

Committee: Licensing & Environmental Health

Agenda Item

Date: 16 October 2013

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Title: CONSULTATION ON THE FUTURE OF
PERSONAL ALCOHOL LICENCES

Author: Michael Perry, Assistant Chief Executive
Legal, 01799 510416

Item for decision

Summary

1. As part of the review of its alcohol strategy the government has indicated an intention to abolish the requirement for personal licence holders to renew their licences at 10 year intervals. After the relevant legislation is passed this will mean that personal licences will last for the life of the licence holder or until earlier surrender or revocation. The government also announced an intention to consult on whether personal licences should be abolished altogether. This report is to inform members of the consultation and to seek members' view with regard thereto.

Recommendations

2. Members decide whether they wish to respond to the consultation on behalf of the council and if so what form that response should take.

Financial Implications

3. As the first personal licences issued by this council are not due for renewal until 2015 the projected income from these has not yet been built into the budget. The council currently issues approximately 60 personal licences per year at £37 per licence. In addition, personal licence holders are required to notify the council of any change in their name and address and pay a fee of £10.50 in respect of each such notification. 20 notifications are received on average per annum. In the event that personal licences are abolished these fees will cease to be payable. The total loss of income to the Council is estimated at £2500.

Background Papers

4. None.
5. Other papers referred to by the author in the compilation of this report:
 - Home Office Consultation Personal alcohol licences: Enabling Targeted, Local Alternatives published September 2013 available at <https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>

Impact

6.

Communication/Consultation	N/A
Community Safety	N/A
Equalities	N/A
Health and Safety	N/A
Human Rights/Legal Implications	N/A
Sustainability	N/A
Ward-specific impacts	N/A
Workforce/Workplace	N/A

Situation

7. Under the Licensing Act 2003 alcohol can only be sold by or on the authorisation of a personal licence holder. Further there is a mandatory condition on all premises licences that the licence does not authorise the sale of alcohol unless:
 - (a) there is a person named on the licence as a designated premises supervisor and
 - (b) that person holds a personal licence.
8. During that transitional period in 2005 all holders of Justice's Licences were entitled to transfer that licence to a personal licence issued by the local licensing authority. Those who did not hold Justice's Licences during the transitional period or who wished to apply for a personal licence after the transitional period were required to pass a licensing qualification approved by the Secretary of State.
9. The government's consultation paper refers to the current system as using two key safeguards to ensure that alcohol is sold responsibly and to prevent crime and disorder at licensed premises. These are that personal licences may be denied to or forfeited from those who have criminal convictions for certain specified offences. The second safeguard is the aforementioned requirement for training.
10. The consultation paper also highlights weaknesses in the current system. The first is that whilst alcohol sales must be authorised by a personal licence holder there is no requirement that a personal licence holder is present on the premises in order to do this. Secondly, there is no requirement for persons

working at licensed premises (other than the DPS) to hold a personal licence. This opens the door for those with criminal records and/or a poor understanding of alcohol harms from working at or managing licensed premises. Finally the current system is a national blanket requirement and is not targeted at those premises which give rise to problems.

11. The government points out that licensing authorities have power to impose conditions on premises licences. These may require training requirements for those selling alcohol which exceed the requirements contained in the legislation in appropriate cases. The government's view appears to be that conditions added to premises licences could provide a better and more targeted way of applying safeguards to promote the licensing objectives. The consultation paper suggests that well run businesses would no longer have to spend money on unnecessary training and criminal records checks.
12. In the event that legislation is amended the government proposes keeping national benchmarks for training and criminal records checks. Other proposals are:
 - (a) To require all alcohol sales to be made or authorised by the DPS
 - (b) To allow the Police to object to a new DPS based on the crime prevention objective in general rather than only in exceptional circumstances.
 - (c) Allow licensing authorities to require a criminal records declaration to be provided with any new application to vary a DPS.
 - (d) Allow those who are named as the DPS in relation to a premises licence or who have accredited training up to 50 Temporary Event Notices a year and those without being limited to giving 5.
13. The government also suggested that it make conditions requiring training easier to enforce for the police and licensing authorities.
14. The consultation document raises a number of questions to which response are sought as follows:-
 - (i) Do you think the government's proposal would reduce burdens in time and/or money or business including small and medium enterprises?

