

WEST DUNBARTONSHIRE COUNCIL

Report by the Head of Legal, Democratic and Regulatory Services

Licensing Committee – 6 December 2011

Subject: Hearing regarding possible suspension of Public Entertainment Licence

1. Purpose

- 1.1** To consider a request from the Chief Constable of Strathclyde Police for the suspension of a Public Entertainment Licence held by Mr. John Smart, 51 Penneld Road, Penilee, Glasgow, G50 2QF.

2. Background

- 2.1** On 17 October 2011, a letter was received from the Chief Constable of Strathclyde Police requesting the suspension of the Public Entertainment Licence held by Mr. John Smart under Section 11(2)(a) of Schedule 1 to the Civic Government (Scotland) Act 1982 on the grounds that the licence holder was no longer a fit and proper person to be the holder of a Public Entertainment Licence.

3. Main Issues

- 3.1** A licensing authority may order the suspension of a licence if in its opinion the holder of the licence is not, or is no longer, a fit and proper person to hold the licence.
- 3.2** The period of suspension of a licence is the unexpired portion of the duration of the licence, or such shorter period as the licensing authority may fix.
- 3.3** Where a licensing authority decides to order the suspension of a licence, the suspension generally does not take effect until the expiry of the time within which the holder of the licence may appeal against the suspension (28 days from the date of the decision to suspend) or, if an appeal has been lodged, until the appeal has been abandoned or determined in favour of the suspension. However, if the licensing authority determines that the circumstances of the case justify immediate suspension, it may order that the licence be suspended immediately.
- 3.4** A licensing authority must, before deciding to suspend a licence, give the holder of the licence, the complainer and the Chief Constable an opportunity of being heard.
- 3.5** Mr. Smart and a representative of the Police authority have been invited to attend the meeting of the Committee on 6 December 2011 in order that a hearing may take place with regard to the possible suspension of his licence.

3.6 In considering whether to suspend a licence the licensing authority may have regard to any misconduct on the part of the licence holder which in the opinion of the authority has a bearing on his fitness to hold a licence.

3.7 The matters which the Committee will require to consider are as follows:-

- (a) Whether the alleged misconduct has been established.
- (b) If the Committee is satisfied that the alleged misconduct has been established, whether, having regard to the misconduct, Mr. Smart is no longer a fit and proper person to hold a Public Entertainment Licence.
- (c) If the Committee is of the opinion that Mr. Smart is no longer a fit and proper person, the Committee must consider whether the licence should be suspended.
- (d) If the Committee is satisfied that the licence should be suspended, the Committee must give Mr. Smart an opportunity of being heard on the length of the suspension and the date from which the suspension should commence.
- (e) The Committee must then consider what length of suspension is appropriate and whether the circumstances of the case justify immediate suspension.

4. People Implication

4.1 There are no personnel issues.

5. Financial Implications

5.1 There are no financial implications.

6. Risk Analysis

6.1 There is no increased risk to the Council associated with the contents of this report.

7. Equalities, Health & Human Rights Impact Assessment Impact

7.1 No impact assessment is required because this report does not involve any change to policies or services or financial decisions.

8. Strategic Assessment

There are no strategic implications.

9. Conclusions and Recommendations

- 9.1** That the Committee considers the terms of this report and the terms of any evidence presented at the hearing and thereafter determines whether the licence should be suspended and, if so, the duration of the suspension and date of commencement thereof.

Head of Legal, Democratic and Regulatory Services

Date: 03/11/11

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Appendices: N/A

Background Papers:

1. Letter dated 12 October 2011 from the Chief Superintendent, Strathclyde Police, 'L' Divisional Headquarters, Stirling Road, Dumbarton.
2. Letter to Mr. Smart dated 15 November 2011
3. Letter to Chief Constable dated 15 November 2011.

Wards Affected: N/A.