

## **REPORT OF THE DEPUTY CHIEF EXECUTIVE**

### **LICENSING COMMITTEE – 28 OCTOBER 2013**

#### **A CONSULTATION ON PERSONAL LICENCES: ENABLING TARGETED, LOCAL ALTERNATIVES**

##### **1.0 PURPOSE OF THE REPORT**

- 1.1** To advise the Committee of a consultation document issued by the Home Office on the subject of whether personal licences issued under the Licensing Act 2003 should be abolished and whether Councils should be allowed to apply relevant conditions to premises licences where appropriate.

##### **2.0 DESCRIPTION OF DECISION**

- 2.1** The Committee is requested to consider the proposed responses to the above-mentioned consultation document set out in Appendix 1.

##### **3.0 INTRODUCTION/BACKGROUND**

- 3.1** In September 2013 the Home Office published a consultation document outlining their proposals to abolish personal licences and to amend the Licensing Act 2003 to permit the following:

- To amend the mandatory conditions to require all alcohol sales to be authorised by the Designated Premises Supervisor, rather than a personal licence holder;
- To allow the police to object to a new Designated Premises Supervisor based on the crime prevention objective in general, rather than only in 'exceptional circumstances';
- To allow councils to require a criminal record declaration with each new change of a Designated Premises Supervisor; and
- To allow those who are named as the Designated Premises Supervisor on a premises licence or have accredited training to give up to 50 Temporary Event Notices a year; those without would be limited to giving only five.

- 3.2** The consultation document poses seven specific questions to which consultees may respond.

##### **4.0 CURRENT POSITION**

- 4.1** The Home Office have set a closing date for the submission of comments in respect of this document of 7 November 2013.
- 4.2** Licensing Officers have prepared draft answers to the questions outlined in the consultation document and a copy of these questions

along with the proposed responses are attached to the report at Appendix 2.

**4.3** The Committee is requested to consider these proposed responses.

## **5.0 REASONS FOR THE DECISION**

**5.1** To inform legislators.

## **6.0 ALTERNATIVE OPTIONS**

**6.1** None submitted.

## **7.0 RELEVANT CONSIDERATIONS**

**7.1** None.

## **8.0 GLOSSARY**

**8.1** None.

## **9.0 APPENDICIES**

**9.1** Appendix 1 - Home Office consultation document on Personal Alcohol Licences: Enabling Targeted, Local Alternatives.

**9.2** Appendix 2 – Draft responses to questions asked in the Home Office Consultation Document.

## **10.0 BACKGROUND PAPERS**

**10.1** None.

# **Appendix 1**



Home Office

# Consultation

## Personal Alcohol Licences: Enabling Targeted, Local Alternatives

September 2013

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# Ministerial foreword



This Government has already reformed licensing to give more power to local people and individuals – residents, licensing authorities and police officers – who are best placed to tackle alcohol-related harms. And where previous governments looked for top down solutions, our recent response to the Alcohol Strategy consultation set out how government, local people and industry all have a role to play.

Alcohol doesn't always cause problems, though. For example, in local pubs, at museums, galleries, sports clubs and charity events, alcohol can bind communities together and drive local growth – if sold responsibly. That is why, while taking a firm line on the harms caused by alcohol, this Government has also committed, where possible, to cut red tape for businesses without undermining important safeguards against alcohol-related harm.

Our consultation response has already detailed a range of measures to free up responsible businesses, from increasing the limit for Temporary Event Notices from 12 to 15 to introducing a brand new authorisation for community and ancillary sellers. But there's more that can be done.

Responses to the Alcohol Strategy consultation suggested that the system of personal licences may not always be the most efficient and effective way of tackling crime and disorder. Its cost to businesses – in application fees, training and criminal records checks – is significant. And yet it applies to everyone in the same way, regardless of local circumstance or risk. We have already announced that we will reform the system by removing the requirement to renew them. However, we believe that there may be a way to further enable better and more targeted alternatives to the system as a whole.

This consultation seeks your views on our ideas for how that might happen.

A handwritten signature in black ink, which appears to read 'J. Browne', followed by a horizontal line.

Jeremy Browne MP  
Minister of State for Crime Prevention

# About this consultation

## Scope of the consultation

<b>Topic of this consultation:</b>	This consultation seeks your views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.
<b>Scope of this consultation:</b>	Licensing authorities, the police, the licensed trade
<b>Geographical scope:</b>	England and Wales
<b>Impact Assessment (IA):</b>	A consultation stage IA is included with the consultation document.

