



## Statutory Licensing Sub-Committee

**Date** Friday 29 July 2016  
**Time** 10.00 am  
**Venue** Council Chamber, Council Offices, Spennymoor

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Application for the Review of a Premises Licence - G and M Convenience Store, 26 Fox Street, Seaham (Pages 1 - 58)
5. Application for the Review of a Premises Licence - Hayer Convenience Store, (Formerly Westlea Foodstore), 4 West Grove, Seaham (Pages 59 - 142)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Colette Longbottom**  
Head of Legal and Democratic Services

County Hall  
Durham  
21 July 2016

To: **The Members of the Statutory Licensing Sub-Committee**

Councillors L Marshall, C Hampson, D Hicks and B Kellett



**Statutory Licensing Sub-Committee**

29<sup>th</sup> July 2016

**Application for the Review of a Premises Licence**



**Report of Oliver Sherratt, Interim Corporate Director, Neighbourhood Services**

**Name and Address of Premises:** G & M Convenience Store  
26 Fox Street, Seaham, Co Durham  
SR7 7LL

**1. Summary**

The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of the above premises currently licensed for the sale of alcohol, as detailed in the table below:

<b>Licensable Activity</b>	<b>Timings</b>
The Sale by retail of Alcohol (off sales only)	Monday – Saturday: 08:00 – 23:00 hrs Sunday: 10:00 – 22:30 hrs Christmas Day 12:00 – 15:00 hrs 19:00 – 22:30 Good Friday 08:00 – 22:30 hrs
Opening times of the premises	Monday – Saturday: 08:00 – 23:00 hrs Sunday: 10:00 – 22:30 hrs Christmas Day 12:00 – 15:00 hrs 19:00 – 22:30 hrs Good Friday 08:00 – 22:30 hrs

A copy of the current premises licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

**2. Details of the Application**

On 7<sup>th</sup> June 2016, the Licensing Authority received the application from Durham Constabulary asking for a review of the premises licence (DOEP192) for G & M Convenience Store, Seaham.

The application is deemed by the Licensing Authority to be relevant.

The application for review relates to the following licensing objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Protection of Children from Harm

A copy of the application for the review of the premises licence and supporting documents from Durham Constabulary are attached at Appendix 3.

The application for review was advertised in accordance with the regulations.

### **3. Representations**

Within the statutory period, one representation in support of review application was received from Local Safeguarding Children Board:

The representation received relates to the following licensing objective:

- The Protection of Children from Harm

A copy of the representation is attached at Appendix 4.

No representations were received from any of the other Responsible Authorities.

**For Members Information:** The Statutory Licensing Committee have previously determined two Review Applications submitted by Durham Constabulary for 26 Fox Street, Seaham, namely:

Date: 11/02/2010 – Premise Name - Ambers Store – Licence holder- Mr Dhesi

Date: 13/12/2011 – Premise Name - One Store – Licence holder - Mr Kaur  
The premises licence was suspended for 2 months and adherence to additional conditions

### **4. The Parties**

The Parties to the hearing will be:

- Durham Constabulary – Applicant
- Mr Gursahab Singh - Premises Licence Holder

### **5. Durham County Council Statement of Licensing Policy**

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 7.0 The Prevention of Crime and Disorder
- 8.0 Public Safety
- 10.0 The Protection of Children from Harm
- 22.0 Reviews

Relevant information is attached at Appendix 5.

## **6. Section 182 Guidance**

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.1 – 2.5 Crime and Disorder
- 2.6 – 2.13 Public Safety
- 2.21 – 2.31 Protection of Children from Harm
- 11.1 – 11.30 Reviews

Relevant information is attached at Appendix 6.

## **7. For Decision**

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers necessary for the promotion of the licensing objectives:

- Take no further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

### **Background Papers:**

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003 (As amended March 2015)

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**Contact: Karen Robson      Tel: 03000 265104**  
**E-mail: karen.robson2@durham.gov.uk**

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## **APPENDIX 1 - CURRENT PREMISES LICENCE**



## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DOEP192</b>
<b>24 November 2005</b>
<b>01 September 2014</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<p><b>G&amp;M CONVENIENCE STORE</b>            26 FOX STREET            SEAHAM            SR7 7LL</p>	<p>DURHAM COUNTY COUNCIL            EHCP            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

<p><b>Where the licence is time limited the dates</b>            N/A</p>
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<p><b>Licensable activities authorised by this licence</b>            Sale by Retail of Alcohol</p>
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<p><b>The opening hours of the premises (all times in 24hr format)</b></p>		
<b>Monday</b>	08:00 - 23:00	<p><b>Non standard/seasonal timings:</b>            Christmas Day: 12:00 - 15:00, 19:00 - 22:30            Good Friday: 08:00 - 22:30</p>
<b>Tuesday</b>	08:00 - 23:00	
<b>Wednesday</b>	08:00 - 23:00	
<b>Thursday</b>	08:00 - 23:00	
<b>Friday</b>	08:00 - 23:00	
<b>Saturday</b>	08:00 - 23:00	
<b>Sunday</b>	10:00 - 22:30	

<p><b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales</b>  <b>OFF ALCOHOL SALES ONLY</b></p>
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The times the licence authorises the carrying out of licensable activities (all in 24hr format)

<b>Sale by retail of alcohol</b>		
<b>Off Sales Only</b>		
Monday	08:00 - 23:00	Further details
Tuesday	08:00 - 23:00	N/A
Wednesday	08:00 - 23:00	
Thursday	08:00 - 23:00	Non standard/seasonal timings:
Friday	08:00 - 23:00	Christmas Day: 12:00 - 15:00, 19:00 - 22:30
Saturday	08:00 - 23:00	Good Friday: 08:00 - 22:30
Sunday	10:00 - 22:30	

**Part 2**

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR GURSAHAB SINGH	

<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MR GURSAHAB SINGH

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.





The premises licence holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol: -

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**Minimum Price of Alcohol:**

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**Mandatory condition: embedded restrictions**

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

## **Annex 2 – Conditions consistent with the premises Operating Schedule**

### **General**

None

### **The Prevention of Crime and Disorder**

None

### **Public Safety**

None

### **The Prevention of Public Nuisance**

None

### **The Protection of Children from Harm**

None

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

Licensing Statutory Committee - Review Hearing - 11th February 2010

Licensing Statutory Committee - Review Hearing - 13th December 2011

Sale of alcohol suspended until 13th February 2012 or upon compliance with the following conditions (whichever is the sooner):

The premises shall be fitted with a Police approved CCTV system which is fully operational inside and outside of the premises and complies with Data Protection requirements and to Home Office guidelines. The system should have a recording facility to available to keep data for 28 days.

The system shall be maintained in good working order and footage shall be made available within 48 hours of a request by the Police or any other responsible authority.

Challenge 25 will be used in store. Any person believed to be under the age of 25 must be asked to provide photo identification (via a passport, driving licence or "PASS" hologram ID Card) confirming their age. If identification is requested and refused then no sale of alcohol will take place.

Staff training will be implemented and recorded - the requirement of a quality training programme for all staff, preferably at NVQ level 1 as an award in responsible alcohol retailing.

Training and re-training shall take place on a regular basis, at least every three months, by the Designated Premises Supervisor. Training should be recorded, such records to include any remedial action taken to rectify incidents or misunderstandings within the licensing regime.

A refusals register, incident log and training record shall be maintained with all records to be signed by staff as appropriate and viewed regularly by the Designated Premises Supervisor. Such records shall be made available to all responsible authorities upon request.

A Designated Premises Supervisor or a Personal Licence Holder shall be present on the premises on a Friday, Saturday and Sunday evening from 4:00 pm to close of business.

