



## SHEFFIELD CITY COUNCIL Committee Report

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**Report of:** Chief Licensing Officer, Head of Licensing

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**Date:** 10<sup>th</sup> October 2013

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

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**Summary:** The consultation seeks views on whether personal licences should be abolished, enabling licensing authorities to apply relevant conditions to premises licences where appropriate.

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**Recommendations:** That Members consider carefully the details of the consultation document and make any relevant comments that they wish to be included in the formal Licensing Authority response.

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**Background Papers:** The Home Office consultation document and impact assessment papers are available at:  
<https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>

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**Category of Report:** OPEN

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**LICENSING ACT 2003  
HOME OFFICE CONSULTATION – Proposal to Abolish Personal Licences**

**1.0 PURPOSE AND OUTCOMES**

- 1.1 The purpose of this report is to inform Members of a consultation paper that has been released by the Home Office, to consult with Members regarding new proposals and obtain comments for the Licensing Authority's formal response.
- 1.2 The full consultation document and impact assessment papers are available at <https://www.gov.uk/government/consultations/personal-alcohol-licences-enabling-targeted-local-alternatives>. Due to the amount of literature, the documents have not been attached to the report.
- 1.3 The outcomes of this report are to ensure that Members are aware of the content of the consultation paper and to allow Members the opportunity to input their comments into the Licensing Authority's formal response.

**2.0 WHAT DOES THIS MEAN FOR THE PEOPLE OF SHEFFIELD**

- 2.1 The Home Office objective is to reduce regulation on business.
- 2.2 If the proposals in the document are introduced, in the opinion of officers, they would undermine some of the priorities, values and outcomes in "Standing up for Sheffield: Corporate Plan 2011-14" for example:-

**Priorities**

- **Supporting and protecting communities**  
There is a danger of reducing the level of social responsibility when it comes to the sale of alcohol due to the reduction of trained workers in the licensed trade.
- **Focusing on jobs**  
The personal licence provides individuals with a professional qualification that could assist them in gaining employment in the licensed sector in these austere times.
- **Business friendly**  
The proposal provides no evidence to say that the current system of personal licences is not 'business friendly'. These licences are personal to an individual and it is unusual for a company to apply for them on an employee's behalf.

**Values**

- **Long term view**  
We believe the proposal is not the right thing to do in the long term for the people of Sheffield from a social impact perspective. We believe that anyone employed in the licensed trade should have knowledge of the legislation they are working with.

- **Prevention**  
The proposals will not assist in preventing problems arising in the first place.

## **Outcomes**

- **A strong competitive economy**  
The current system for personal licences provides individuals with training in licensing legislation thereby improving employment chances and providing a higher skilled workforce in the licensed sector.
- **Safe and secure communities**  
The current system provides a higher degree of social responsibility thereby improving safety in the communities of Sheffield.

### **3.0 BACKGROUND**

- 3.1 In its consultation at the beginning of the year, the Government committed to cutting red tape for businesses without undermining important safeguards against alcohol-related harm.
- 3.2 One of the Governments suggestions at the time was to abolish the requirement to renew personal licences and following the consultation, they committed to do this.
- 3.3 The current consultation is a step further proposing to abolish personal licences altogether.

### **4.0 CONSULTATION**

- 4.1 A draft response to the consultation is attached at Appendix "A".
- 4.2 The draft response is for Members to add further comment, or to consider removing anything they are not in agreement with.
- 4.3 The closing date for comments to the consultation paper is 7<sup>th</sup> November, 2013.

### **5.0 AFTER THE CONSULTATION**

- 5.1 Responses will be analysed and a 'Response to Consultation' document will be published. This will explain the Government's final policy intentions. All responses will be treated as public, unless stated otherwise.

### **6.0 FINANCIAL IMPLICATIONS**

- 6.1 The forecast financial implications of each proposal have been published in the consultation impact assessments alongside the consultation.

### **7.0 RECOMMENDATIONS**

- 7.1 That Members consider carefully the details of the consultation document and make any relevant comments that they wish to be included in the response.
- 7.2 That Members make amendments or additions to the draft response to the Government consultation.

Claire Bower  
Principal Licensing Officer

September 2013

**HOME OFFICE CONSULTATION**

**Personal Alcohol Licences:  
Enabling Targeted, Local Alternatives**

**DRAFT - Licensing Authority Response**

**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?

Yes

**No**

D/K

**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**

No

D/K

**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**

No

D/K

**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**

No

D/K

**Question 5:**

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

<10%

25%

50%

75%

**>90%**

**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?

<10%

25%

50%

75%

**>90%**

## Question 7:

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

### **Q1: Time and/or money burdens for businesses -**

In our experience, the majority of personal licences are applied for by the individual rather than the employing company on their behalf; therefore, the money and/or time burdens on *businesses*, in our opinion, are negligible.

The criminal record check takes 2 weeks for a correctly completed application with no further enquiries from Disclosure Scotland.

The training is generally held over a single day or can be accessed by e-learning and gives the applicant an understanding of the legal and social responsibilities of a personal licence holder.

