

Subject: Government proposals on personal licences
Date of Meeting: 21 November 2013
Report of: Head of Regulatory Services
Contact Officer: Name: Tim Nichols Tel: 29-2163
Email: tim.nichols@brighton-hove.gcsx.gov.uk
Ward(s) affected: All

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT:

- 1.1 This report sets out to inform the Licensing Committee about Government proposals on personal licences.
- 1.2 The Alcohol Programme Board's response to the consultation is appended.

2. RECOMMENDATIONS:

- 2.1 That the Licensing Committee notes the contents of this report.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 The Government aims to reform the system for personal licences. They do not believe that renewing personal licences every ten years is an effective or proportionate way to tackle crime and disorder and have committed to removing that requirement. The Government has also listened to wider concerns that the whole system of personal licences itself may be poorly targeted and ineffective. There was consultation on the Home Office website between 12 September and 7 November on the abolition of personal licences altogether.

- 3.2 The current system for personal licences requires that all alcohol sales be made or authorised by a personal licence holder. At the same time, the Designated Premises Supervisor (DPS) in relation to licensed premises must hold a personal licence.

Government tells us that this system uses two key safeguards to ensure that alcohol is sold responsibly and to prevent crime and disorder at licensed premises. First, personal licences may be denied to, or forfeited from, those who have criminal convictions for certain offences. Secondly, applicants for a personal licence must be trained. To ensure a level playing field for bar staff nationally, these safeguards are qualified by two 'benchmarks' set by Government:

- i. Only offences listed as relevant under the 2003 Act may be considered as a basis for denying the grant of, or revoking, a personal licence; and

ii. Only training courses accredited by the Secretary of State are valid for applications.

3.3 **Home Office perception of weaknesses of the current system**

The Home Office state “Following our discussions with partners during the Alcohol Strategy consultation, we have become concerned that this system may not be effective in ensuring responsible sales and tackling crime and disorder. For example, although all alcohol sales must be at least authorised by a personal licence holder, it is not always the case, in practice, that a personal licence holder is present on the premises at all times to do this. Moreover, no person working at licensed premises except the DPS is required to hold a personal licence. All this would seem to restrict the system’s ability to prevent those with criminal records and a poor understanding of alcohol harms from working at, or even managing, a licensed premises.

“Finally, and perhaps most fundamentally, the system is not targeted. It is a national, blanket requirement. All premises, from the riskiest to the quietest, must comply with it – and incur significant costs in training, application fees and criminal records checks as a result. This Government questions whether this is appropriate for all licensed premises”.

3.4 The Home Office goes on to say:

“Premises licence conditions as a local alternative

Licensing authorities already have the power to impose conditions on premises licences, as long as those conditions are precise, enforceable and appropriate to promote the licensing objectives for the premises in question. They are a flexible tool: conditions may, for example, require that CCTV be installed or that door staff be present. They may also, already, require strict training requirements of those selling alcohol, over and above the requirements already in place through the personal licences regime.

The Government recognises that the safeguards afforded by personal licences – training and criminal records checks – are important tools that may be appropriate in specific cases. However, conditions added to premises licences could provide a better and more targeted way of applying these safeguards. Licensing authorities and the police would have a more flexible tool at their disposal over which they had local control. Well run businesses, for their part, would no longer have to spend money on unnecessary training and criminal records checks.

3.5 “Enabling the local alternative

To ensure that licensing authorities could use such conditions in a flexible and effective way, if this proposal were taken forward the Government could maintain, and even strengthen, existing legislation in two key ways.

First, we could keep the national benchmarks for training and criminal records checks. At present, these ensure that a level playing field for business exists across the country. In the event that personal licences were abolished, these benchmarks would still ensure that, if training or criminal records checks were required at a premises, businesses would not have to comply with different standards from one licensing authority to another. For example, we believe that removing the Government’s accreditation of training courses could increase burdens on business if employees had to be trained multiple times to comply with different local standards.

Secondly, we could strengthen existing legislation in several areas.

We could:

- 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.

Finally, to make any conditions requiring training easy to enforce for the police and licensing authorities, we would work with training providers to ensure that training certificates can be provided in a readily available and easily recognisable form.

- 3.6 "Our proposal to abolish personal licences would cut unnecessary bureaucracy for businesses while maintaining key safeguards to tackle irresponsible premises. As well as abolishing personal licences, we would maintain, or even strengthen, existing legislation in several ways. We would:
- i. Amend the mandatory conditions to require all alcohol sales to be authorised by the DPS, rather than a personal licence holder;
 - ii. Allow the police to object under s.37 of the 2003 Act 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 with each new change of a DPS; and
 - iv. Allow those who either are named as the DPS on 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 only five".
- 3.7 Officers do not agree that the removal of personal licences would reduce burdens, in terms of time and/or money, on business, including small and medium enterprises; it is currently a requirement for personal licence holders to renew their licence every ten years. Officers are also concerned that the proposal would undermine the licensing objectives. As the committee will know, unless they are mandatory, conditions can only be added to a licence if proffered at application or imposed by a panel following a licensing hearing (new/variation/review).

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

None.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Consultation was open to licensing authorities, the police and the licensed trade as well as residents groups and health bodies on the Home Office website between 12 September and 7 November. This consultation sought views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.

6. CONCLUSION

This report is to inform members.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 There are approximately 3,215 personal licence holders registered with Brighton & Hove City Council. Under current legislation, each license holder would be required to renew their licence in 2015 at a rate set by statute of £37 per licence. In the event that personal licenses are abolished, these fees will not be payable to the council.

Finance Officer Consulted: Steven Bedford Date: 17/10/13

Legal Implications:

- 7.2 These are detailed in the report.

Lawyer Consulted: Name R Sidell Date: 15./10/13

Equalities Implications:

- 7.3 None.

Sustainability Implications:

None.

- 7.4 Any Other Significant Implications

None.

SUPPORTING DOCUMENTATION

Appendices:

1. Alcohol Programme Board response to consultation.

Documents in Members' Rooms

1. None.

Background Documents

1. None.