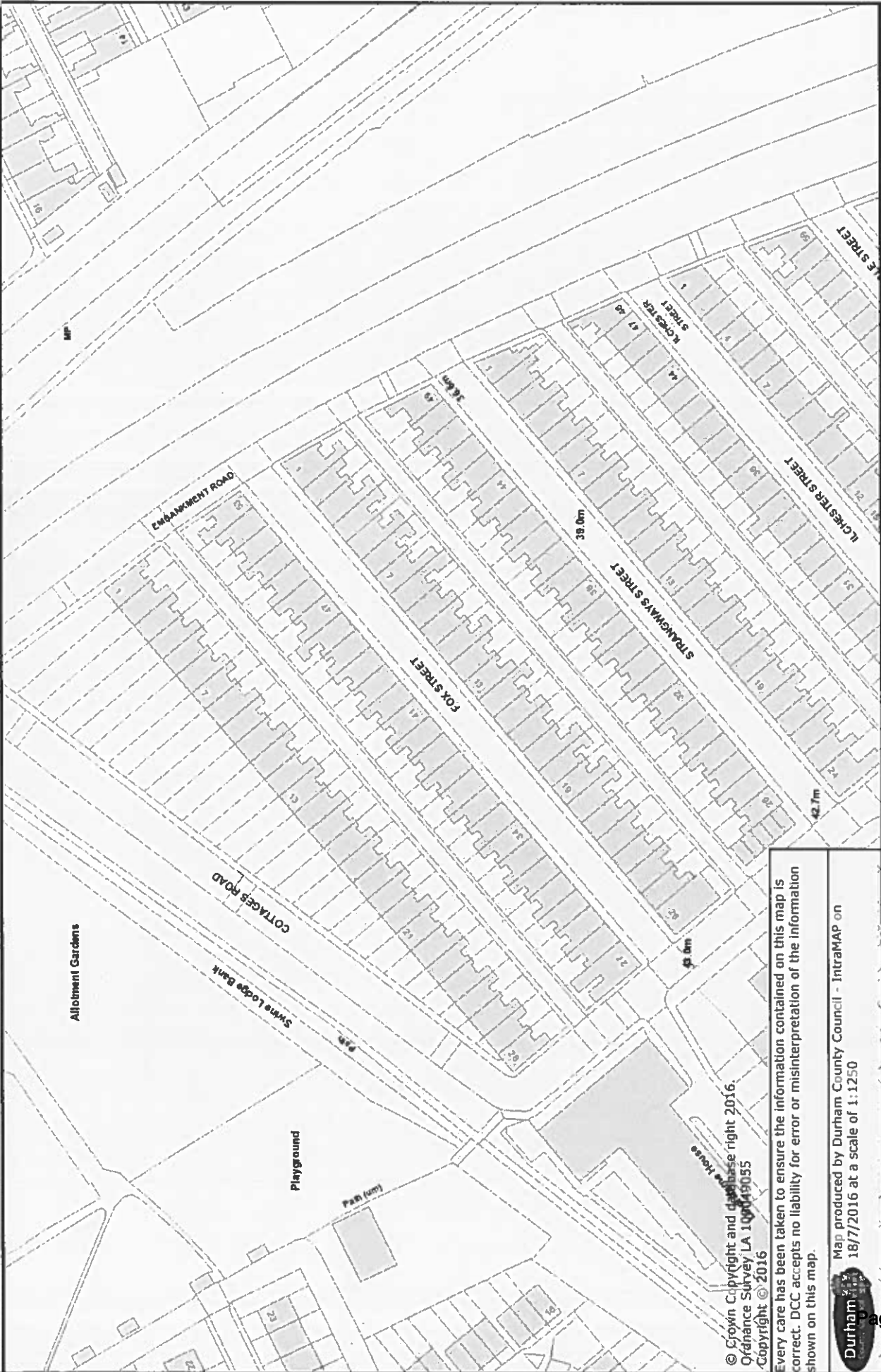
**Annex 4 – Plans attached**

**Attached**

**Signature of Authorised Officer  
Head of Environment, Health and Consumer Protection**

## APPENDIX 2 – LOCATION PLAN

# Durham County Council - IntraMAP



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 Ordnance Survey LA 100049055  
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on  
 18/7/2016 at a scale of 1:1250



## **APPENDIX 3 – REVIEW APPLICATION**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Mr M Barton - the Chief Constable of Durham

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> G&M Convenience Store 26 Fox Street Seaham	
<b>Post town</b> Seaham	<b>Post code (if known)</b> SR8 7LL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Singh
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<b>Number of premises licence or club premises certificate (if known)</b> DOEP192
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**Part 2 - Applicant details**

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal  
address if  
different from  
premises  
address

Post town

Post Code

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

<b>Name and address</b> Mr M Barton The Chief Constable of Durham Durham Constabulary Police Headquarters Aykley Heads Durham DH1 5TT
<b>Telephone number (if any)</b> 0345 6060365
<b>E-mail address (optional)</b>

**This application to review relates to the following licensing objective(s)**

**Please tick one or more boxes**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

**Please state the ground(s) for review (please read guidance note 1)**  
See attached Grounds

**Please provide as much information as possible to support the application  
(please read guidance note 2)**

**See attached Grounds**

**Please tick yes**

**Have you made an application for review relating to this premises before**

**If yes please state the date of that application**

**Day**

**Month**

**Year**

**If you have made representations before relating to this premises please state what they were and when you made them**

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures (please read guidance note 3)**

**Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date

✓ 6<sup>th</sup> June 2016

Capacity

NEIGHBOURHOOD POLICE INSPECTOR (DELEGATED AUTHORITY GRANTED 7/3/16)

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

PCSO 7486 Martin Haigh  
Alcohol Harm Reduction Unit  
Annand House  
John Street North  
Meadowfield

**Post town**

Durham

**Post Code**

DH7 8RS

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

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### **GROUNDS FOR REVIEW**

1. The Applicant is seeking a review of the Premises Licence for G&M Convenience Store, 26 Fox Street, Seaham, SR7 7LL as it is an appropriate course of action to address concerns relating to the Prevention of Crime and Disorder, Public Safety and the Protection of Children from Harm objectives in the Licensing Act 2003.
2. The premises has been reviewed on two previous occasions, once in September 2009 and secondly in October 2011. On both occasions this was due to failed test purchases. The 2011 review resulted in a 2month suspension of the Premises Licence.
3. The holder of the Premises Licence (PLH) and Designated Premises Supervisor (DPS) is Mr SINGH (DPS /PLH) and he has held these positions since September 2014.
4. On Monday 25 April 2016 Durham County Council, as the Responsible Authority, received an application to vary the Designated Premises Supervisor at Westlea Stores, 4a West Grove, Seaham, SR7 8EL to Mr Singh.
5. On Tuesday 26 April 2016 SINGH attended a Durham County Council Licensing Sub-committee hearing with respect to a review application for Westlea Stores, Seaham where he informed the hearing that he was the new owner of this premises.
6. On Tuesday 26 April 2016 the Durham County Council Licensing Sub-committee adjourned the review hearing for Westlea Stores, Seaham to allow Durham Constabulary and Durham County Council Trading Standards a period of time to complete any relevant checks regarding the new owners.
7. On Wednesday 4 May 2016 a visit was made to G&M Convenience Store, Seaham by the Harm Reduction Unit, Durham Constabulary to complete a general licensing check of the premises. This check highlighted a number of issues with regard to the non-adherence of conditions in the Premises Licence. These included the apparent failure to maintain a Refusals Registers and also to train the staff member working that day. In addition the CCTV at the shop was not

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working and does not appear to have been operational for a number of months before the visit.

8. At the time of the visit the staff member working was a male who provided his details on request.
9. On Wednesday 4 May 2016 an Information Request was made to the United Kingdom Border Agency (UKBA) to confirm the identity and immigration status of the male shop assistant at G&M Convenience Store.
10. On Wednesday 4 May 2016 communication was received from the UKBA confirming the male's identity and also highlighting that this male was a 'Suspected Over-stayer' within the United Kingdom.
11. On Thursday 5 May 2016 a telephone call was made by the Harm Reduction Unit to UKBA to discuss what appropriate action should be taken in respect of this male.
12. On Thursday 5 May 2016 members of the Harm Reduction Unit attended G&M Convenience Store, Seaham and arrested the male for the offence of 'Knowingly remaining beyond the time limited by leave' contrary to S24 of the Immigration Act 1971 and transported the male to Peterlee Police Station.
13. On Friday 6 May 2016 Durham Constabulary received confirmation from the UKBA that the male had been served paperwork as an immigration offender and taken to an Immigration Removal Centre to await his removal from the United Kingdom.
14. Whilst it is for the Licensing Authority to determine the appropriate action to promote the licensing objectives, the Applicant would respectfully seek the revocation of the Premises Licence for G&M Convenience Store, 26 Fox Street, Seaham, SR7 7LL.

**PROTECT**

**WITNESS STATEMENT**

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: PCSO Martin Haigh

Age if under 18: (If over 18 insert 'over 18')

Occupation: Specialist Licensing PCSO 7486

This statement (consisting of 4 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness)

Date: 06/06/2016

I am a serving Specialist Licensing Police Community Support Officer within Durham Constabulary working from the Harm Reduction Unit, Meadowfield, Durham.

G & M Convenience Store is situated at 26 Fox Street, Seaham, SR7 7LL. The premise is a general store and off-licence. This premises has been reviewed on two previous occasions, once in September 2009 and secondly in October 2011. On both occasions this was due to failed test purchases, resulting in a 2month suspension of the Premises Licence in 2011.

The current Premise Licence Holder (PLH) and Designated Premise Supervisor (DPS) is Mr SINGH and he has held this position since September 2014.

On Monday 25 April 2016 Durham County Council received an application to vary the Designated Premises Supervisor at Westlea Stores, 4a West Grove, Seaham, SR7 8EL to Mr SINGH,

On Tuesday 26 April 2016 SINGH attended a Durham County Council Licensing Sub-committee hearing with respect to a review application for Westlea Stores, Seaham. SINGH informed the hearing that he was the new owner of this premises.

On Tuesday 26 April 2016 the Durham County Council Licensing Sub-committee adjourned the review hearing for Westlea Store, Seaham to allow Durham Constabulary and Durham County Council Trading Standards a period of time to complete any relevant checks regarding the new owners. As part of these checks SINGH informed me that he also had links to a number of other stores including G&M Convenience Store, Seaham. Further checks highlighted that SINGH was the PLH and DPS at this store.