## Basic information

<b>To:</b>	We are keen to hear from everyone who would be affected by the measure, including licensing authorities, residents' groups, police, the trade and health bodies.
<b>Duration:</b>	The consultation runs for eight weeks from 12 September to 7 November.
<b>Enquiries:</b>	<a href="mailto:personallicencesconsultation@homeoffice.gsi.gov.uk">personallicencesconsultation@homeoffice.gsi.gov.uk</a>
<b>How to respond:</b>	<p>Information on how to respond can be found on GOV.UK. Responses can be submitted online through the Home Office website <a href="http://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives">www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives</a> or by post by sending responses to:</p> <p>Alcohol Team Drugs and Alcohol Unit Home Office 4th Floor Fry Building 2 Marsham Street London SW1P 4DF</p>
<b>Additional ways to become involved:</b>	Please contact the Home Office (as above) if you require information in any other format, such as Braille, large font or audio. The department is obliged to both offer, and provide on request, these formats under the Equality Act 2010.
<b>After the consultation:</b>	Responses will be analysed and a 'Response to the Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

# 1. Introduction

1. 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<sup>1</sup>. The cost of alcohol misuse in England alone is estimated at £21 billion a year<sup>2</sup>.
2. The Government has set out in its Alcohol Strategy, and in its recently published response to the Alcohol Strategy consultation, a whole range of national and local measures to tackle these alcohol-related harms. Nonetheless, the stark statistics about harmful drinking should not distort the wider picture of alcohol's place in our national life. In local pubs, at museums, galleries, sports clubs and charity events, alcohol makes for more vibrant communities. As the alcohol industry supports 1.8 million jobs across the country, it makes them richer and encourages growth, too<sup>3</sup>.
3. In the vast majority of these cases, alcohol is consumed responsibly – and sold by responsible businesses. One of the main focuses of this Government has been to free up this responsible majority from unnecessary red tape to help drive local growth – while maintaining the safeguards needed to tackle the irresponsible behaviour of a few.
4. In its response to the Alcohol Strategy consultation, the Government has already set out some of the ways it will make alcohol licensing more targeted, proportionate and flexible. These include increasing the TENs limit from 12 to 15, allowing for a more flexible and proportionate approach to late night refreshment, and creating a new, light touch authorisation for community and ancillary sellers of alcohol – the Community and Ancillary Notice (CAN).
5. In addition, the Government will also reform the system of personal licences. First, we do not believe that renewing personal licences every ten years is an effective or proportionate way to tackle crime and disorder. We have therefore 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. Secondly, then, it also committed to consulting on the abolition of personal licences altogether.
6. This consultation sets out the Government's proposal for how alcohol licensing would work if personal licences were abolished. It seeks your views on whether this would reduce burdens on business or undermine the four licensing objectives<sup>4</sup>.

1 Office for National Statistics (2013). Crime Statistics, Focus on: violent and sexual offences, 2011/12.

2 The Government's Alcohol Strategy (2012).

3 The economic outlook for the UK drinks sector and the impact of the changes to excise duty and VAT announced in the 2008 Budget and Pre-Budget Report, Oxford Economics (February 2009).

4 The four licensing objectives are: public safety; preventing crime and disorder; preventing public nuisance; and protecting children from harm.



## 2. Proposal

### The current system of personal licences

7. The current system of 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.
8. 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.

### Weaknesses of the current system

9. 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.
10. 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.

### Premises licence conditions as a local alternative

11. 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.

12. 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.

## Enabling the local alternative

13. 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.

14. 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.

15. 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.

16. 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.

17. A summary of this proposal, including the above potential changes to legislation, is at Annex A of this consultation document. An Impact Assessment, explaining how it would affect business, is also available on GOV.UK. Questions based on this proposal are set out at Section 4.

### 3. Information about you

The following questions ask for some information about you. The purpose of these questions is to provide some context on your consultation responses and to enable us to assess the impact of the proposals on different groups of people. By providing this information you are giving your consent for us to process and use this information in accordance with the Data Protection Act 1998.

