

## 12. FAIR PROCEDURES AND APPEALS 2

### 2

#### *Appeals against licensing decisions*

127. Appeals should be possible where the business concerned, the police, local residents or any other interested party considers that the licensing authority has acted outside its powers, unfairly or unreasonably in granting or refusing a licence or in relation to the conditions attached to it. The appeal process should therefore provide an opportunity for mistakes in law to be put right, rather than for the body dealing with the appeal to review the case from scratch and substitute its own judgment for that of the licensing authority on the merits.
128. For this reason we think that appeals should lie to the Crown Court sitting as an appeal court, comprising a judge sitting with two magistrates. This will ensure that licensing authorities are subject to effective and consistent legal supervision and also retain a continuing important role for the lay magistracy in licensing matters which reflects their knowledge of the area. At the same time the appeal process should not erode the proper accountability of licensing authorities for their licensing judgments.
129. We therefore propose an avenue of appeal to the Crown Court against decisions to:
- revoke, endorse or refuse to grant or renew a personal licence
  - revoke, grant or refuse a premises licence or club premises certificate
  - attach or vary conditions (including conditions relating to opening hours and temporary sanctions) to premises licences or club premises certificates, whether at the time of issue or following review.
130. Where such a decision is subject to appeal it should not take effect until the appeal is decided.

### 2