

Personal Licences

In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the Act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In these cases a licence will still be granted unless an objection is received within the prescribed period. Where an applicant is convicted of a relevant, foreign offence or is required to pay an immigration penalty during the application period and this only comes to light after the licence has been granted then the Authority must notify the Chief Officer of Police/Secretary of State (as appropriate). Where objection notices are received they will be considered at a hearing of the Licensing Panel.

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When considering an objection notice or immigration objection notice the authority will take the following matters into consideration

- (i) The circumstances in which the offences were committed or the immigration penalty imposed;
- (ii) The period that has elapsed since the offence(s) were committed or the immigration penalty imposed;
- (iii) Whether the offences/immigration penalty reveal a pattern of offending or were a one-off occurrence; and
- (iv) Any mitigating circumstances.

In consideration of an objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so in order to promotion of the prevention of crime and disorder objective.

In consideration of an immigration objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so for the prevention of illegal working in a licensed premises.

REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.

Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

Where the authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence. Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- The offence /penalty
- Any decision a court made regarding the licence at the time of the conviction
- Any other relevant information (including the holder's personal circumstances)

After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence, notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. The Act does not require a hearing to be held at any stage during the process, although the Authority may invite the licence holder to make a personal representation. Licence holders (and the police) will be notified of the Authority's decision in writing along with their right of appeal