

5.2 A NEW PERSONAL LICENCE 2

39. The argument for licensing people as well as premises is that there needs to be a reasonable assurance that anyone responsible for the sale of alcohol is aware of his or her obligations and is capable of fulfilling them. In addition, a great many public houses are these days managed by people on behalf of large pub operating companies and the normal transfer of managers from one set of premises to another is unnecessarily inhibited by the current law which ties the licence holder and the venue together. A split licensing system therefore offers much greater flexibility to the industry in terms of human resources. The licence would be held by the person running the premises on a day to day basis where alcohol is sold: it is unnecessary to license all staff doing the serving or selling. However, personal licence holders should, as a matter of good management practice, ensure that their staff receive adequate training and guidance. The greater flexibility offered by the proposed system must be balanced with tough powers allowing the police or the licensing authority to deal effectively with errant personal licence holders.
40. With regard to personal licences, we therefore propose that:
- ✓ the personal licence would be issued for ten years in the first instance, and there would be a statutory presumption in favour of renewal if the licence holder has not been subject to penalties under licensing law
 - ✓ unspent convictions for specified offences should create *a presumption against* the grant of a personal licence or *in favour of* revocation where a licence has already been granted. We have in mind offences:
 - involving serious violence
 - involving serious dishonesty (including involvement in the sale of smuggled alcohol and tobacco)
 - of supplying drugs
 - requiring an entry on the sex offenders register
 - against alcohol licensing laws eg sales to children
 - ✓ possession of an accredited qualification should lead automatically to the grant of a personal licence in the absence of relevant criminal convictions. There would be no need for the licensing authority to try to form its own view of applicants' knowledge and character
 - ✓ qualifications should be accredited by the Qualifications and Curriculum Authority, and set out in a Statutory Instrument. The qualifications awarded by the British Institute of Innkeeping provide a good example of what is needed. They should test knowledge of:
 - requirements of alcohol licensing law
 - relevant requirements of public entertainment and gambling law
 - alcohol misuse
 - drugs penetration
 - crime reduction measures and partnerships
 - ✓ an absence from the trade for a period of 5 years or more would invalidate a personal licence, and necessitate re-qualification

- ✓ following a conviction for any breach of the licensing laws, the courts should normally order the endorsement of the personal licence of the individual responsible or revoke it in the case of a serious breach (see Chapter 8 on Effective Sanctions and Punishments)
 - ✓ where no prosecution has been pursued, following a finding by the licensing authority that licensing laws have been breached, the authority may endorse the personal licence
 - ✓ if a licence has been endorsed twice, then any further failure by the licence holder should normally result in revocation, subject to a hearing before the licensing authority at which the personal licence holder would have an opportunity to argue the case for keeping it
 - ✓ on taking up new premises, a personal licence holder should normally do no more than register his or her arrival with his local police and the licensing authority by a letter covering a copy of the personal licence
 - ✓ in very exceptional circumstances, the police should have the right to challenge the right of a personal licence holder to be responsible for particular premises.
41. To enable licensing authorities and the police to check readily the validity of licences and the licensee's history they will probably need to support a a national database. It may be possible to include on a single national database details of personal licences, premises licences, punishments and sanctions imposed, door supervisor registrations and Home Office guidance.
- 2
42. Once someone has a personal licence, this will authorise the sale of alcohol anywhere which has a premises licence. We do not propose to restrict the licence to smaller or simpler premises. The social responsibilities which the personal licence is intended to assure are the same everywhere; and it is more a question of commercial risk and judgment for the licence holder than for the law where he or she should work. The personal licence should be seen as a test of personal qualification, not of business competence; and the evidence needed to obtain it should reflect this. For these reasons we do not accept the argument that some kind of higher level personal licence should be required to operate, for example, larger nightclubs. Different skills and experience may be needed to manage successfully different kinds of venue, but commercial demands should ensure that managers of the right calibre are recruited. Indeed, businesses which are run incompetently with resulting disorder or public nuisance will, under the scheme we propose, rapidly find themselves suffering significant penalties for breaching conditions attached to the premises licence. The premises licence and the punishments and sanctions affecting both types of licence are described later in this White Paper.
43. On arrival in a new licensing area a personal licence holder intending to work in new premises would be required to notify the police and the licensing authority of his or her arrival. This would enable the police to check details against the central database and maintain a closer eye on certain licence holders whose history might demand it. We have considered whether the police or the licensing authority should have a right

at this stage to refuse to permit a licence holder from elsewhere to become responsible for premises in their area. On one hand, there is a danger that this could undermine the basic principle of allowing a fully transferable licence and encourage the application of different standards in different parts of the country. The normal presumption must therefore be that any personal licence holder will be acceptable. On the other hand, we think that there must be a mechanism by which the police can challenge the arrival of certain individuals at certain premises. For example, a personal licence holder whose licence shows two endorsements relating to incidents of disorder at other premises, may be thought unsuitable to manage premises thought to represent a higher than usual risk of disorder. On balance, therefore, we believe that in very exceptional and compelling circumstances, the police should be free to ask for a hearing before the licensing authority at which it would be for them to demonstrate the unsuitability of the personal licence holder to manage the premises in question. In these rare circumstances, the licensing authority would need to be empowered to suspend the premises licence until a suitable personal licence holder had taken over responsibility.

44. In these exceptional cases, problems could sensibly be avoided by personal holders giving the police advance warning of their impending arrival, thereby allowing issues to be resolved prior to the transfer and avoiding the need for premises to be closed for a temporary period.