**Company name or organisation:**

Which of the following best describes you or the professional interest you represent? Please select one box from the list below:

- Individual involved in licensed trade/club premises
- Small or medium sized enterprise involved in licensed trade/club premises (up to 50 employees)
- Large business involved in licensed trade/club premises
- Trade body representing the licensed trade/club premises or alcohol producers
- Alcohol-related best practice scheme
- Person or organisation specialising in licensing law
- Voluntary and community organisation
- Licensing authority – if yes, please specify:

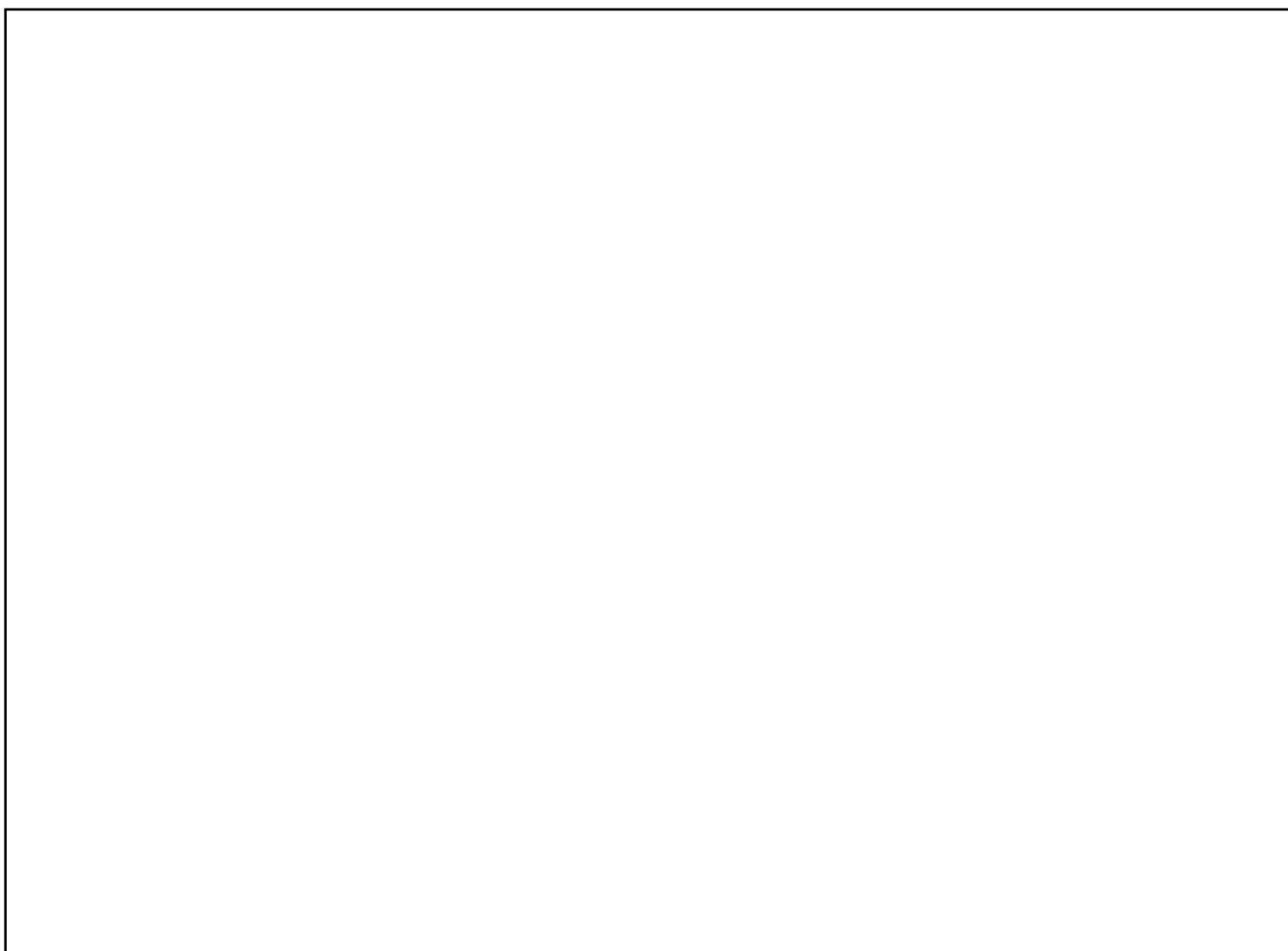
- Licensing authority officer
- Public health body (e.g. Primary Care Trust, Local Health Board, Director of Public Health)
- Local Government (other)
- Police and crime commissioner
- Police force
- Police officer
- Member of the public
- Other (specify in the box below):



**Question 7: Below, please provide evidence to support the answers you've given, making clear to which question the evidence refers.**



