

LICENSING COMMITTEE

31 OCTOBER 2013

Report of Corporate Director – Public Experience

A.3 Response to Home Office Consultation on proposal to abolish Personal Licences

(Report prepared by Simon Harvey)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To enable the Committee to consider and approve the response prepared by the Licensing Manager to the Home Office consultation entitled 'Personal Licences: Enabling Targeted, Local Alternatives'.

EXECUTIVE SUMMARY

- The Home Office consultation document titled 'Personal Licences: Enabling Targeted, Local Alternatives' seeks views on the Government's proposals to abolish the renewal of Personal Licences and the system of Personal Licences entirely as part of its wider alcohol strategy and its agenda to reduce red tape and bureaucracy as a burden on businesses.

RECOMMENDATION(S)

It is recommended that:

- a) The Committee agree the draft response prepared by the Licensing Manager to the Home Office consultation document titled 'Personal Licences: Enabling Targeted, Local Alternatives' as the response to be sent by the Licensing Committee on behalf of this Council to this consultation.

PART 2 – IMPLICATIONS OF THE DECISION

DELIVERING PRIORITIES

The Corporate Priorities that may be impacted upon by these proposals are:

Our Prosperity

- Build a thriving local tourism industry.
- Promote sustainable economic growth.
- Ensure people have the knowledge and skills to secure good employment.

Our People

- Reduce health inequalities and disadvantage.
- Promote healthy and active lifestyles.
- Remain a low crime area and reduce the fear of crime.

FINANCE, OTHER RESOURCES AND RISK

Finance and other resources

In respect of a response to this consultation document there are no financial implications for the Council, the licensing service or for businesses.

Risk

The Council is not legally required to respond to the consultation document however it is best practice that it does so. A failure to do so could impact on the reputation of the Council, particularly in respect of an issue that galvanises as much public interest and concern as the problems of late night drinking and alcohol related crime and disorder and anti social behaviour does.

LEGAL

There are no legal implications in respect of a response to this consultation document for the Council or its licensing service.

OTHER IMPLICATIONS

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

Crime and Disorder / Equality and Diversity / Consultation/Public Engagement.

CRIME AND DISORDER

There are no crime and disorder implications in respect of a response to the consultation document

EQUALITY AND DIVERSITY

There are no equality or diversity implications in respect of a response to the consultation document

AREA/WARDS AFFECTED

All

CONSULTATION

This is a Home Office consultation for Councils, businesses and all other interested parties or stakeholders.

PART 3 – SUPPORTING INFORMATION

BACKGROUND

Under the Licensing Act 2003 sales of alcohol must be made or authorised by a Personal Licence Holder.

Personal Licences are granted for a period of ten years and are portable, i.e. a licence holder is registered with the authority where they live, but can use the personal licence to work anywhere within England and Wales.

The cost of a personal licence is £37 for a ten year licence which is a nationally set fee and the cost of a personal licence qualification training course is generally within the £130 to £150 parameter. Training courses are accredited nationally by the Secretary of State and typically will be a British Institute of Innkeeping (BII) Level 2 examination certificate or similar qualification. The cost of a standard criminal records disclosure is currently £25 through Disclosure Scotland.

The majority of personal licences in Tendring will be renewable in 2014 and 2015.

In relation to Personal Licences and Designated Premises Supervisor's (DPS), the Government's own guidance issued under Section 182 of the Licensing Act 2003 states under paragraphs 4.2, 4.3, 4.18 and 4.19 of that guidance the following information:

4.2 *The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder. The exception is only for those community premises which have successfully applied to remove the DPS requirement.*

4.3 *Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to attend or oversee each sale; it is sufficient that such sales are authorised. It should be noted that there is no requirement to have a DPS in relation to a Temporary Event Notice (TEN) or club premises certificate, and sales or supplies of alcohol authorised by a TEN or club premises certificate do not need to be authorised by a personal licence holder.*

4.18 *Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act.*

4.19 *The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly.*

The requirements for the grant of a Personal Licence under Part 6 of the Licensing Act 2003 are as follows:

- the applicant must be aged 18 or over;
- the applicant possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person as prescribed in the Licensing Act 2003 (Personal Licences) Regulations 2005).
- the applicant must not have forfeited a personal licence within five years of their application;
- the applicant has paid the appropriate fee to the licensing authority; and
- in a case in which the applicant has an unspent conviction for a relevant offence or a foreign offence, the police have not objected to the grant of the application on crime prevention grounds or the licensing authority has considered their objection but determined that the grant of the application will not undermine the crime prevention objective.

