



The Magistrates' Association represents some 80% of the 24,000 active magistrates in England and Wales. This response has been prepared by its specialist Judicial Policy Committee.

Introductory Comments

The five key areas covered by the consultation are:

- Minimum unit pricing for alcohol
- A ban on multi-buy promotions in the off-trade
- Reviewing the mandatory licensing conditions
- Health as a licensing objective for cumulative impact policies
- Freeing up responsible businesses

The Magistrates' Association does not want to comment on the first four key areas.

With regards to the fifth area, freeing up responsible businesses, the Magistrates' Association does not wish to comment on ancillary sales of alcohol, occasional provision of licensable activities at community events, extension of the temporary event notices at individual premises, late night refreshment, advertising licensing applications in local newspapers and the changes proposed for motorway service areas.

However the Magistrates' Association **does** make strong representations regarding the proposal to remove or simplify requirements to renew personal licences.



Question 30

Do you agree with each of the following proposals?

D) Remove or simplify requirements to renew personal licences under the 2003 Act?

No.

The Licensing Act 2003 makes provision for the holder of a personal licence charged with a relevant offence to produce his licence to the court, or, if that is not practical, notify the court of the existence of the personal licence. However, the court does not have the power to ask if a defendant is a personal licence holder, even if that becomes apparent (i.e. the occupation is given as 'publican').

A court can suspend or revoke a licence at the time a personal licence holder is sentenced, and is encouraged to consider doing so in the Sentencing Guidelines. However the Magistrates' Association believes that the lack of any power to enquire if a defendant is a personal licence holder and the lack of a national register that can be checked by the police when charging a defendant severely limits the enforcement of these aspects of the 2003 Act.

Data on the administration of the Licensing Act 2003 was collected by the Department for Culture, Media and Sport between 2006 and 2010. No data has been collected since April 2010, although the Home Office apparently intends to resume data collection for the financial year 2012/13. The data provided in the consultation documents shows a very low level of licences forfeited by the courts – 39 licences were forfeited between 2006 and 2010 out of a total of 434,380 licences in force as at 31 March 2010 (0.009%).

The Ministry of Justice statistics provided similarly show that between 2006 and 2011 just 28 licence holders were charged with failing to notify a court of a personal licence, and 26 with failure to notify the licensing authority of convictions.

These very low levels forfeited and licence holders charged with 'failing to notify' offences under the Act indicate that the current procedure for revoking a personal licence on conviction is not robust. Limited safeguards are currently provided by the need for personal licences to be

renewed every 10 years, as the application process includes a requirement for an up-to-date CRB check.

The Magistrates' Association is very strongly opposed to the proposals to remove or simplify the requirements to renew personal licences under the 2003 Act, and again calls for a national register of licence holders to enable offenders to be cross-checked on charge or conviction.

The current situation is that each Local Authority holds its own register and the absence of a central database makes it impossible for the police to check whether anyone arrested for an offence listed in Schedule 4 of the Act is in fact a personal licence holder without checking every local licensing authority.

The Magistrates' Association believes that the very low level of convictions for failing to notify offences and forfeiture of personal licences by courts is a strong indicator that the current procedures are inadequate and are failing to protect the public.

It is an anomaly that door supervisors, who are often under the control of personal licence holders, are registered by the Securities Industry Authority and have to re-register every three years. The SIA or a new regulatory body could hold a national database of personal licence holders.

The Magistrates' Association believes that it is essential that a national register of personal licence holders is established as a matter of urgency and this should be in place before any simplification or removal of the requirement for personal licences to be renewed every 10 years.