On Wednesday 4 May 2016 a visit was made to G & M Convenience Store, Seaham by the Harm Reduction Unit, Durham Constabulary, to complete a general licensing check of the premises. During the visit a number of issues were highlighted with regard to the adherence to Annex 3 conditions added to the Premises Licence at the review hearing in 2011. At the time of the visit the store was being attended to by a male of Asian descent. The male was asked what his role was in the store and he confirmed that he was a shop assistant. When asked who the DPS of the premises was the male informed me that it was SINGH. When asked if this was SINGH, the male answered yes. The male was asked to provide the stores Refusal Register for inspection but stated he was unable to do so as there was no Refusal Register in place. The male was asked if he had received any training as

Signature :

Signature Witnessed by:

part of his role and he confirmed to me that he hadn't and that he had signed no training records for me to view. Conditions in Annex 3 state that 'a refusal register, incident log and training records shall be maintained with all records to be signed by staff as appropriate and viewed regularly by the Designated Premises Supervisor. Such records shall be made available to all responsible authorities upon request.

Further conditions in Annex 3 state that 'staff training will be implemented and recorded - the requirement of a quality training programme for all staff, preferably at NVQ Level 1 as an award in responsible alcohol retailing' and also that 'training and re-training shall take place on a regular basis, at least every three months, by the Designated Premises Supervisor. Training should be recorded, and such records to include any remedial action taken to rectify incidents or misunderstandings within the licensing regime'.

The male was then asked to provide images from the CCTV system but he was unable to do so as the CCTV system was not working. When questioned the male indicated that the system has not worked for at least 3 months. Conditions in Annex 3 state that 'the premises shall be fitted with a Police approved CCTV system which is fully operational inside and outside of the premises and complies with Data Protection requirements and to Home Office guidelines. The system should have a recording facility available to keep data for 28 days'.

On leaving the premises I asked for and received the male shop assistant's personal details to allow further checks to be carried out on this male.

On Wednesday 4 May 2016 an 'Information Request' was made to the United Kingdom Border Agency (UKBA) with regard to confirming the identity and immigration status of the male shop assistant.

On Wednesday 4 May 2016 communication was received from the UKBA confirming the male's identity and also highlighting that this male was a 'Suspected Over-stayer' within the United Kingdom.

On Thursday 5 May 2016 a telephone call was made by the Harm Reduction Unit to UKBA to discuss what appropriate action should be taken in respect of this male.

On Thursday 5 May 2016 members of the Harm Reduction Unit attended G&M Convenience Store, Seaham and arrested the male for the offence of 'Knowingly remaining beyond the time limited by leave' contrary to S24 of the Immigration Act 1971 and transported the male to Peterlee Police Station. While being processed at Peterlee Police Station the male was informed of his rights by the Custody Sergeant, including informing someone of his arrest. The male asked for a person by the name of \_\_\_\_\_ to be informed. I was aware, after the conversation the previous day with the male, that \_\_\_\_\_ SINGH is known by the name of \_\_\_\_\_

On Friday 6 May 2016 Durham Constabulary received confirmation from the UKBA that the male had been served paperwork as an immigration offender and taken to an Immigration Removal Centre to await his removal from the United Kingdom.

The roles of Premises Licence Holder and Designated Premises Supervisor are roles which are not to be taken lightly. They are positions of responsibility and accountability in respect of the operation of the business and adherence to the Premises Licence.

It is Durham Constabulary's view that Premises Licence is not being adhered to and that the Premises Licence Holder / Designated Premises Supervisor shows little regard towards the four licensing objectives or the Licensing Act 2003. Durham Constabulary would respectively seek the revocation of the Premises Licence for G & M Convenience Store, Seaham.



**Witness contact details**

URN

Name of witness:

Home Address:

E-mail address:

Home Telephone Number:

Postcode:

Mobile:

Work Telephone Number:

Preferred means of contact *(specify details for vulnerable/intimidated victims and witnesses only)*:

Gender:

Date and place of birth:

Former name:

Ethnicity Code (16 + 1):

**DATES OF WITNESS NON-AVAILABILITY:**

**Witness care**

- a) Is the witness willing to attend court? If 'No', include reason(s) on form MG6.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? *(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)* If 'Yes' submit MG2 with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? If 'Yes' what are they? *(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)*.

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the police..." Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter *(obtained in accordance with local practice)* Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A
- I would like CPS to apply for reporting restrictions on my behalf. Yes  No  N/A

*'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.*

Signature of witness:

PRINT NAME:

Signature of parent/guardian/appropriate adult:

PRINT NAME:

Address and telephone number (of parent etc.), if different from above:

Statement taken by:

Station:

Time and place statement taken:

**Martin Haigh**

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**From:** Martin Haigh  
**Sent:** 04 May 2016 15:18  
**To:**  
**Subject:** RE: Person Check  
**Attachments:** UKBA Police Investigation

Hi

This is a request for a person check with regard to a male who has recently applied to be a Licensee at an office licence in Seaham, Co Durham.

If you require any further information please feel free to contact me.

Kind regards  
Martin

PCSO 7486 Martin Haigh  
Harm Reduction Unit  
Annand House  
Johns Street North  
Meadowfield  
Durham  
DH7 8RS

Tel: Office 0191 3752351 / Direct Line 101 ext 754993



# POLICE

Investigation check

**PROTECT – PERSONAL when complete  
For Intelligence Only**

Information request from: Police

Information request to: Home Office Immigration Enforcement Command and Control Unit

DPA Justification: 29. (3) Prevention and Detection of Crime

Please send this proforma to: [commandandcontrolunit@homeoffice.gsi.gov.uk](mailto:commandandcontrolunit@homeoffice.gsi.gov.uk)

We provide a 24-hour response for investigation checks.

Should you wish to follow-up this enquiry please email the inbox above and include the subject name and Police Station.

<b>Details of Police Officer requesting the check:</b>	
<b>Name:</b> PCSO Martin Halgh	<b>Warrant/collar/shoulder no:</b> 7486
<b>Force:</b> Durham Constabulary	<b>Station:</b> Harm Reduction Unit, Meadowfield
<b>Contact No:</b> 0191 3752351 / 101 ext 754993	<b>Nature of the investigation:</b> Licensing Checks
<b>Subject details:</b>	
<b>Name:</b> [REDACTED]	
<b>Aliases:</b>	
<b>UK Address:</b>	
<b>Date of birth:</b>	
<b>Date of birth:</b>	<b>PNC ID number (if applicable)</b>
<b>*Nationality:</b> Not Known	<b>*Place of birth:</b> Not known
<b>*If British, CCU can only undertake Omnibase checks when there is reasonable doubt the subject is not a British Citizen. If this is the case, please advise of the concerns:</b>	
<b>Relevant Background Information:</b>	
<b>Details Required (please provide specific information ie spouse details, collage details etc):</b>	
<p>was spoken to today (04/05/2016) at an Off Licence In Seaham, Co Durham. was working independently within the store and indicated that he had just moved to the area. He has provided one previous address which is:</p>	
<p>This address was previously given by the new owner of the store ( ) as his previous home Address and has therefore raised some concerns.</p>	

<b>Result of Check:</b>			
No Trace <input type="checkbox"/>	Exempt Leave <input type="checkbox"/>	EEA National <input type="checkbox"/>	Not Known <input type="checkbox"/>
Already Served Papers as an Immigration Offender <input type="checkbox"/>	Asylum Claim Outstanding <input type="checkbox"/>	Other Application Outstanding <input type="checkbox"/>	Failed Asylum Seeker <input type="checkbox"/>
Suspected Illegal Entrant <input type="checkbox"/>	Suspected Overstay <input type="checkbox"/>	Deportation Pursued <input type="checkbox"/>	Other (see notes) <input type="checkbox"/>
<b>CCU Officer please enter details/further information:</b>			
<b>Insert Photograph Here:</b>			
<b>Home Office Reference Number:</b>			
<b>Details of CCU officer completing the check:</b>			
<b>Name &amp; warrant no:</b>		<b>Date:</b>	<b>Time:</b>

<b>****For CCU use only****</b>													
<b>Please confirm any action taken:</b>	<table border="1"> <tr> <td>CID notes &amp; special conditions updated</td> <td></td> </tr> <tr> <td>Landing cards noted</td> <td></td> </tr> <tr> <td>CRS noted</td> <td></td> </tr> <tr> <td>Email to Home Office Case Own responsible team</td> <td></td> </tr> <tr> <td>'For info' referral completed to ICE</td> <td></td> </tr> <tr> <td>Info sent through to Immigration Intel Unit</td> <td></td> </tr> </table>	CID notes & special conditions updated		Landing cards noted		CRS noted		Email to Home Office Case Own responsible team		'For info' referral completed to ICE		Info sent through to Immigration Intel Unit	
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Landing cards noted													
CRS noted													
Email to Home Office Case Own responsible team													
'For info' referral completed to ICE													
Info sent through to Immigration Intel Unit													
<b>For referrals: please confirm the <u>tritych</u> of the CCU Duty IO this case has been referred to:</b>													

**Martin Haigh**

---

**From:** Command and Control Unit  
**Sent:** 04 May 2016 16:02  
**To:** Martin Haigh  
**Subject:** RE: Person Check  
**Attachments:**

Dear Martin

Please find attached completed proforma

Regards

Elke  
Command and Control Unit  
Immigration Enforcement  
6th Floor, 4M Building, Concrete Offices, MAN 3PP

**From:** Martin Haigh  
**Sent:** 04 May 2016 13:10  
**To:** Command and Control Unit  
**Subject:** RE: Person Check

Hi

This is a request for a person check with regard to a male who has recently applied to be a Licensee at an office licence in Seaham, Co Durham.