The Licensing Act 2003 came into force on the 24 November 2005.

CURRENT POSITION

In respect of the Home Office consultation document titled Personal Licences: Enabling Targeted, Local Alternatives this seeks views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.

The Government does not believe that renewing Personal Licences every ten years is an effective or proportionate way to tackle crime and disorder and are committed to removing this requirement and further wish to abolish the system of Personal Licences altogether.

It is concerned that the system of Personal Licensing is not effective in ensuring responsible sales of alcohol or tackling crime and disorder and also that the system is not targeted, but is a national blanket requirement that encompasses all premises whether they be high risk or low risk and as a result incurs the licensed trade industry in significant costs in training, application fees and criminal records checks.

Instead the Government is proposing through its consultation document to replace the system of Personal Licences by Local Licensing Authorities imposing conditions on premises licences that are more precisely and appropriately targeted towards individual premises in respect of staff training and criminal records check requirements.

It intends to keep national benchmarking standards for training through accredited courses and criminal records checks.

It suggests strengthening existing legislation by the following means:

- i. Require all alcohol sales to be made or authorised by the DPS, rather than a personal licence holder
- ii. Allow the police to object to a new DPS based on the crime prevention objective in general, rather than only in 'exceptional circumstances'
- iii. Allow licensing authorities to require a criminal records declaration to be provided with any new application to vary a DPS
- iv. Allow those who either are named as the DPS in relation to a premises licence or have accredited training to give up to 50 Temporary Event Notices (TENs) a year; those without would be limited to giving five.

In order to make conditions applied to a premises licence easy to enforce for Police and Licensing Authorities, the Government suggests it would work with training providers to ensure training certificates can be provided in a readily available and easily recognisable form.

The Home Office consultation document does not explain or clarify how the Government proposes to maintain the validity and responsibility of the DPS (Designated Premises Supervisor) when the proposal is to abolish the system of Personal Licensing.

To be a DPS (which is normally the person who has been given day to day responsibility for running the premises by the premises licence holder) you must hold a Personal Licence.

Therefore removing the requirement to hold a Personal Licence would on the face it de-value the authority and responsibility that this position holds.

Attached as an appendix to this report is the draft proposed response that officers recommend to the Committee as a reply to this consultation. **See attached as Appendix 1**

The Committee will see from this draft proposed response that its licensing authority officers do not agree with the proposals contained in the consultation document to abolish the system of renewal or grant of personal licences and do not believe that by doing so it strengthens existing legislation, promotes the licensing objectives (particularly in relation to alcohol related crime and disorder and public nuisance), or saves licensed businesses money by cutting red tape and bureaucracy by removing the requirement for professional training and criminal records checks for staff working in licensed premises.

In its introduction to the consultation the Home Office advises that "Alcohol-related crime and anti-social behaviour is unacceptable, costly and dangerous. In 47% of violent incidents, the victim believed the perpetrator to be under the influence of alcohol and a fifth of all violent incidents took place in or around a pub or club. The cost of alcohol misuse in England alone is estimated at £21 billion a year".

The Committee is advised that in the view of its officers, this proposal potentially de-values the professionalism and responsibility of the licensed trade (the significant majority of which do sell and promote alcohol in a responsible way) and works against a partnership approach of tackling the problems of alcohol related crime and disorder and public nuisance.

It is also likely to increase costs for businesses because responsible authorities may have no other recourse than to seek training and criminal records checks for staff working in licensed premises through the use of premises licence review applications or on new or variation applications and as a result lead to further appeals to Court and a commensurate increase in time and costs for all parties concerned.

