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Dear Sirs,

Response to consultation: Personal Alcohol Licences

This response to your recent consultation on changes to the arrangements for Personal Licences under the Licensing Act 2003 is made on behalf of Dacorum Borough Council, in its capacity as a licensing authority under the 2003 Act, and was approved by the council's Licensing, Health & Safety and Enforcement Committee on the 29th October 2013.

Overall, we are disappointed with the Government's current proposal, which we feel displays a lack of understanding of the causes of alcohol-related crime and anti-social behaviour affecting communities around the country. While we do not dispute that there are issues with the current Personal Licence system, we feel that abolishing it sends the wrong signal, and will simply make it easier for irresponsible businesses to ignore, or merely pay lip service to, their responsibilities as alcohol retailers, placing further pressure on local authorities and police forces to pick up the pieces.

We would much rather have seen the Government continue to build upon its previous promises of rebalancing the Licensing Act so as to empower councils, police and local communities against those responsible for supplying alcohol in ways which lead to crime and ASB, by strengthening the licensing and training requirements for alcohol retailers. While we fully appreciate that the trading environment in most parts of the country remains tough and are committed to

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supporting businesses in our local area, we do not consider the current proposal to be appropriate nor proportionate, and we feel that the additional alcohol-related harm that communities may experience if the proposals are adopted will far outweigh the relatively-miniscule projected saving to business (£20m, in an industry worth an estimated £37.7bn).

The existing training requirements for personal licence holders can hardly be described as burdensome – a one-day course, with in most cases 3-4 hours of learning, does not in our opinion deliver sufficient awareness of the issues that an individual starting in a position authorising sales of alcohol will need to understand; in terms of complying with licensing legislative requirements, preventing underage or proxy sales, recognising the signs of intoxication and drunkenness, as well as comprehending the effect of alcohol on both the individual human body and communities, and the harm caused by its misuse. Affiliated subjects such as weights and measures, food hygiene, security, drug/legal high abuse, environmental protection and consumer rights, which are key to the successful running of a licensed business, are not touched upon in the current training.

Many current personal licence holders who obtained their licences through the transitional procedures have completed no training under the 2003 Act, and are unaware of its provisions or their statutory responsibilities as licensees. Contrast this with Scottish personal licences, where courses deliver a minimum of 6 hours learning and licence-holders must complete refresher training every 5 years. In addition, under the Licensing (Scotland) Act 2005, every member of staff in an alcohol-licensed premises must undergo accredited training. There is no such requirement in England (other than training to satisfy a general due diligence defence undertaken by larger licence-holders), meaning that many individuals who are involved in the sale of alcohol have had no training, and thus lack an in-depth understanding, of the potential effects of the products they sell.

To summarise, we believe that the proposed abolition of personal licences will simply increase the number of untrained individuals supplying alcohol in our communities who lack a detailed understanding of the effects of alcohol and the harm it can cause. It will remove proactive controls which allow for the identification of applicants with a history of relevant offences prior to their involvement in a licensed business. It will severely hamper the ability of licensing authorities and responsible authorities to promote the licensing objectives, and by extension, the Government's alcohol strategy objectives.

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?

No. We believe the financial benefits have been overestimated. While it is agreed that abolition would relieve businesses of the need to pay licence application fees, we believe that training costs would increase dramatically, as a result of the removal of the statutory training requirement and replacement with a fragmented localised approach, training companies would become less viable as work dried up, and with less competition prices would rise. Many SME's would also find themselves spending a greater amount on training and vetting new staff, who may previously have obtained a personal licence while employed by a larger company.

The lack of a personal licence would also lead to greater uncertainty for SME's in appointing an individual as a designated premises supervisor – whereas a check of a personal licence would currently confirm the completion of accredited training and an absence of relevant convictions, under the proposals there would be no such guarantee and an objection about the suitability of the proposed suitability may come completely out of the blue if those issues have not been declared.

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. We believe that the lack of awareness arising from the removal of the all-round training requirement would compromise the licensing objectives, and may in particular lead to spikes in alcohol-related crime and anti-social behaviour, as well as greater harm to children through increased underage and proxy sales.

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. The consultation paper outlines many of the current issues surrounding alcohol-related crime and anti-social behaviour. The abolition of personal licences will have the effect of relaxing the training requirement, meaning that many more staff at alcohol-retailing premises who would otherwise have completed the personal licence training course will be untrained, and thus have little awareness of either their statutory responsibilities under the 2003 Act, as well as the effects of alcohol on society as a whole which lead to those issues.

Our preference would be to see an expansion of the current training requirements, including both more detailed and more frequent training for personal licence holders, and formal training requirements for unlicensed staff members, to ensure that all persons involved in the supply of alcohol have an adequate understanding of both the legislative requirements and the effects of alcohol.