If you require any further information please feel free to contact me.

Kind regards  
Martin

PCSO 7486 Martin Haigh  
Harm Reduction Unit  
Annand House  
Johns Street North  
Meadowfield  
Durham  
DH7 8RS

Tel: Office 0191 3752351 / Direct Line 101 ext 754993



Home Office

# POLICE

Investigation check

**PROTECT – PERSONAL when complete  
For Intelligence Only**

**Information request from: Police**

**Information request to: Home Office Immigration Enforcement Command and Control Unit**

**DPA Justification: 29, (3) Prevention and Detection of Crime**

Please send this proforma to:

We provide a 24-hour response for investigation checks.

Should you wish to follow-up this enquiry please email the inbox above and include the subject name and Police Station.

<b>Details of Police Officer requesting the check:</b>	
<b>Name: PCSO Martin Haigh</b>	<b>Warrant/collar/shoulder no: 7486</b>
<b>Force: Durham Constabulary</b>	<b>Station: Harm Reduction Unit, Meadowfield</b>
<b>Contact No: 0191 3752351 / 101 ext 754983</b>	<b>Nature of the Investigation: Licensing Checks</b>

<b>Subject details:</b>	
<b>Name:</b> _____	
<b>Aliases:</b> _____	
<b>UK Address:</b> _____	
<b>Date of birth:</b> _____	
<b>Date of birth:</b>	<b>PNC ID number (if applicable)</b>
<b>*Nationality: Not Known</b>	<b>*Place of birth: Not known</b>

**\*If British, CCU can only undertake Omnibase checks when there is reasonable doubt the subject is not a British Citizen. If this is the case, please advise of the concerns:**

**Relevant Background Information:**

**Details Required (please provide specific information ie spouse details, college details etc):**

\_\_\_\_\_ was spoken to today (04/05/2016) at an Off Licence in Seaham, Co Durham. \_\_\_\_\_ was working independently within the store and indicated that he had just moved to the area. He has provided one previous address which is:

This address was previously given by the new owner of the store \_\_\_\_\_ as his previous home Address and has therefore raised some concerns.

<b>Result of Check:</b>			
No Trace <input type="checkbox"/>	Extend Leave <input type="checkbox"/>	EEA National <input type="checkbox"/>	Not Known <input type="checkbox"/>
Already Served Papers as an Immigration Offender <input type="checkbox"/>	Asylum Claim Outstanding <input type="checkbox"/>	Other Application Outstanding <input type="checkbox"/>	Failed Asylum Seeker <input type="checkbox"/>
Suspected Illegal Entrant <input type="checkbox"/>	Suspected Overstayer <input checked="" type="checkbox"/>	Deportation Pursued <input type="checkbox"/>	Other (see notes) <input type="checkbox"/>
<b>CCU Officer please enter details/further information:</b> Trace of <b>DOB</b> <b>Indian</b> Subject entered the UK on 14 October 2007 with valid EC as a Student. Visa valid 14 September 2009 until 31 December 2008. Extension as a Student until 30 September 2009. On 20-Oct-2009 application made for leave to remain was refused on 03-Feb-2011 On 02/10/2010 The Immigration Team were advised that subject was arrested by Constabulary confirming that the subject is due to stand trial at Crown Court on 12/10 on a charge of rape of a female minor aged 13, they were then advised that he was acquitted 15-Dec-2010. No further contact has been made by the subject to regularise his stay and if he is encountered should be referred by telephone to CCU <b>Insert Photograph Here:</b> See attached <b>Home Office Reference Number:</b> <b>Details of CCU officer completing the check:</b>			
<b>Name &amp; warrant no:</b> E Winstanley 8416		<b>Date:</b> 4/5/16	<b>Time:</b> 1555

<b>****For CCU use only****</b>	
<b>Please confirm any action taken:</b>	CID notes & special conditions updated
	Landing cards noted
	CRS noted
	Email to Home Office Case Owner/responsible team
	'For Info' referral completed to ICE
	Info sent through to Immigration Intel Unit
<b>For referrals: please confirm the triptych of the CCU Duty IO this case has been referred to:</b>	



**G&M Convenience Store, 26 Fox Street, Seaham, SR7 7LL**



## **APPENDIX 4 – REPRESENTATION**

Sean Barry  
Strategy and Development Officer  
Local Safeguarding Children Board  
Children and Adults Services  
Durham County Council  
County Hall  
Durham  
DH1 5UL

Ref SB/2016/061

Date: 21 June 2016

Durham County Council  
Licensing Services  
PO Box 617  
Durham  
DH1 9HZ

To whom it may concern

**Re:**  
**G & M Convenience Store, 26 Fox Street, Seaham, Co Durham. SR8 7LL**  
**Premises Licence DOEP192**

By way of background, as a responsible authority under the Licensing Act, Durham Local Safeguarding Children Board (LSCB) examines all licensing applications to ensure that safeguards are in place to protect children and young people from harm.

Durham LSCB recognises that children and young people's access to alcohol can make them vulnerable to exploitation; become victims of crime as well as the possibility of becoming an offender themselves. This is supported by analysis, both locally and nationally.

The use of age verification policies, refusal register and the supervision and training of staff on licensed premises can make a significant contribution in ensuring that licensed premises restrict the availability of alcohol to all children and young people.

Durham LSCB has received an application from Durham Constabulary for a review of a premises licence under the Licensing Act 2003, in respect of the premises:

- G & M Convenience Store, 26 Fox Street, Seaham, Co Durham. SR8 7LL

Evidence presented in the application of review raises concerns about the protection of children from harm. In particular my concerns centre on the following:

- The historical evidence of failed test purchases (2011) in which the purchase of alcohol by children at the premises was undertaken, when neither age nor identification was requested
- No training of staff in the supply of alcohol is evident and no training records were available for officers to examine
- No evidence of a refusal register in operation

The role of the premises licence holder and designated premises supervisor are positions of responsibility. Based on the evidence provided in this review it is apparent that the conditions of licence are not being adhered to and the premises licence holder and designated premises supervisor are not fulfilling their roles in respect to the premises licence.

Therefore, on behalf of the Durham LSCB, I would support the application by Durham Constabulary to review the premises licence.

Yours sincerely

Sean Barry  
Strategy and Development Officer  
Local Safeguarding Children Board

## **APPENDIX 5 – STATEMENT OF LICENSING POLICY**

## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **7.0 The Prevention of Crime and Disorder**

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or

issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

**7.12 Toughened/Safety Glass Policy:** Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

**7.13 Drugs/Knives/Weapons:** The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the

premises in order to prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **8.0 Public Safety**

8.1 The Act covers a wide range of premises that require Licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants.

8.2 Applicants are advised to seek advice on such matters from the Council's Occupational Safety and Health team, Health and safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service, and incorporate any recommendations in their Operating Schedule before submitting their applications.

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels



## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **10.0 Protection of Children from Harm**

10.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting.

10.2 The Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:

- At any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
- Between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
- The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

10.3 The Licensing Authority may consider the following when dealing with a licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations on under 18s
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four licensing objectives.

10.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

10.5 The Licensing Authority is aware of young persons' vulnerability to alcohol and events which are aimed at children under the age of 18 years on licensed premises will not be supported by the licensing authority unless the applicant can demonstrate that all safeguards for children have been addressed such as the removal of alcohol advertising.

10.6 The Licensing Authority, Durham Constabulary Alcohol Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the Licensing Authority and should be adhered to by licence holders and event organisers.

10.7 Recorded staff training programmes, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are to be encouraged.

10.8 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

10.9 Access to Cinemas: In the case of premises requiring an licence to show films, applicants should include in the operating schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.

10.10 The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

10.11 Should the Licensing Authority need to adopt its own system of film classification the information regarding such classifications will be published on the Local Authority's website.

10.12 Children and Public Entertainment: Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

10.13 Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Disclosure and Barring Service.

10.14 With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

**10.15 Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications**

## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **22.0 Reviews**

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious

if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and

not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

## **APPENDIX 6 – SECTION 182 GUIDANCE**

## **S182 GUIDANCE – CRIME AND DISORDER**

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.



## **S182 GUIDANCE – PUBLIC SAFETY**

2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation.

Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.7 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11-2.12, and Chapter 10; and
- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.8 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.33-8.41), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

### **Ensuring safe departure of those using the premises**

2.9 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

### **Maintenance and repair**

2.10 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for

a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

#### Safe capacities

2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **S182 GUIDANCE – PROTECTION OF CHILDREN FROM HARM**

2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age

verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

## Offences relating to the sale and supply of alcohol to children

2.31 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

**Table of relevant offences under the 2003 Act**

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 148 1	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

## **S182 GUIDANCE- REVIEWS**

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).  
Repetitious grounds of review

11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the

prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

#### **Powers of a licensing authority on the determination of a review**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:



- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption) 10;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

### **Reviews arising in connection with crime**

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of

drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through

the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

### **Review of a premises licence following closure order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

### **Review of a premises licence following persistent sales of alcohol to children**

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

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**Statutory Licensing Sub-Committee**

**29th July 2016**

**Application for the Review of a Premises Licence**




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**Report of Oliver Sherratt, Interim Corporate Director, Neighbourhood Services**

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**Name & Address of Premises: Hayer Convenience Store (Formerly Westlea Foodstore), 4 West Grove, Seaham. SR7 8EL**

**1. Summary**

The Sub-Committee is asked to consider and determine an application by Durham County Council - Local Weights and Measures Authority to review the premises licence in respect of 4 West Grove, Seaham, formerly known as Westlea Foodstore, currently licensed for the sale of alcohol as follows:

<b>Licensable Activity</b>	<b>Timings</b>
The Sale of Alcohol (Off sales only)	Monday – Saturday: 08.00 – 23.00 hrs Sunday: 10.00 – 22.30 hrs Christmas Day: 12.00 – 15.00 and 19.00 – 22.30 hrs Good Friday: 08.00 – 22.30 hrs
Opening Hours	Not stated

A copy of the current premises licence is attached at Appendix 1.

A plan showing the location of the premises is attached at Appendix 2.

**2. Details of the Application**

On 7<sup>th</sup> March 2016, the Licensing Authority received an application from Durham County Council - Local Weights and Measures Authority asking the licensing authority to consider a review of the premises licence (Licence number DOEP132).

The premises licence holders at this time were Mr S [REDACTED] Mendonca and Mr A [REDACTED] Pinto. Mr Mendonca was also the Designated Premises Supervisor.

The application is deemed by the licensing authority to be relevant.

The application for review relates to the following licensing objectives:

- The Prevention of Crime and Disorder.
- The Protection of Children from Harm

A copy of the application for the review of the premises licence and supporting documents are attached at Appendix 3.

Additional information submitted by Durham County Council - Local Weights and Measures Authority is attached at Appendix 4.

The application for review was advertised in accordance with the regulations.

Originally, the review hearing was listed for 26<sup>th</sup> April 2016 but Members agreed to adjourn consideration of the application due to changes to the premises licence holder and DPS which occurred on the 25<sup>th</sup> April 2016.

A further scheduled review hearing for the 7<sup>th</sup> June 2016 was also adjourned at the licence holder's request following the Sub-Committee's decision to refuse an application to name Mr G [REDACTED] Singh as the Designated Premises Supervisor following a Police objection notice.

For Members information, since 25<sup>th</sup> April 2016 the premises licence holder has been Mr Kuldeep Singh. Mr Kuldeep Singh also became the Designated Premises Supervisor at the premises with effect from 20<sup>th</sup> June 2016.

At the time the report was written, the Licensing Authority believe that Mr Kuldeep Singh has recently sold the shop to a Mr [REDACTED]. A further update will be provided for Members at the committee hearing.

### **3. Representations**

Within the statutory consultation period, the licensing authority received two representations from the following Responsible Authorities in support of the review application:

- Ms Anna Lynch – Director of Public Health, County Durham
- PCSO Martin Haigh – Durham Constabulary

The representations received relate to the licensing objectives the Prevention of Crime and Disorder and the Protection of Children from Harm.

Copies of the representations and additional information from Durham Constabulary are attached at Appendix 5.

#### **4. The Parties**

The Parties to the hearing will be:

- Durham County Council – Local Weights & Measures Authority (applicant)
- Mr Kuldeep Singh (current premises licence holder & DPS)
- Director of Public Health, County Durham (responsible authority)
- Durham Constabulary (responsible authority)

#### **5. Durham County Council Statement of Licensing Policy**

The Sub-Committee's attention is drawn to the following relevant parts of the Policy:

- 7.0 The Prevention of Crime and Disorder
- 10.0 The Protection of Children from Harm
- 22.0 Reviews

Relevant information is attached at Appendix 6.

#### **6. Section 182 Guidance**

The Sub-Committee's attention is drawn to the relevant parts of the Guidance issued under section 182 of the Licensing Act 2003 as follows:

- 2.1 – 2.5 Crime and Disorder
- 2.21 – 2.31 Protection of Children from Harm
- 11.1 – 11.30 Reviews

Relevant information is attached at Appendix 7.

#### **7. For Decision**

The Sub-Committee is asked to determine the application for the review of the premises licence and to take any of the following steps that it considers necessary for the promotion of the licensing objectives:

- Take no further action
- Modify or add conditions to the licence
- Exclude a licensable activity from the licence
- Remove the Designated Premises Supervisor
- Suspend the licence for a period (not exceeding three months)
- Revoke the licence

**Background Papers:**

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003  
(As amended March 2015)

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**Contact: Yvonne Raine**

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**APPENDIX 1 – PREMISES LICENCE**



## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DOEP132</b>
<b>24 November 2005</b>
<b>20 June 2016</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, Ordnance Survey map reference or description</b>	<b>Issuing Authority</b>
<b>HAYER CONVENIENCE STORE</b> 4 WEST GROVE SEAHAM SR7 8EL	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number: 0191 581 2473</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by this licence</b> Sale by retail of alcohol
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<b>Opening Hours of the Premises</b>	
<b>NOT STATED</b>	<b>Non-standard/seasonal timings</b>

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> OFF ALCOHOL SALES ONLY
--

**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

<b>Sale by retail of alcohol</b>	<b>Further details</b>														
<table style="width: 100%; border-collapse: collapse;"> <tr><td>Mon</td><td>08:00-23:00</td></tr> <tr><td>Tue</td><td>08:00-23:00</td></tr> <tr><td>Wed</td><td>08:00-23:00</td></tr> <tr><td>Thu</td><td>08:00-23:00</td></tr> <tr><td>Fri</td><td>08:00-23:00</td></tr> <tr><td>Sat</td><td>08:00-23:00</td></tr> <tr><td>Sun</td><td>10:00-22:30</td></tr> </table>	Mon	08:00-23:00	Tue	08:00-23:00	Wed	08:00-23:00	Thu	08:00-23:00	Fri	08:00-23:00	Sat	08:00-23:00	Sun	10:00-22:30	<b>Non-standard/seasonal timings</b>  Good Friday: 08:00 - 22:30 Christmas Day: 12:00 - 15:00 and 19:00 - 22:30
Mon	08:00-23:00														
Tue	08:00-23:00														
Wed	08:00-23:00														
Thu	08:00-23:00														
Fri	08:00-23:00														
Sat	08:00-23:00														
Sun	10:00-22:30														

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR KULDEEP SINGH 4 WEST GROVE SEAHAM SR7 8EL	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MR KULDEEP SINGH 4 WEST GROVE SEAHAM SR7 8EL

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
DCC/PER/C/1191 DURHAM COUNTY COUNCIL

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

### **Minimum Price of Alcohol:**

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula –

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence –
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

### **Annex 2 – Conditions consistent with the premises Operating Schedule**

#### **General**

Ensure that the laws regarding the sale of alcohol are strictly adhered to, i.e. that alcohol is sold in sealed containers. The sale of alcohol and tobacco products is restricted to over 18's.

#### **Prevention of Crime & Disorder**

Staff are constantly on the alert to criminal activity. ID is requested off anyone suspected of being under age regarding the sale of alcohol/tobacco products. Notice are posted to this effect. CCTV is installed.

## **Public Safety**

All aisles are clean and clear of encumbrance. Health & Safety and Fire regulations are adhered to. Fire and first aid equipment are in place. We are aware of the dangers of overcrowding and do not allow it.

### **General**

Ensure that the laws regarding the sale of alcohol are strictly adhered to, i.e. that alcohol is sold in sealed containers. The sale of alcohol and tobacco products is restricted to over 18's.

### **The Prevention of Crime & Disorder**

Staff are constantly on the alert to criminal activity. ID is requested off anyone suspected of being under age regarding the sale of alcohol/tobacco products. Notices are posted to this effect. CCTV is installed.

### **Public Safety**

All aisles are clean and clear of encumbrance. Health & Safety and Fire regulations are adhered to. Fire and first aid equipment are in place. We are aware of the dangers of overcrowding and do not allow it.

### **The Prevention of Public Nuisance**

We do not allow groups of people to congregate outside the premises. We refuse the sale of alcohol to obviously inebriated people. Customers are asked not to consume alcohol purchased outside the premises.

### **The Protection of Children from Harm**

We ensure that young children are accompanied whilst on the premises

## **Prevention of Public Nuisance**

We do not allow groups of people to congregate outside the premises.

We refuse the sale of alcohol to obviously inebriated people. Customers are asked not to consume alcohol purchased outside the premises.

## **Protection of Children from Harm**

We ensure that young children are accompanied whilst on the premises.