The aim and ethos of Personal Licence training is to ensure licence holders are aware of licensing law and the wider social responsibilities associated with the sale of alcohol. It is therefore not clear to officers how abolishing the requirement to hold a Personal Licence will result in promoting awareness of those wider social responsibilities associated with the sale of alcohol.

One of the other possible reasons for the Government putting forward the proposals to abolish the renewal of Personal Licences and grant of new Personal Licences is the

difficulties that may arise when the ten year cycle of renewals is due which will be predominantly in 2014 and 2015 in that it was the intention of the Government at the time the Licensing Act 2003 was introduced for there to be a central national register maintained of Personal Licence holders so that any changes of address and movement of the licence holder in the interim between grant and renewal of licence could be recorded.

This central register was never put in place, so while the licence holder has a duty under the Act to advise the issuing authority of a change in their home address, the reality is that with a portable licence that can be used in any licensed premises in England and Wales, large numbers of persons will have not notified their licensing authority of a change to their home address and may no longer be aware of which authority originally issued their Personal Licence to them.

If correct, that would mean significant numbers of renewal letters being returned to local issuing authorities indicating that the licence holder has moved from the address shown on the licence and which would be an administrative impossibility for the issuing licensing authority to then trace where that person had moved to.

Therefore an option to resolve this situation may have been a change to the legislation which says that if the licence holder's Personal Licence is due for its ten year renewal then they simply have to apply for a new ten year licence with the local authority in whose area they are now residing in.

In the view of officers of the licensing authority this would be a better option to promote the licensing objectives than to abolish Personal Licences altogether.

The Committee is also advised that significantly, in the view of its officers, the licensed trade itself is not in favour or support of the proposal put forward in the consultation document to abolish Personal Licences.

In support of this statement, the following extracts are **reproduced by permission of *The Publican's Morning Advertiser*. © William Reed Business Media Ltd 2013** from articles contained in the Publican's Morning Advertiser newspaper which is the one of the leading and most influential licensed trade publications and which has very kindly given its permission to reproduce the following from its articles and survey results.

Pub trade hits out at Government proposals over personal licences

By Gurjit Degun , 19-Sep-2013

The pub trade has hit out at Government proposals to scrap personal licences, with many saying it could undermine the industry.

Concerned

Pub trade members welcomed deregulation but do not believe abolishing personal licences is the correct route to achieve this.

BII (British Institute of Innkeeping) chief executive Tim Hulme was concerned about the reputation of the trade. "If the industry is going to maintain and improve its credibility and reputation as a trade to be proud of, we certainly shouldn't be getting rid of a personal licence qualification," he said.

"Any such move would further undermine our industry."

He said if the Government genuinely wanted to reduce bureaucracy then the BII would design and develop a revised personal licensing system and would implement it through its current infrastructure.

Kate Nicholls, strategic affairs director at the Association of Licensed Multiple Retailers, also questioned whether this would undermine the sector.

"The system needs a review to reduce red tape and make it fit for modern retailing, but we remain to be convinced that a locally imposed alternative will deliver this," she told the *Publican's Morning Advertiser*.

Trade consultant Phil Dixon also believes this will undermine the sector. "It dilutes any claim to professionalism," he said. "It's a worry retrograde step."

Nightmare

Paul Chase of provider CPL Training called the plans "short-sighted and wrong". He said: "This is a retrograde step that can only lead to a lowering of standards."

Survey

Should the government scrap personal licences?

Yes 11%

No 89%

Comment

Abolishing personal licences is not the sort of help we need from government

By Rob Willock, 18-Sep-2013

The Home Office consultation on the abolition of personal licences came out of the blue rather.

Professionalism

It has essentially become one of the few coherent, national qualification-based systems available to the pub trade. For many pub industry workers it is the first step on the road to professionalism — a 'badge' with sufficient value for some to pay for it out of their own pockets.

BACKGROUND PAPERS FOR THE DECISION

Home Office Consultation Personal Alcohol Licences: Enabling Targeted, Local Alternatives.

APPENDICES

Appendix 1 - Tendring District Council Licensing Authority's Response to Home Office consultation document 'Personal Alcohol Licences: Enabling Targeted, Local Alternatives'.