The three application forms are necessary but two of them could be simplified. There is no reason to have two separate forms with such detail to apply for the licence itself. The prescribed forms could be amended in order to streamline the process further for the applicant. For example, there is no reason to state on the application form what type of licensing qualification has been gained with the date and issuing body as the certificate must be enclosed with the application. Further, why does the disclosure and criminal convictions form need to be a separate form? The information could be included in the main application.

Once the application form is submitted, Sheffield City Council has a target to issue personal licences (where there are no relevant offences or other problems) within 4 working days of being received. They are usually issued before the 4 day target.

To conclude, in terms of time burdens on individuals applying for a personal licence, we feel the time burdens are acceptable for one of the only well-established, nationally accredited professional qualifications and certificates for the pub trade.

We have no anecdotal evidence of applicants either objecting to the process or complaining of the timescales and/or costs of the same. Furthermore, the fee or the timescales are not seen as a problem by either applicant or prospective employer.

General opinion of prospective employers informally canvassed by this authority is that when considering an applicant for a post, the possession of a personal licence gives a reassurance of at least a basic level of knowledge and/or experience in the trade. This in turn reduces initial training costs and time for the business.

As an aside to this section, in the impact assessment, your statistics state a downward trend in those applying for personal licences, however, the data is 3 years old. Our records show that personal licences applications were at their lowest for the period 2008-2009 but have shown an increase year-on-year since then.

The impact assessment further states that the low level of applications may reflect the economic conditions. The personal licence provides individuals with a professional qualification to assist them in gaining employment in the licensed sector which may explain why we have seen a rise in applications.

If the application procedure was particularly burdensome for any party, we do not believe we would be seeing this increase.

## **Q2: Proposal undermining the licensing objectives -**

The personal licence provides licensing industry workers with a consistent, professionally recognised, qualification based certificate. It delivers workers that are new to the industry the only professional training on the legislation they are working with and the knowledge of the licensing objectives.

There is no evidence to say that abolishing the system will improve responsible retailing in the sector so how can it be said that the licensing objectives would not be undermined?

In our opinion, the proposal *would* undermine the licensing objectives by removing the key safeguards of education and criminal vetting for workers moving around the industry.

## **Q3: Nationally accredited training courses necessary to promote the licensing objectives -**

The training is necessary to promote the licensing objectives. Any individual working in the licensed trade should be aware of the legislation they are working with and the social responsibilities placed upon them.

Whilst ignorance of the legislation or objectives cannot generally be used as a defence, we have seen instances of the same being used in other spheres of licensing, most notably in the hackney carriage / private hire trade. The lack of knowledge of sitting Magistrates, or more importantly the advising clerks has seen a less than robust approach to dealing with offenders, resulting in a dilution of the deterrent effect of legal action.

A well-structured, nationally recognised qualification gives all incumbents a base level of knowledge from which they should be able to develop their careers. It also gives authorities and consumers a safe and certain knowledge that an individual is aware of the significant social responsibilities commensurate with their position.

## **Q4: Statutory list of relevant offences necessary to help licensing authorities promote the licensing objectives -**

We believe the statutory list of relevant offences is necessary and furthermore should be extended. The licensing authority should be given a discretion to consider offences outside of the list where it can adequately demonstrate its reasons for doing so in line with the licensing objectives.

We have come across a situation where an applicant has had a relevant conviction for “possession of class ‘A’ drugs with intent to supply”, and was refused a personal licence some years ago. More recently the same individual made a new application showing that the supply conviction was now spent under the Rehabilitation of Offenders Act.

However, during the intervening period between applications, further convictions / cautions had been accrued for simple personal use possession offences. These further offences could not be considered directly as they are not classed as relevant. They do however demonstrate a continued involvement in the illegal drug scene, and, it could also be argued, an increased awareness of the limits for personal use and / or tactics to avoid detection.

If an application is objected to, it engages the discretion of the Licensing Committee giving an opportunity to investigate the circumstances further: - the circumstances behind the conviction; how much time has elapsed since the conviction; an indication of an applicant’s desire to promote the licensing objectives.

**Q5: Proportion of premises requiring nationally accredited training would be appropriate?**

Initial estimates are that accredited training would be appropriate for the majority of premises in Sheffield that sell alcohol.

**Q6: Proportion of premises with conditions requiring criminal records declarations for future Designated Premises Supervisors would be appropriate?**

Again, initial estimates suggest criminal records declarations would be appropriate for the majority of designated premises supervisors.

**Question 8:**

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

The Government could consider giving additional powers to licensing authorities with regards to personal licences.

There have been very few instances of the courts taking action over personal licence holders. In our experience, we have found that personal licence holders either do not notify the courts that they hold a licence or, the courts are unaware of their powers.

Powers to revoke or suspend personal licences should be devolved to licensing authorities, who should apply a policy to decide upon referral criteria, which may be nationally or locally agreed.

There should still be a statutory right of appeal to a Magistrates Court. Costs should only be awarded in exceptional circumstances, for instance where a decision is clearly unreasonable or illegal. This would ensure that licensing authorities do not shy away from making difficult decisions for fear of costs being awarded against it. *See Bradford Metropolitan District Council v Booth (2000)*.

Additionally, the Government could consider improving guidelines in relation to the legal role and responsibilities of a designated premises supervisor rather than just being referred to in guidance.