**Question 8: Is there anything else you think the Government should consider?**



## 5. Glossary

<b>Designated Premises Supervisor</b>	Under the 2003 Act, licensed premises that authorise the sale of alcohol must, in most cases, have a DPS specified in the licence. Only a person who holds a personal licence can be a DPS.
<b>The Government's Alcohol Strategy</b>	Published on 23 March 2012, the Strategy sets out how to tackle the problems caused by people drinking to excess.
<b>The Licensing Act 2003</b>	The 2003 Act established a single, integrated scheme for licensing premises which are used for the sale or supply of alcohol, the provision of regulated entertainment, or the provision of Late Night Refreshment.
<b>The licensing objectives</b>	Licensing authorities are defined in the 2003 Act. They are primarily district councils or unitary authorities in England and county boroughs in Wales. Licensing authorities grant and administer premises licences, club premises certificates and temporary event notices in their area, as well as, for example, personal licences and renewals of personal licences.
<b>Personal licences</b>	Under the 2003 Act, each sale of alcohol under a premises licence must, with some exceptions, be made under the authority of a personal licence holder. A personal licence does not need to be associated with specific premises, and a person can apply for a personal licence if they are not currently working at any licensed premises.
<b>Temporary Event Notice (TEN)</b>	Under the 2003 Act, a TEN enables the person who gave the TEN to carry on licensable activities (including selling alcohol) on an occasional basis without any other authorisation. The TEN must be given to the licensing authority, the police, and the environmental health authority (EHA). The police or the EHA can object on grounds related to any of the licensing objectives. There are limits on the number of TENS a person may give each year or the number of TENS which may be given in relation to specific premises. It is an offence to carry on a licensable activity without an appropriate authorisation.

## 6. Annex A – Proposal Summary

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.

	Now	Proposal
Who must be trained?	<p><b>All personal licence holders</b>, in effect:</p> <ul style="list-style-type: none"> <li>• The DPS in relation to a premises licence</li> <li>• Those who may authorise alcohol sales</li> </ul>	<p><b>No-one</b>; unless required to be trained by a condition imposed on the premises licence</p>
What is the benchmark for training?	All training courses must be accredited by the Secretary of State	
How can training be checked?	Inspection of the <b>personal licence application</b> ; and subsequently the <b>personal licence itself</b> at a premises	Inspection of a <b>certificate of training</b> at a premises
Who must provide a criminal records check?	<p><b>Applicants for, and those renewing, personal licences</b>, in effect:</p> <ul style="list-style-type: none"> <li>• The DPS in relation to a premises licence</li> <li>• Those who may authorise alcohol sales</li> </ul>	<p><b>No-one</b></p>
Who must provide a criminal records declaration?		<p><b>No-one</b>; unless a condition imposed on a premises licence requires that all future applications to vary the DPS be accompanied by a criminal records declaration</p>
What is the benchmark for criminal convictions?	Only those offences listed as relevant in Schedule 4 to the Licensing Act 2003 may be considered	





# **Appendix 2**

## **Proposed Consultation Responses**

**Question 1: Do you think the Government's proposal would reduce burdens, in terms of time and/or money, on business, including small and medium enterprises?**

The Government's proposal may reduce the burdens on business. However, it is our view that any savings would be insignificant both in terms of money and time as currently a personal licence holder only needs to be trained once and, at present, only has to renew his/her personal licence every ten years at a cost of £37 per application. In any event, the Government propose, separately, to remove the need to renew licences once they are obtained.

**Question 2: 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.**

Yes. We believe that this proposal would undermine the licensing objectives; especially with regard to the prevention of crime and disorder. Currently the only training received by the majority of people selling alcohol is that which is provided to personal licence holders prior to them applying for their licences.

This council has brought successful prosecutions of persons for breaches of the Licensing Act despite the relevant personal licence holders having undertaken relevant training courses. We can only imagine that the situation would deteriorate if no training in the law was required in advance of a person assuming the responsibility for ensuring that alcohol is sold lawfully in a particular premises.

**Question 3: Do you think nationally accredited training courses for those authorising alcohol sales are necessary to help licensing authorities promote the licensing objectives?**

Yes, for the reasons outlined above in Question 2.

**Question 4: 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?**

Yes, as it enables licensing authorities to check applicants' criminal records against this list and, if the applicant does not have a conviction for a relevant offence, they can issue the licence without having to consult with the police. If this list did not exist licensing authorities would have to consult with the police on every application which would increase the burdens on the licensing authority, police and the applicant.

**Question 5: For what proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?**

100% of premises which are authorised to sell alcohol would need conditions attaching to their licence requiring nationally accredited training for the reasons set out in the response to question 2.

**Question 6: For what proportion of premises in your area do you think conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?**

100% of premises which are authorised to sell alcohol would need conditions attaching to their licence requiring criminal records declarations for future Designated Premises Supervisors as the licensing authority believes that it is necessary to ensure that the future Designated Premises Supervisor has no convictions which would make them unsuitable to authorise the sale of alcohol.

**Question 7: Below, please provide evidence to support the answers you've given, making clear to which question the evidence refers.**

See Question 2 above.