



<b>Briefing Paper for:</b>	<b>Regulatory Committee</b> <b>22nd October 2013</b>	<b>Item number</b>	
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<b>Title:</b>	INFORMATION PAPER ON HOME OFFICE CONSULTATION ON THE FUTURE OF PERSONAL LICENCES
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<b>Lead Officer:</b>	Daliah Barrett – Licensing Team Leader
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<b>Ward(s) affected: ALL</b>	<b>Report for: Non Key Decision</b>
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## **1. Summary**

1.1 In March 2012, the Government published its Alcohol Strategy, setting out a range of measures to tackle the issue of excessive alcohol consumption and its associated harms<sup>1</sup>. The Alcohol Strategy included commitments made under the Government's Red Tape Challenge (RTC) to consult on measures to reduce the unnecessary burdens of the licensing regime on business, support local growth and give licensing authorities greater freedom to take decisions that reflect the needs of their local community.

1.2 The public consultation on the delivery of the Alcohol Strategy set out proposals for cutting bureaucracy and freeing up businesses and local organisations such as community groups from unnecessary burdens. This included a proposal to simplify the system of personal licences which was a new idea that had not been part of the package of ideas generated by the Red Tape Challenge and was not part of the Alcohol Strategy. During the consultation, abolition of the system of personal licences was also suggested by some respondents. It could be argued that the current system is ineffective and poorly targeted.

1.3 In its response to the Alcohol Strategy consultation, the Government committed to removing the requirement to renew personal licences every 10 years. It also committed to consult on whether personal licences could be abolished, concerned that the current system may not be effective in proportion to the burden it places on business and that allowing for local targeted action instead might be more effective.



## **2. Recommendation**

The Committee is recommended to note the consultation document and timescales. The consultation is for 8 weeks and closes on 07<sup>th</sup> November 2013.

## **3. Background information**

### **3.1. The current regime of personal licences**

Licensing authorities administer the 2003 Act. LAs must carry out their functions with a view to promoting the licensing objectives (the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm).

There are three different kinds of authorisation under which licensable activities can be provided:

- Premises licence: to use a premises for licensable activities, subject to conditions. If alcohol sales are included a Designated Premises Supervisor is required to be named on the license and this person would have a Personal Licence.
- Club Premises Certificates: to allow a qualifying club (i.e., a members' club such as a working men's club or a political club) to engage in qualifying club activities, again, subject to conditions on the certificate. There is no requirement for a personal licence holder at these types of venues
- Temporary Event Notices (TENs), which enable the user to carry out licensable activities without other authorisation. Various limits apply (e.g. can only be used 12 times per year at the same premises). There is no requirement for the applicant of a TENs to be the holder of a Personal Licence.

3.2. The 2003 Act therefore requires that every sale of alcohol under a premises licence must be authorised by a **personal licence holder (PLH)**, who must meet certain criteria before being issued with a personal licence (including undergoing a criminal records check and obtaining an accredited qualification).

3.3. The system of personal licences (relating to the supply of alcohol) enables PLHs to move more freely between premises where a premises licence is in force and was introduced under the 2003 Act. Premises licences are issued by licensing authorities (LAs) after scrutiny of all applications by the police where the applicant has been convicted of certain criminal offences, these are known as "relevant offences" listed at Schedule 4 of the Licensing Act 2003.



## Haringey Council

3.4. Additionally, under the 2003 Act, premises licensed with authorisation for alcohol sales must specify the **Designated Premises Supervisor** (DPS) for that premises. This person must be a **personal licence holder** (PLH). This will normally be the person with day to day responsibility for running the premises. Under the 2003 Act, each licensed premises therefore needs to have a PLH acting as a DPS. However, in large premises, such as supermarkets or large bars, there could be several personal licences held by junior managers

3.5. The system of personal licences contains two safeguards which, if delivered effectively are useful in reducing alcohol-related harm. First, applicants for a personal licence must be trained. Secondly, licences may be denied to, or forfeited from, those who have convictions for certain offences.

### 4. Problems with current system

4.1. At present, all alcohol sales must be authorised by a personal licence holder. Personal licence holders must have completed training on the risks alcohol can present if handled irresponsibly. They must also notify licensing authorities if they commit any offence which suggests they may be unsuitable as a manager at licensed premises.

4.2. The consultation paper highlights problems with the current system which include;

- The fact that all alcohol sales must be authorised by a personal license holder, there is no requirement for that personal licence holder to be onsite at all times to do this role.
- Only the designated premises supervisor (DPS) is required to hold a personal license. The Governments view is that these matters appear restrictive in the systems ability to prevent those with criminal records and a poor understanding of alcohol harm from working at or even managing licensed premises.