## **Annex 3 – Conditions attached after a hearing by the licensing authority**

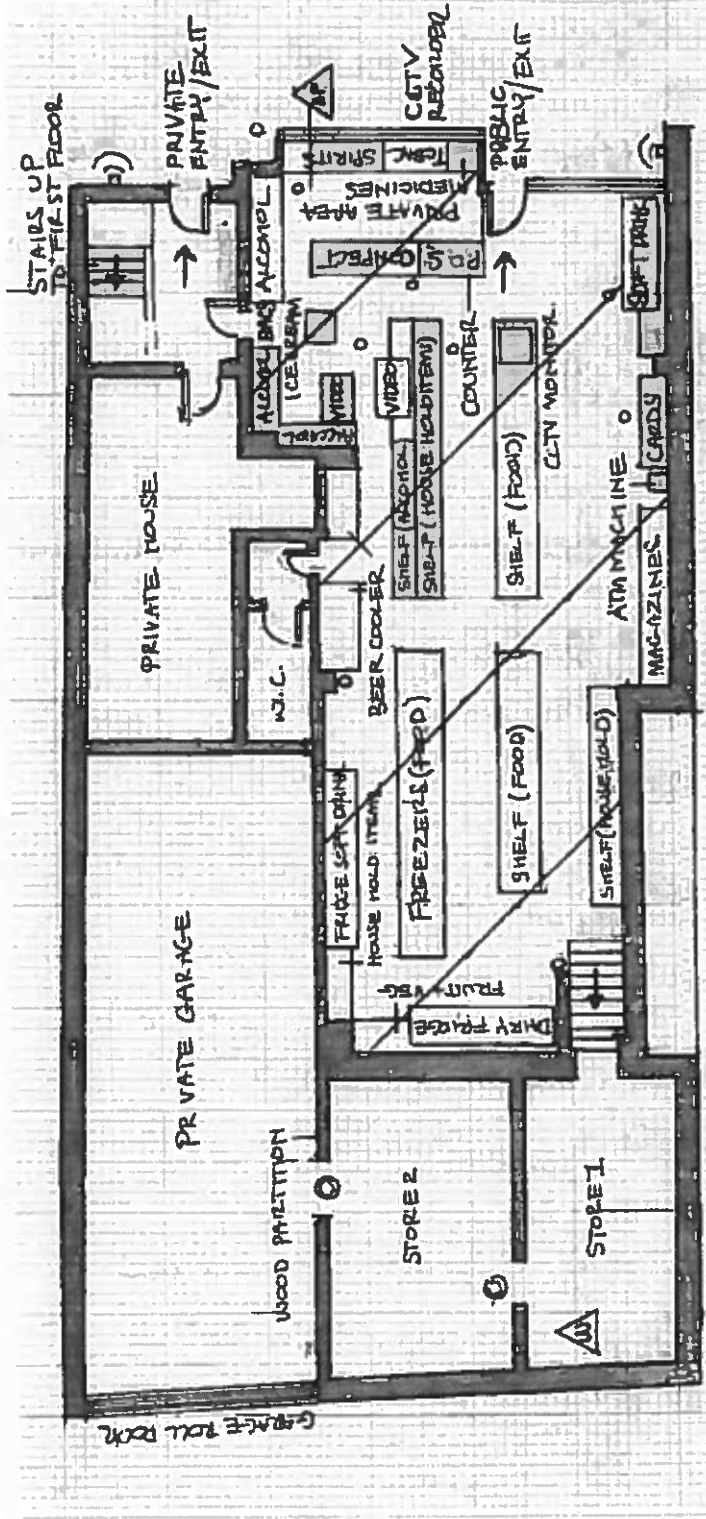
None

## **Annex 4 – Plans attached**

Attached



**Signature of Authorised Officer  
Head of Environment, Health and Consumer Protection**



KEY

BACK BURGLAR ALARM CONTROL SYSTEM

BUZZER ALARM RESPONDER

CCTV CAMERA

EMERGENCY LIGHTING

FIRE EXTINGUISHER (WATER TYPE)

FIRE EXTINGUISHER (DRY POWDER)

POIS POINT OF SALE

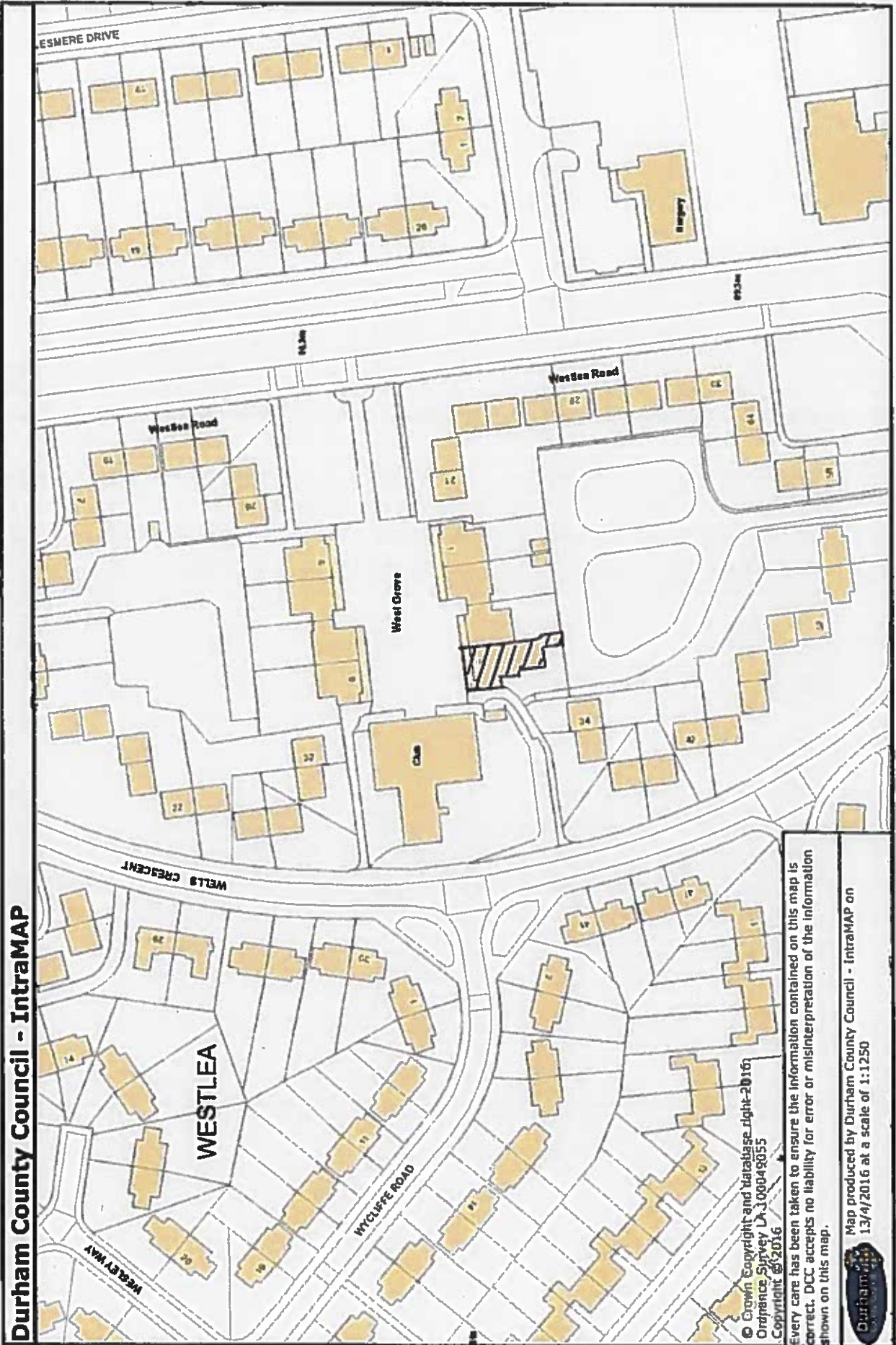
INDICATES PUBLIC AREA OF THE SHOP AND POINT OF SALE OF INDICATING AVOID - ONLY ONE LICENSED ACTIVITY

ESCAPE ROUTES

<b>Firm Name and Address:</b> Media Associates 19a Herrington Terrace Durham Rd Bridley Chester-Le-Street DH3 2QG Tel: 0191 4922356	<b>Project Name and Address:</b> WestLeas Food Stores West Leas West Grove Skelton SK7 8EL 0191 5812473	<b>Scale:</b> 1:100 — N	<b>Survey Date and Revision:</b> 20.05.05 Revision 1
<b>Comments:</b> Surveyed and Drawn by: HAFSB			

## APPENDIX 2 – PLAN

**Durham County Council - IntraMAP**



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Ordnance Survey, LA100045055  
Copyright © 2016  
Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on  
13/4/2016 at a scale of 1:1250





**APPENDIX 3 – REVIEW APPLICATION**

**Application for the review of a premises licence or club premises certificate under the Licensing Act 2003**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I Durham County Council - Local Weights and Measures Authority  
(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> WESTLEA FOODSTORE 4 West Grove SEAHAM	
<b>Post town</b> Seaham	<b>Post code (if known)</b> SR7 8EL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>		
S	MENDONCA and A	PINTO

<b>Number of premises licence or club premises certificate (if known)</b> DOEP132
--

**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal  
address if  
different from  
premises  
address

Post town

Post Code

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Durham County Council Environment, Health & Consumer Protection Annand House PO Box 617 Durham DH1 9HZ  Contact: Chris Cooper, Safety & Metrology Manager
Telephone number (if any)
E-mail address (optional)

**This application to review relates to the following licensing objective(s)**

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

<p><b>Please state the ground(s) for review (please read guidance note 1)</b> See attached Grounds</p>
--

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

See attached Grounds for Review

Please tick yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--	--	--

If you have made representations before relating to this premises please state what they were and when you made them

n/a

Please tick yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures (please read guidance note 3)**

**Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 7/3/11

.....