In terms of time it is difficult to speculate. Clearly responsible licensees will wish to ensure their staff are properly trained and it is a matter for proprietors of businesses to determine the resources they wish to put into this. Removal of the need for all personal licence holders to attend approved courses however would result in a financial saving.
 - (ii) Do you think this proposal would undermine the licensing objectives? The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance and protecting children from harm.

The weakness in the current system is the fact that the personal licence holder has not got to be present at all times when alcohol is being sold. Providing properly trained staff are employed on the premises, the abolition of personal licences would not appear to undermine the licensing objectives. The difficulty is in monitoring that staff have been appropriately trained. Arguably a requirement that the premises must have a personal licence holder present at all times when alcohol is being offered for sale would be more likely to reinforce the licensing objectives than the abolition of personal licence holders.

- (iii) Do you think nationally accredited training courses for those authorising alcohol sales are necessary to help licensing authorities promote the licensing objectives?

Before the Licensing Act 2003 came into effect, licensing justices would not grant or transfer a licence unless they were satisfied the applicant was a fit and proper person to hold such a licence. For a number of years prior to the abolition of their jurisdiction magistrates were insisting upon a significant degree of experience in the licensed trade or a recognised licensing qualification. It is important that all staff engaged in the sale of alcohol are properly trained. The advantage of a nationally accredited scheme is that it provides a level playing field for those engaged in the industry.

- (iv) Do you think a statutory list of relevant offences, such as theft or handling stolen goods, is necessary to help licensing authorities promote the licensing objectives?

The answer to this question is clearly no. Only the police can object to the grant of a personal licence and only if:

- (a) the applicant has an unspent conviction for a relevant offence and
- (b) the Police consider that the grant of a personal licence would undermine the licensing objective of prevention of crime and disorder and in the event of a conviction for a relevant offence only the magistrates can revoke or suspend the personal licence. This is therefore irrelevant to the licensing authority's functions. It does however impose restrictions upon the police (in terms of objecting to licences) and on the courts (in considering revocation or suspension). This was maybe of more significance before the law was changed to include additional offences (e.g. conspiracies and attempts). However, there are still gaps in the law. For example, offences under the Social Security (Administration) Act 1992 are not included in the list of specified offences notwithstanding the fact that these are clearly offences of dishonesty. It may better promote the licensing objective of prevention of crime and disorder if the police could object to the grant of a licence because of any conviction which in their view undermined the crime and disorder objective and if the

magistrates could consider the forfeiture or suspension of a personal licence for any offence. In such cases it would be for the licensing authority or the court to determine whether the nature of the offence was such that the crime and disorder objective was likely to be undermined.

- (v) What proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?

The consultation gives a range of less than 10%, 25%, 50%, 75% or greater than 90%.

- (vi) For what proportion of premises in your area do you think conditions requiring criminal records declarations for future designated premises supervised would be appropriate?

Again the consultation questionnaire gives a range of less than 10%, 25%, 50%, 75% or greater than 90%. It would appear that a basic DBS check is desirable in all circumstances. Whilst the police clearly have access to information regarding prior convictions, whether police resources would permit an examination of such records in the time allowed for dealing with applications is questionable and the requirement for a criminal records declaration would reduce the administrative burden.

- (vii) Evidence to support the answers given.

Such evidence can be taken from above.

- (viii) Is there anything else the government should consider?

Risk Analysis

15.

Risk	Likelihood	Impact	Mitigating actions
Those engaged in selling alcohol in licensed premises are insufficiently trained.	3, conditions requiring training could only be imposed on a review which could only be requested when there is evidence to show that the licensing objectives had been	3, untrained staff are likely to undermine the licensing objectives in a number of respects e.g. permitting irresponsible drinking (public safety); allow under-age drinking (crime and	Respond appropriately to the government's consultation paper.

	<p>undermined. By definition at that stage some harm has already occurred. The proposals regarding strengthening the role of the DPS are insufficiently clear to give any reassurance in that respect at this stage.</p>	<p>disorder and protection of children from harm) and disorderly conduct at licensed premises (public nuisance).</p>	
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- 1 = Little or no risk or impact
- 2 = Some risk or impact – action may be necessary.
- 3 = Significant risk or impact – action required
- 4 = Near certainty of risk occurring, catastrophic effect or failure of project.