Under the proposal of conditioning premises licences to require training, it will take time for premises to be identified and for sufficient evidence to be gathered to warrant the imposition of training conditions (through enforcement action which cannot be resourced through licence fees). While this evidence-gathering process is ongoing, an unscrupulous business could open a premises, trade for several months with no regard to the effect of their actions on the local community, then close down and move on to another area as soon as review proceedings began, without fear of sanctions against them. We would also highlight concerns about the lack of enforcement resources at our disposal to carry out such investigations, as a result of recent cuts to our funding (including as a result of the EU Services Directive and the *Hemming* case). Our partner agencies are also similarly stretched.

As expressed above, we believe that the proposal would be likely to lead to a reduction in the number of trainers and training courses, and thus greater difficulty/expense in arranging training.

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. We believe that the existing regulations listing relevant offences, as amended, are appropriate.

Question 5: For what proportion of premises in your area do you think conditions requiring nationally accredited training would be appropriate?

>90%. This authority is extremely concerned that the Government is suggesting relaxing the existing, minimal training requirements for staff at premises selling alcohol, which we believe will have the potential to lead to a significant increase in alcohol-related crime and anti-social behaviour as new, untrained and inexperienced staff become responsible for selling alcohol, with little or no understanding of the effects that such sales may have. As a result, we would envisage applying any new training-related conditions widely, to almost all businesses supplying alcohol to the public, other than those falling under the new 'community and ancillary seller' exemptions.

If the Government are minded to proceed with the abolition, we would request that part of the Scottish system, whereby all staff employed at alcohol-licensed premises must receive appropriate training prior to commencing employment, be considered as a replacement requirement.

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?

>90%. Again, we are concerned at this proposal, and we would seek to apply any such condition widely. Despite the lack of formal status or responsibility to the position of designated premises supervisor, both we and our police colleagues see the role as critical to promoting the crime prevention objective – a history of criminal convictions may indicate a willingness to use premises as a front for illegal activity or a propensity to turn a blind eye to criminality by others, both of which we strive to prevent through the representation and hearing process.

We would also express concern about the proposed use of a criminal record declaration, rather than a formal disclosure certificate. Across various licence types for which we are responsible we regularly see attempts to deceive by omitting or giving misleading or incomplete information within declarations in respect of convictions– for this reason we would suggest that any declaration should be backed up by a formal disclosure certificate.

Question 7: Below, please provide evidence to support the answers you've given, making clear to which question the evidence refers.

The answers given in this response are based on the experiences of this licensing authority in exercising its functions under the 2003 Act. Several answers reflect enforcement actions and prosecutions in which this authority has been involved – however, as we understand this response may be published we do not consider it appropriate to include details here.

Question 8: Is there anything else you think the Government should consider?

In our opinion, the current faults in the Personal Licence system would be far better rectified through the following actions:

- The provision of a national register of personal licences, as legislated for in the 2003 Act but never implemented. This would allow for immediate detection of individuals holding multiple licences, using false details, failure to declare previous licence refusals or forfeitures, as well as allowing regulators, industry and judiciary a simple way to check the existence and validity of a licence.
- A statutory requirement for a personal licence holder to be present on premises while the supply of alcohol is taking place.
- A statutory definition for the function of the designated premises supervisor (at present, the only requirement is to ensure that a personal licence holder is affiliated with the business, with no viable action against a 'shadow' DPS, who has no role in the management of premises, training of staff, or even a regular presence at the premises).
- Enhanced training requirements for personal licence holders, with a more detailed training course giving greater awareness of the issues that will affect their licensed business, and periodic refresher training as a condition of retaining their licence.
- A statutory requirement for all non-PLH staff at alcohol-licensed premises to undergo training as part of the authorisation process.
- Greater awareness of personal licences to be given to CPS prosecutors and magistrates' courts (we are aware of several cases in which licence holders have been prosecuted where the court have failed to fulfil their statutory obligations – on occasions court clerks have refused to provide notification of convictions even after the legal duty has been highlighted to them).
- Enable the Disclosure & Barring Service to issue Basic Disclosures, thus easing the pressure on Disclosure Scotland.

Many premises licences, particularly those which have been the subject of issues around the supervision of alcohol sales, are now subject to conditions requiring the attendance of trained, qualified personal licence holders, imposed by licensing authorities to resolve supervision issues and promote the licensing objectives. The abolition of the personal licence scheme would at a stroke nullify all of these conditions, thus negating 8 years of enforcement work and licence review hearings by licensing authorities, police and other responsible authorities. The impact assessment has failed to consider the costs of such future enforcement work to re-address the loss of such licence conditions, as well as to enforce the new proposals, which cannot be reflected within licence fees as a result of the recent *Hemming* case, and thus would have to be borne centrally.

It should also be noted that licensing authority budgets are set 12-18 months in advance, and authorities will have based personnel, structural and equipment-purchasing decisions for this period around the expectation that the licensing

requirement will continue. Abolition will result in under-recovery of these costs, placing yet further pressure on central funds.

Yours sincerely

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