Capacity Safety & Metrology Manager

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

Durham County Council  
Environment, Health & Consumer Protection  
Annand House  
PO Box 617

**Post town**

Durham

**Post Code**

DH19HZ

**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**Notes for Guidance**

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

GROUNDS FOR REVIEW

1. The applicant is seeking a review of the Premises Licence for Westlea Foodstore, 4 West Grove, Seaham, County Durham as it is an appropriate course of action to address concerns relating to the prevention of crime and disorder and protection of children from harm objectives of the Licencing Act, 2003.
2. The holder of the Premises Licence and the DPS (Designated Premises Supervisor) is Mr S Mendonca. Mr Mendonca holds a personal licence issued to him by Sunderland Borough Council.
3. Evidence obtained by the Applicant shows that this premise sold alcohol to an underage person contrary to section 146(1) of the Licencing Act, 2003, on three occasions.
4. On 24<sup>th</sup> July 2015, Durham Trading Standards received intelligence from Durham Constabulary that this premise was possibly selling alcohol to young people under the age of eighteen.
5. On 3<sup>rd</sup> September, 2015, Durham Trading Standards, assisted by Durham Constabulary, carried out a test purchase exercise into the sale of alcohol to under age youths using a 15 year old volunteer (Operation Destiny). The 15 year old child was given instructions to enter the premises and attempt to buy a bottle of wine, along with some sundries. The Child volunteer selected a bottle of wine and approached the counter. The child was sold the alcohol by Sales Assistant A Pinto. The sale was recorded on Covert Camera. At the time of the sale there was no one else present in the shop.
6. Graham Blount and PCSO 7486 Haigh entered the premises and spoke to Mr. Pinto. He was cautioned and questioned regarding the sale of alcohol to a person under the age of eighteen. During the questioning he admitted he had received no training regarding under age sales. He was then issued with a fixed penalty notice by PCSO Haigh.
7. The premises Licence Holder, Mr. S Mendonca arrived at this point and was made aware of the sale, during the discussion Mr. Mendonca explained he had recently taken on the shop, and was about to undergo his personal licence training. At that time licencing records recorded that a [redacted] was Premises Licence Holder, and that [redacted] was the Designated Premises Supervisor, neither was contactable.
8. On 8<sup>th</sup> January, 2016 Durham Trading Standards, assisted by Durham Constabulary, carried out two further test purchases for alcohol again using a 15 year old volunteer (Operation Firebird). The 15 year old child volunteer was again tasked to enter the premises and attempt to buy alcohol. In both cases the volunteer selected 4 cans of Guinness and approached the counter. Both times the volunteer was sold the alcohol by the premises Licence Holder, S Mendonca. Before the first sale, Mr Mendonca ask the volunteer for a form of identity, when the volunteer stated he didn't have it



PROTECT

with him, Mr Mendonca served the volunteer. At this point it was decided to send the volunteer back into the shop a short while later. In both cases the sales were recorded on covert camera. At the time of the first sale there was no one else present in the shop.

9. Attempts were made to view the CCTV footage of the sales but the CCTV system was faulty and whilst images could be viewed 'live' nothing was being recorded.
10. Mr Mendonca was then cautioned and interviewed by PCSO Haigh and Mr. Blount, during the interview Mr. Mendonca admitted to drinking during the evening. He was advised that he would be reported for the matter.
11. On 3<sup>rd</sup> February, 2016, The Premises Licence Holder Mr. S Mendonca was invited to be interviewed under caution by Mr. Blount, to date he has not attended.
12. Since the 8<sup>th</sup> January, 2016 Durham Constabulary and Durham Trading Standards have continued to receive complaints and intelligence regarding under age sales from the premises.
13. A statement has been taken from a Mrs \_\_\_\_\_, whose 14 year old daughter managed to purchase enough cider to get very drunk on Friday 5<sup>th</sup> February, 2016.
14. Whilst it is for the Licensing Authority to determine the appropriate course of action, the Applicant would ask the Authority to revoke the premises licence as the most appropriate action to promote the licensing objectives.

PROTECT



## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
 Granted  
 Issued

DOEP132
24 November 2005
27 October 2015

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>WESTLEA FOODSTORE</b> 4 WEST GROVE SEAHAM SR7 8EL	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
---

<b>Licensable activities authorised by this licence</b> Sale by Retail of Alcohol
--

<b>The opening hours of the premises (all times in 24hr format)</b>		
Monday	Not Stated	<b>Non standard/seasonal timings:</b> N/A
Tuesday	Not Stated	
Wednesday	Not Stated	
Thursday	Not Stated	
Friday	Not Stated	
Saturday	Not Stated	
Sunday	Not Stated	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales</b> OFF ALCOHOL SALES ONLY
---

The times the licence authorises the carrying out of licensable activities (all in 24hr format)

<b>Sale by retail of alcohol</b>		
Off Sales Only		
Monday	08:00 - 23:00	Further details
Tuesday	08:00 - 23:00	N/A
Wednesday	08:00 - 23:00	
Thursday	08:00 - 23:00	Non standard/seasonal timings:
Friday	08:00 - 23:00	Good Friday: 08:00 - 22:30
Saturday	08:00 - 23:00	
Sunday	10:00 - 22:30	Christmas Day: 12:00 - 15:00 and 19:00 - 22:30

Part 2

<b>Name, (registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR S MENDONCA WESTLEA CONVENIENCE STORE 4 WEST GROVE SEAHAM SR7 8EL	A PINTO WESTLEA CONVENIENCE STORE 4 WEST GROVE SEAHAM SR7 8EL

<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
MR S MENDONCA

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>

**Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol -

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-

- (a) a holographic mark, or
- (b) an ultraviolet feature.

#### Minimum Price of Alcohol:

1 A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2 For the purposes of the condition:

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3 Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

This Premises Licence has been granted upon conversion under schedule 8 of the Licensing Act 2003 of the previous Justices' On Licence, and such rights and restrictions that applied to such Licence are hereby incorporated into this Premises Licence, subject to any express terms to the contrary hereinafter specified, and/or any restriction applying to a Premises Licence and/or any licensable activity.

**Annex 2 – Conditions consistent with the premises Operating Schedule**

**General**

Ensure that the laws regarding the sale of alcohol are strictly adhered to, i.e. that alcohol is sold in sealed containers. The sale of alcohol and tobacco products is restricted to over 18's.

**The Prevention of Crime & Disorder**

Staff are constantly on the alert to criminal activity. ID is requested off anyone suspected of being under age regarding the sale of alcohol/tobacco products. Notices are posted to this effect. CCTV is installed.

**Public Safety**

All aisles are clean and clear of encumbrance. Health & Safety and Fire regulations are adhered to. Fire and first aid equipment are in place. We are aware of the dangers of overcrowding and do not allow it.

**The Prevention of Public Nuisance**

We do not allow groups of people to congregate outside the premises. We refuse the sale of alcohol to obviously inebriated people. Customers are asked not to consume alcohol purchased outside the premises.

**The Protection of Children from Harm**

We ensure that young children are accompanied whilst on the premises

**Annex 3 – Conditions attached after a hearing by the licensing authority**

None

**Annex 4 – Plans attached**

Attached

**Signature of Authorised Officer**  
**Head of Environment, Health and Consumer Protection**



## LICENSING ACT 2003 PREMISES LICENCE SUMMARY

Premises Licence Number  
 Granted  
 Issued

DOEP132
24 November 2005
27 October 2015

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>WESTLEA FOODSTORE</b> 4 WEST GROVE SEAHAM SR7 8EL	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
---

<b>Licensable activities authorised by this licence</b> Sale by Retail of Alcohol
--

<b>The opening hours of the premises (all times in 24hr format)</b>		
Monday	Not Stated	<b>Non standard/seasonal timings:</b> N/A
Tuesday	Not Stated	
Wednesday	Not Stated	
Thursday	Not Stated	
Friday	Not Stated	
Saturday	Not Stated	
Sunday	Not Stated	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales</b> OFF ALCOHOL SALES ONLY
---

**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

<b>Sale by retail of alcohol</b> Off Sales Only		
Monday	08:00 - 23:00	<b>Further details</b> N/A
Tuesday	08:00 - 23:00	
Wednesday	08:00 - 23:00	<b>Non standard/seasonal timings:</b> Good Friday: 08:00 - 22:30
Thursday	08:00 - 23:00	
Friday	08:00 - 23:00	
Saturday	08:00 - 23:00	
Sunday	10:00 - 22:30	
<b>Christmas Day: 12:00 - 15:00 and 19:00 - 22:30</b>		

