

4. Personal licences

4.1 This chapter provides advice about the framework for personal licences. It also contains guidance for decision-making on applications from community premises (church and village halls etc.) to disapply the usual mandatory conditions that relate to personal licences and the requirement for a designated premises supervisor (DPS).

REQUIREMENTS FOR A PERSONAL LICENCE

4.2 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than the provision of regulated entertainment and late night refreshment. This is why sales of alcohol may not be made under a premises licence unless there is a DPS in respect of the premises (who must hold a personal licence); and every sale must be made or authorised by a personal licence holder. The exception for community premises (see paragraph 4.20 below).

4.3 Any premises at which alcohol is sold or supplied where the requirement for a personal licence holder does apply may employ one or more such licence holders. For example, there may be one owner or senior manager and several junior managers holding a personal licence. However, the requirement that every sale of alcohol must at least be authorised by a personal licence holder does not mean that the licence holder has to attend or oversee each sale; it is sufficient that such sales are authorised. It should be noted that there is no requirement to have a DPS in relation to a Temporary Event Notice (TEN) or club premises certificate, and sales or supplies of alcohol authorised by a TEN or club premises certificate do not need to be authorised by a personal licence holder.

WHO CAN APPLY?

4.4 In the case of an application for a personal licence under Part 6 of the 2003 Act, the requirements are that the applicant:

- must be aged 18 or over;

- possesses a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) or is a person as prescribed in regulations (currently, they are a member of the company of the Master, Wardens, Freemen and Commonalty of the Mystery of the Vintners of the City of London; a person operating under a licence granted by the University of Cambridge; or a person operating premises under a licence granted by the Board of the Green Cloth);

- must not have forfeited a personal licence within five years of their application;

- has paid the appropriate fee to the licensing authority; and

- that 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,

__have given an objection notice because of a conviction for an unspent relevant offence or a foreign offence, but the licensing authority has not considered it appropriate to refuse the application on crime prevention grounds.

4.5 Any individual may apply for a personal licence whether or not they are currently employed or have business interests associated with the use of the licence. The issues which arise when the holder of a personal licence becomes associated with particular licensed premises and is specified as the DPS for those premises are dealt with at paragraphs 4.20 to 4.27 below. Licensing authorities may not therefore take these matters into account when considering an application for a personal licence.

CRIMINAL RECORD

4.6 Regulations made under the 2003 Act require that, in order to substantiate whether or not an applicant has a conviction for an unspent relevant offence, an applicant for the grant or renewal of a personal licence must include a criminal conviction certificate, a criminal record certificate or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority.

4.7 The requirement for an individual to establish whether or not they have unspent convictions for a relevant offence or foreign offence applies whether or not the individual has been living for a length of time in a foreign jurisdiction. It does not follow that such individuals will not have recorded offences in this country. All applicants are also required to make a clear

statement as to whether or not they have been convicted outside England and Wales of a relevant offence or an equivalent foreign offence. This applies both to applicants ordinarily resident in England and Wales and any person from a foreign jurisdiction. Details of relevant offences as set out in the 2003 Act should be appended to application forms for the information of applicants, together with a clear warning that making any false statement is a criminal offence liable to prosecution.

4.8 Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the 2003 Act or for a foreign offence. The police have no involvement or locus in such applications until notified by the licensing authority.

4.9 Where an applicant has an unspent conviction for a relevant or foreign offence, and the police object to the application on crime prevention grounds, the applicant is entitled to a hearing before the licensing authority. If the police do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant it.

4.10 Certain offences can never become spent. However, where an applicant is able to demonstrate that the offence in question took place so long ago and that they no longer have any propensity to re-offend, a licensing authority may consider that the individual circumstances of the case are so exceptional and compelling and any risk to the community so diminished that it is right to grant the application.

4.11 If an application is refused, the applicant will be entitled to appeal against the decision.

4.12 Similarly, if the application is granted despite a police objection notice, the chief officer of police is entitled to appeal against the licensing authority's determination. Licensing authorities are therefore expected to record in full the reasons for any decision that they make.

ISSUING OF PERSONAL LICENCES BY WELSH LICENSING AUTHORITIES

4.13 All application forms in Wales must be bilingual.² Proceedings before a court must be capable of being conducted in Welsh at the request of the applicant. There is a panel of Welsh speaking magistrates so this can be arranged if necessary.

4.14 Licensing authorities in Wales should consider issuing personal licences in a bilingual format.

LICENSING QUALIFICATIONS

4.15 Details of licensing qualifications accredited by the Secretary of State will be notified to licensing authorities and the details may be viewed on the Home Office website.

RELEVANT LICENSING AUTHORITY

4.16 Personal licences are valid for ten years unless surrendered, suspended, revoked or declared forfeit by the courts. Once granted, the licensing authority which issued the licence remains the "relevant licensing authority" for it and its holder, even though the individual may

move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

CHANGES IN NAME OR ADDRESS

4.17 The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes of name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder's history in terms of licensing matters.

4.18 The 2003 Act authorises the provision and receipt of such personal information to such agencies for the purposes of that Act.

RENEWAL

4.19 Renewal of the personal licence every ten years provides an opportunity to ensure that the arrangements ensuring that all convictions for relevant and foreign offences have been properly notified to the relevant licensing authority have been effective, and that all convictions have been properly endorsed upon the licence. It also provides an opportunity to ensure that the photograph of the holder on the personal licence is updated to aid identification.

SPECIFICATION OF NEW DESIGNATED PREMISES SUPERVISORS

4.20 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to disapply the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.35 to 4.50 of this Guidance.

4.21 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form.

4.22 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:

- a form of consent by the individual concerned to show that they consent to taking on this responsible role, and
- the relevant part (Part A) of the licence.

4.23 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via Business Link or the licensing authority's own electronic

facility, the licensing authority must notify the police no later than the first working day after the application is given.

4.24 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.

4.25 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.

4.26 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with licensing law and licence conditions.

4.27 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.