### 5. What is proposed in the consultation?

5.1. The Government has already committed to remove the current requirement on a PLH to renew his/her licence on a ten yearly basis. The system is more onerous than current requirements for a driving licence (where only a renewal of a photograph is required) and the government claim the risks of abolishing the requirement are limited and manageable given existing safeguards.

5.2. During the consultation it was suggested that the system of personal licences could itself be abolished. The Government believes that this proposal should be considered further. Personal licences may not be effective in ensuring responsible alcohol sales. For example, although all alcohol sales must be authorised by a Personal License Holder, in practice and in law the Personal License Holder is not required to be on the premises to do so. Moreover, no



other member of staff except the DPS need be a Personal License Holder. This allows irresponsible owners and managers and bar staff to circumvent the system's safeguards. Finally, the Government claim that the system is poorly targeted. All licensed premises, from the riskiest to the quietest, must comply with it regardless of risk or history of crime and disorder or public nuisance at the premises.

5.3. As a result, the current system may not be worth the substantial costs, in application fees, training and criminal records checks, it imposes on business. In theory, it may be possible to reform the system to make it more effective. In terms of the financial loss to this borough, Haringey has issued over 3500 personal licences since 2005, this equates to an income of £129,500 over the past 7 years. On average we issue 290 new Personal licences per year which generates an income of £10,730.00.

5.4. Premises licence conditions as a local alternative

5.5. 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.

5.6. The Government say that the 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, they would maintain, or even strengthen, existing legislation in several ways:

- 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.

	<b>Now</b>	<b>Proposed</b>	<b>Licensing Officer Comment</b>
Who must be trained	All Personal licence holders, in effect: The DPS in relation to a premises licence	No-one; unless required to be trained by a condition imposed on the premises licence	Taking away the requirement for no one to be trained in retailing alcohol responsibly seems to be a step in the wrong direction. The Government



	<p>Those who may authorise alcohol sales</p>		<p>has gone to great lengths to launch their Alcohol strategy that is aimed at reducing the harm and risk from alcohol consumption, so it seems that to advocate that retailers do not have any formal training before setting up a business selling alcohol to be sending the wrong message. This goes against the 'change in mind set and the cultural change' that the Government promoted in the Alcohol Strategy document.</p> <p>On the other hand this de-regulation may be an opportunity for local authorities to impose some locally set standards for perspective businesses to abide by. This would include the messages from PH around the harmful effects of alcohol, not allowing businesses to sell alcohol above a certain ABV, the Trading Standards requirements around prevention of underage sales. Locally set provisions may also be targeted for certain areas to address issues in that locality ,so premises that are in an area that has street drinking problems may find they have a more robust criteria to meet. This will all come down to available resources, the Government are trying to reduce the costs to the business so how do we as a local council then meet the demand in setting up local criteria and delivering that to the businesses without it costing them?.</p>
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What is the benchmark for training?	All training courses must be accredited by the Secretary of state.	All training courses must be accredited by the Secretary of state.	No issues with this, but the training courses should have more content around alcohol harm and empower candidates to feel confident in refusing sales to those who are drunk over their main consideration of increasing profit.
How can training be checked?	Inspection of the personal license application ; and subsequently the personal license itself at a premises	Inspection of a certificate of training at the premises	No issues with this if the nationally recognised training is maintained going forward. Better accreditation checks should be carried out on the training providers as we feel this is an area that is lacking any 'policing'
Who must provide a criminal records check?	Applicants for, and those renewing, personal licences, in effect:	No-one	
Who must provide criminal records declaration?	The DPS in relation to a premises licence Those who may authorise alcohol sales	No-one Unless a condition imposed on a premises license requires that all future applications to vary the DPS be accompanied by a criminal records declaration	It cost the applicant £10.00 to carry out a basic disclosure, but this should be necessary in order to help the Authorities and Police to weed out those potential retailers who have already been convicted of selling to underage children or accepting stolen or smuggled goods that are then sold to unsuspecting customers. This requirement speaks to the protection of children objective and prevention of crime and disorder so should be maintained.
What is the benchmark for criminal convictions	Only those offences listed as relevant in schedule 4 to the Licensing Act 2003 may be considered.	Only those offences listed as relevant in schedule 4 to the Licensing Act 2003 may be considered	Only those offences listed as relevant in schedule 4 to the Licensing Act 2003 may be considered