

<b>Report to</b>	Licensing sub committee 6 October 2017	<b>Item</b>
<b>Report of</b>	Head of citywide services	<b>3</b>
<b>Subject</b>	Application for a personal licence: Abraham Eshetu W Agegne	

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## **Purpose**

That members consider an application for a personal licence under the Licensing Act 2003 following the receipt of an objection from the police.

## **Recommendation**

That members determine the application submitted by Abraham Eshetu W Agegne for the grant of a personal licence under section 117 of the Licensing Act 2003 following the receipt of a police objection notice.

## **Corporate and service priorities**

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

## **Financial implications**

None.

Ward/s: All wards

Cabinet member: Councillor Maguire – Safe City Environment

## **Contact officers**

Maxine Fuller, licensing assistant

01603 212761

## **Background documents**

None

# Report

## Background

1. For the purposes of the Licensing Act 2003 ("the Act") Norwich City Council is a Licensing Authority. Under section 4 of the Act, a Licensing Authority must carry out its licensing functions under the Act with a view to promoting the licensing objectives, which are:

- (a) the prevention of crime and disorder;
- (b) public safety;
- (c) the prevention of public nuisance, and
- (d) the protection of children from harm.

In addition, a Licensing Authority must also have regard to its licensing policy statement, and any guidance published by the Secretary of State under section 182 of the Act.

2. Section 111 of the Act defines a "personal licence" as a licence which is granted by a Licensing Authority to an individual, and authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence. A personal licence has effect for an unlimited period, unless surrendered, revoked, suspended or forfeited.
3. In accordance with the Licensing Act 2003 (Personal Licence) Regulations 2005, all personal licence applicants are required to submit with their application either:
  - (a) a criminal conviction certificate issued under section 112 of the Police Act 1997,
  - (b) a criminal record certificate issued under section 113A of the Police Act 1997, or
  - (c) the results of a subject access search under the Data Protection Act 1998 of the police national computer by the National Identification Service.
4. Where an application for a personal licence is made to a Licensing Authority in accordance with section 117 of the Act, the Licensing Authority must grant the licence if it appears to it that:
  - (a) the applicant is aged over 18,
  - (b) he/she possesses a licensing qualification or is a person of a prescribed description,
  - (c) no personal licence held by him [or her] has been forfeited in the period of five years ending with the day the application was made, and
  - (d) he/she has not been convicted of any relevant offence or foreign offence.
5. The Licensing Authority must reject the application if it appears to it that the applicant fails to meet the conditions in paragraph (a), (b) or (c). Further, if it appears that the applicant meets the conditions in paragraphs (a), (b) and (c) but fails to meet the condition in paragraph (d), the Licensing Authority must give the chief officer of police for the area a notice to that effect.

6. Schedule 4 of the Act provides a list of offences classed as relevant offences for the purposes of an application for a personal licence. Where, having regard to any conviction of the applicant for a relevant offence, and any conviction of his [or hers] for a foreign offence which the chief officer of police considers to be comparable to a relevant offence, the chief officer of police is satisfied that granting the licence would undermine the crime prevention objective, he must, within the period of 14 days beginning with the day he received the notice, give the Licensing Authority a notice stating the reasons why he is so satisfied (an "objection notice").
7. Where an objection notice is received the Licensing Authority must hold a hearing to consider the objection notice, and having regard to the objection notice, must either:
  - reject the application if it considers it necessary for the promotion of the crime prevention objective to do so; or
  - grant the application in any other case.
8. Under section 17 of the Crime and Disorder Act 1998, the Council has a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can to prevent, crime and disorder in its area.

### **The application**

9. An application for a personal licence has been received from Abraham Eshetu W Agegne in accordance with section 117 of the Act, a copy of which is attached at Appendix A to the report.
10. The Chief Officer of Police has served the Licensing Authority with an objection notice stating that he is satisfied that granting the licence would undermine the crime prevention objective. A copy of the objection notice is attached at Appendix B.
11. The applicant and the Norfolk Constabulary have been invited to attend the hearing and will be given the opportunity to address members.
12. Section 122 of the Act requires the Licensing Authority to give the applicant and the Chief Officer of Police a notice informing them of their decision to either grant or reject the application, together with a statement containing the reasons for the sub-committee's decision.

### **National guidance / local policy**

13. Paragraph 4.11 of the guidance issued under section 182 of the Licensing Act reads:

*4.11 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.*

14. Paragraph 28.4 of the council's Licensing policy statement reads:

*28.4 The council will liaise with Norfolk police when an applicant has an unspent conviction for a relevant offence defined in the act. When the police object to the application, the application will be dealt with by a licensing sub committee. At that hearing the sub committee will consider carefully whether the grant of the licence will be in the interest of the crime prevention objective. It will consider the seriousness and relevance of any conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances, but refusal of the application will be the normal course unless there are, in the opinion of the sub committee, exceptional and compelling circumstances that justify granting the application.*

## **Right of appeal**

15. Paragraph 17 of Part 3 of Schedule 5 of the Act provides for appeals against the decision of the Licensing Authority. Where a Licensing Authority rejects an application for the grant of a personal licence under section 120 of the Act, the applicant may appeal against that decision to a magistrates' court. Where a Licensing Authority grants an application for a personal licence under section 120(7) of the Act, the chief officer of police who gave the objection notice may appeal against that decision to a magistrates' court.
16. Any appeal must be commenced by notice of appeal given by the appellant to the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision appealed against.