Police, revoke the licence.

JC also presented statutory information from the courts' records and the authority that the court places on the licensing authority to decide the matter of the personal license in this case.

JC thanked the Chair and concluded his statement.

Applicant: Hugh Wayne Anderson (in attendance with a friend, Mervin Dinar)

Hugh Wayne Anderson, (**HWA**), the applicant, stated that it took 27 days, from the day that it was dated, for him to receive the notice from the licensing authority. **HWA** said that he struggles with administrative tasks, since his wife's death. **HWA** also stated his ongoing health issues impacted his ability to meet the deadline set by the licensing authority. **HWA** said that he was not aware that he had to inform the Council about his conviction. **HWA** added that he has faced numerous issues with crime, as he has sought to conduct his business.

HWA stated that this case has had a significant impact on him and his wellbeing. **HWA** emphasised that he is living in poverty, and he argued that he had been found guilty of a crime that he did not commit.

Councillor Lygo asked **HWA** if he was happy to open the floor to questions at this point. **HWA** explained his intention to procure a manager for the restaurant, so that he can keep the business functioning.

Councillor Ottino clarified that this is not a magistrate's court and asked **HWA** if he has appealed his conviction. **HWA** said that this was too difficult for him to undertake, so he had not pursued this action.

Councillor Ottino asked **HWA** if he was aware that the case presented to the Sub-Committee stated that he had been convicted of the stated offence and that the Sub-Committee is required to make its decision based on the case presented. **HWA** responded that he should be allowed to keep his license.

Councillor Yeatman asked **HWA**, in terms of the licensing and the notification, was he not aware that the licensing authority had to be informed of the conviction?

HWA stated that he was not aware of this requirement. He added that when he was tried for a similar offence in 2012, he was allowed to keep his license.

JC stated that when **HWA** got his personal license in 2005, he had to complete a qualification, and this required that he learn that he was required to inform the licensing

authority in the event of a conviction. **JC** asked **HWA** if he remembered this course and this training.

HWA stated that he could not remember this training. **HWA** said that he remembered getting his premises license, but not the training required for the personal license.

JC asked **HWA** about the trial that he had attended in 2012, for the accusation of assault. **JC** stated that in 2012 **HWA** had notified the court about his personal license and asked why he did not do this following his recent conviction.

HWA responded that it did not occur to him to inform the court of his personal licence in this instance.

Responsible Authorities: Alex Bloomfield, Thames Valley Police

Alex Bloomfield (**AB**), Thames Valley Police, stated that there was nothing additional to share, outside of the report and Councillor Lygo opened the floor to questions.

HWA stated that he would like them to reinvestigate his conviction. **AB** said that this matter had already gone to the court and was decided. **AB** said that **HWA** could submit a complaint or pursue an appeal, but that there was nothing he could do about the matter in the current meeting.

HWA shared some of the personal impacts of the loss of his personal licence, including his financial difficulties. Councillor Lygo expressed empathy for **HWA's** situation but reiterated that these matters could not be handled by the Sub-Committee.

Alison Daly (**AD**), Legal Advisor, clarified that **HWA's** conviction followed a trial, which had taken place at Oxford Crown Court. This was a full trial and **HWA** had been given the option to have counsel. Following a question from the Sub-Committee, **HWA** confirmed he had been supplied with representation in this trial. **AD** further clarified for the Sub-Committee that this trial was in accordance with the law and that **HWA** had been found guilty of the previously stated offences.

Interested Parties: None in attendance.

Closing Submissions:

JC and **AB** stated that they had no additions to make to their previous statements.

HWA re-emphasised that he needed help so that he could reopen his business. Councillor Lygo reiterated that the Sub-Committee could not offer help with that matter.

Decision and Reasons of the Sub-Committee

1. The Sub-Committee considered all written submissions and oral representations made in relation to the applicant. This concerned the trial and appeal and complaint

options available to the applicant. The Sub-Committee agreed to communicate these options to the applicant in their closing statement.

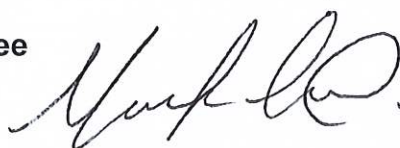
2. The Sub-Committee considered the seriousness of the conviction and their responsibility to the public in the face of this serious matter. The Sub-Committee also considered the multiple complaints which were made against the applicant in his conviction.
3. The Sub-Committee took into account the applicant's personal circumstances and poor health as they reached a decision on this matter.

It was noted in the Sub-Committee's discussion that the applicant's business can go forward, even if the personal licence is revoked. It was communicated to the applicant that the business can reopen, if a new DPS is put in place. The Sub-Committee informed the applicant that the premises licence had not been revoked and would not be revoked in the meeting.

The Sub-Committee resolved to:

- **Revoke the personal license.**

Signed: Councillor Mark Lygo
Chair of Licensing Sub-Committee



Notes:

- A. The applicant, and any responsible authority or interested party that has made representations upon the application has a right of appeal to the Magistrates' Court against this decision. If you wish to appeal you must do so within 21 days of being notified of the decision.

