

Meeting: LICENSING & REGULATORY COMMITTEE

Date of Meeting: 22nd February 2010

Title of Report: PROPOSED RESPONSE TO DCMS CONSULTATION – “PROPOSAL TO AMEND LICENSING ACT 2003 (PERSONAL LICENCE: RELEVANT OFFENCES)”

Report of: P. J. Moore,
Environmental Protection Director

Contact Officer: K.T. Coady,
Senior Licensing Officer
0151 934 2946

This report contains	Yes	No
CONFIDENTIAL information		√
EXEMPT information by virtue of paragraph(s) ... of Part 1 Schedule 12A of the Local Government Act 1972		√
Is the decision of this report DELEGATED?	√	

Purpose of Report

To advise Members of a DCMS Consultation on proposals to amend the Licensing Act 2003 to include new relevant offences for personal licence holders.

Recommendation(s)

That Members:

- i) Note this Report and its contents; and,
- ii) Endorse the proposed response contained in Annex 3

Corporate Objective Monitoring

Corporate Objective		Positive Impact	Neutral Impact	Negative Impact
1	Creating a Learning Community		√	
2	Creating Safe Communities	√		
3	Jobs and Prosperity		√	
4	Improving Health and Well-Being		√	
5	Environmental Sustainability		√	
6	Creating Inclusive Communities		√	
7	Improving the Quality of Council Services and Strengthening Local Democracy		√	
8	Children and Young People		√	

Financial Implications

None arising from this Report.

List of background papers relied upon in the preparation of this report

- The Licensing Act 2003.
- DCMS Consultation document – “Proposal to amend Licensing Act 2003 (Personal Licence: relevant offences)”

Background

1. Members will recall that, under the Licensing Act 2003 (“the Act”), a personal licence authorises an individual to sell alcohol or to authorise the sale of alcohol in accordance with a premises licence. Every premises which sells alcohol is required to (subject to certain limited exemptions) have a designated premises supervisor (“DPS”) who holds a valid personal licence. A premises may have more than one personal licence holder but may only have one DPS (the requirement to have a DPS does not apply to certain community type premises which has applied for and obtained the alternative licence conditions).
2. The Licensing Authority must grant an application for a personal licence if:
 - The applicant is aged 18 or over;
 - The applicant possesses a licensing qualification accredited by the Secretary of State or is a person as prescribed by the Secretary of State by regulations;
 - The applicant has not forfeited a personal licence held by them in the 5 years ending with the day the application was made;
 - The applicant has paid the appropriate fee to the licensing authority; and
 - The police have not given an objection notice about the grant of a personal licence following notification of any unspent relevant offence or foreign offence. (N.B. we may still grant the application following such an objection notice if we do not consider it necessary to reject the application on crime prevention grounds.)
3. A relevant offence means an offence currently listed in Schedule 4 of the Act.
4. On 11th November 2008, the Licensing Sub-Committee had before them an objection notice, from Merseyside Police, in respect of a personal licence applicant who had in the Police’s opinion a serious unspent conviction. However it became apparent to the Police that the Conviction was omitted from the list of relevant offences and as a consequence the Police had no choice but to withdraw their objection.
5. The Sub-Committee were unhappy with this omission and as a consequence a letter was forwarded to the Home Office, the DCMS, local MP’s and LACORS on the matter. A copy of this correspondence is to be found within Annex 1 to this Report.
6. The DCMS has now published a consultation document seeking views on proposals to amend the Act to update the list of offences that are treated as relevant offences for the purposes of obtaining and holding a personal licence under Part 6 of the Act.
7. The last date for submission of responses is 12th March 2010 and a copy of the consultation document is included within Annex 2 to this Report.
8. A proposed response to this consultation is attached within Annex 3 to this Report.

**Legal & Administrative
Department**

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Lord Street
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PR8 1DA

FIRST CLASS

The Home Office
Direct Communications Unit
2 Marsham Street
London
SW1P 4DF

Date: 17 November 2008
Our Ref: SC/AO
Your Ref:

Please contact: Mrs S Cain
Contact Number: 0151 934 2288
Fax No: 0151 934 2277
e-mail: suzette.cain@legal.sefton.gov.uk

Dear Sir,

**APPLICATION FOR GRANT OF A PERSONAL LICENCE
SECTION 120 - LICENSING ACT 2003**

I write to you for and on behalf of the Licensing Sub Committee of Sefton Metropolitan Borough Council.

The Authority has recently received an application for the grant of a personal licence from an applicant who has an unspent conviction for conspiring to offer to supply a controlled Class A drug, contrary to Section 1 of the Criminal Law Act 1977. The applicant was sentenced to six years imprisonment (on appeal).

Despite being satisfied that granting a licence to an applicant with such a conviction would undermine the crime prevention objective, the Police are unable to object to the application, as the offence does not fall within the relevant offences listed within Schedule 4 of the Licensing Act 2003.

The Licensing Sub Committee wish to bring this anomaly to your attention. It is difficult to accept that it was the intention of the legislators to allow persons convicted of conspiracy offences to fall outside of the Act.

I should be grateful to receive your comments so that I may advise the Committee further.

Yours faithfully

LEGAL DIRECTOR



Minicom: 0151 934 4657



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