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

MR S MENDONCA  
WESTLEA CONVENIENCE STORE  
4 WEST GROVE  
SEAHAM  
SR7 8EL

A PINTO  
WESTLEA CONVENIENCE STORE  
4 WEST GROVE  
SEAHAM  
SR7 8EL

**Registered number of holder, for example company number, charity number (where applicable)**

Company no: N/A

Charity no: N/A

**Name of designated premises supervisor where the premises licence authorises the sale by retail of alcohol**

MR S MENDONCA

**State whether access to the premises by children is restricted or prohibited**

WE ENSURE THAT YOUNG CHILDREN ARE ACCOMPANIED WHILST ON THE PREMISES

**Signature of Authorised Officer**  
**Head of Environment, Health and Consumer Protection**

**DURHAM COUNTY COUNCIL – CONSUMER PROTECTION  
ENVIRONMENT, HEALTH & CONSUMER PROTECTION**

**STATEMENT OF WITNESS**

(Criminal Procedure Rules, r6.2; Criminal Justice Act 1967, s.9)

**STATEMENT OF:** Graham John Blount  
**AGE:** (if over 18 enter "over 18"): over 18  
**OCCUPATION:** Senior Trading Standards Officer  
**ADDRESS:** C/O EHCP (Trading Standards) PO Box 617,  
Durham, DH1 9HZ

This statement consisting of 3 page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the .....1..... day of *MARCH* ..... 2016

Signed ....

I am a Senior Trading Standards Officer employed by Durham County Councils Trading Standards Service in the Safety & Metrology Team. I hold the Diploma in Trading Standards awarded in 1992. I am currently qualified as a Trading Standards Practitioner through the Chartered Institute of Trading Standards. I am an Authorised Officer under the Licensing Act, 2003.

On 3<sup>rd</sup> September, 2015 I was employed on Operation Destiny an Underage test purchase exercise that was targeting off licences within the County. I was accompanied by PCSO 7486 Martin Haigh, and PCSO Helen Robson of Durham Constabulary. All the premises targeted during that exercise had been identified through complaints from the public or intelligence received that they were selling alcohol to underage youths.

At 1356 hours on the 3<sup>rd</sup> September, 2015, accompanied by PCSO 7486 Martin Haigh, and PCSO Helen Robson of Durham Constabulary I tasked the underage volunteer to enter Westlea Foodstore, 4 West Grove, Seaham and attempt to purchase some alcohol. I then witnessed the volunteer enter the

Signed: ....

Statement Taken by: .....



premises and a short time later she emerged carrying a bottle of wine. The transaction was recorded on covert surveillance camera and I now produce the footage from that camera as Exhibit GJB/1.

I then accompanied PCSO 7486 Martin Haigh back into the premises where I spoke to and Asian male approximately 5' 6" tall, with short black hair who I now know to be A . Pinto.

Whilst PCSO Haigh was issuing a fixed penalty notice to Mr. Pinto, another man arrived, who identified himself as S Mendonca, the Premises Licence Holder. I explained that Mr. Pinto had served alcohol to and underage volunteer and asked to see the refusals register, one couldn't be produced at the time.

PCSO Haigh then spoke at length to Mr. Mendonca and we left the premises approximately 30 minutes later.

After receiving further intelligence regarding underage sales it was decided to revisit Westlea Foodstore, and it was visited during an Authorised Covert Surveillance Operation, Operation Firebird. Operation Firebird was another Underage Sales Test Purchasing exercise. The exercise took place on Friday 8th January, 2016. I was accompanied by PCSO 7486 Martin Haigh, Paul Smith, a Technical Assistant with Durham Trading Standards and an underage volunteer.

At approximately 1742 hours I instructed our underage volunteer to enter Westlea Foodstores and attempt to purchase alcohol. I watched the volunteer enter the premises and emerge a short time later carrying 4 cans of Guinness. I took the cans from the volunteer and placed them in a secure evidence storage bag and labelled them as GJB/1/WESTLEA/8116. The transaction was recorded via a covert camera, and I now produce the footage of that transaction as GJB/3.

**Signed: ...** .....

Statement Taken by: .....

At 2003 Hours I again tasked the same volunteer to enter the premises and again attempt to purchase alcohol. I again watched the volunteer enter the premises, and a short while later the volunteer emerged holding 4 more cans of Guinness. I now produce those cans as Exhibit GJB/2/WESTLEA/8116. Again the transaction was recorded on a covert camera. I now produce the footage of the second transaction as exhibit GJB/4.

I then accompanied PCSO Haigh into the premises and saw S Mendonca walk from the rear of the shop. PCSO Haigh and I identified myself and I explained the reason for our visit. PCSO Haigh Cautioned Mr. Mendonca and interviewed him regarding the sales. We then left the premises and I returned the exhibits to secure storage at Meadowfield.

**Signed: .....**

Statement Taken by: .....

**WITNESS STATEMENT**

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: PCSO Martin Haigh

Age if under 18: (if over 18 insert 'over 18')

Occupation: Specialist Licensing PCSO 7486

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: (witness)

Date: 15/01/16.

I am a serving Police Community Support Officer within Durham Constabulary working from the Alcohol Harm Reduction Unit, Meadowfield, Durham.

On Thursday 3 September 2015, I was in full uniform working on Operation Destiny, a joint 'Test Purchase' operation with the Alcohol Harm Reduction Unit and Durham County Council Trading Standards.

At 14:00hrs a 15year old child volunteer entered West Lea Stores, 4 West Grove, Seaham and proceeded to purchase a bottle of Kumala Rose Wine, ABV of 13.5% priced at £5.99, in contrary to Section 146(1) of the Licensing Act 2003, from a male member of staff.

After the purchase I attended the shop with Graham Blount, Trading Standards and spoke to the male member of staff, who I now know to be Mr A PINTO, and informed him that during Test Purchase Operation Destiny he had sold alcohol to a person under 18 contrary to Section 146(1) of the Licensing Act 2003 notably a bottle of Kumala Rose Wine, ABV of 13.5% priced at £5.99. PINTO stated that he remembered the sale and confirmed that he never asked for any form of identification before authorising the sale.

At 14:21hrs I cautioned PINTO and he informed, me at this point, that he understood the caution. I issued Fixed Penalty Notice 011803-8013947-7-18, for the offence of 'Sale of Alcohol Anywhere to a Person Under 18', contrary to S146 (1) of Licensing Act 2003 which he signed and accepted. It was explained to PINTO that he could, within 21 days, either pay the notice or request the matter be dealt with via the court and this could be done by completing either PART 2 or PART 3 at the bottom of the notice. If he failed to do this within the 21 days the fine would increase by one and a half times, it would be registered with the court against him and he may be charged with the relevant offence

Signature :

Signature Witnessed by:

<b>Witness contact details</b>	URN				
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Name of witness:  
 Home Address: Postcode:  
 E-mail address: Mobile:  
 Home Telephone Number: Work Telephone Number:  
 Preferred means of contact (*specify details for vulnerable/intimidated victims and witnesses only*):  
 Gender: Date and place of birth:  
 Former name: Ethnicity Code (16 + 1):

**DATES OF WITNESS NON-AVAILABILITY:**

**Witness care**

- a) Is the witness willing to attend court? If 'No', include reason(s) on form MG6.
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? (*youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case*) If 'Yes' submit MG2 with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? If 'Yes' what are they? (*Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?*)

**Witness Consent (for witness completion)**

- a) The Victim Personal Statement scheme (*victims only*) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet "Giving a witness statement to the police..." Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter (*obtained in accordance with local practice*) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA Yes  No  N/A
- g) **Child witness cases only.** I have had the provision regarding reporting restrictions explained to me. Yes  No  N/A
- I would like CPS to apply for reporting restrictions on my behalf. Yes  No  N/A

*'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court.'*

Signature of witness: PRINT NAME:

Signature of parent/guardian/appropriate adult: PRINT NAME:

Address and telephone number (of parent etc.), if different from above:

Statement taken by Station:

Time and place statement taken:

**WITNESS STATEMENT**

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: PCSO Martin Haigh

Age if under 18: (if over 18 insert 'over 18')

Occupation: Specialist Licensing PCSO 7486

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature (witness)

Date:

I am a serving Police Community Support Officer within Durham Constabulary working from the Alcohol Harm Reduction Unit, Meadowfield, Durham.

On Friday 8 January 2016, I was in full uniform working on Operation Firebird, a joint 'Test Purchase' operation with the Alcohol Harm Reduction Unit and Durham County Council Trading Standards .

At 17:43hrs and then again at 20:12hrs a 15year old child volunteer entered West Lea Stores, 4 West Grove, Seaham and proceeded to purchase 4 cans of Guinness priced at £4.69, in contrary to Section 146(1) of the Licensing Act 2003, from a male member of staff.

After the second purchase at 20:12hrs I attended the shop with Graham Blount, Trading Standards and spoke to the male member of staff, who I now know to be Mr S MENDONCA, dob

, ha

I informed him that during Test Purchase

Operation Firebird he had sold alcohol to a person under 18 contrary to Section 146(1) of the Licensing Act 2003 notably 4 cans of Guinness priced at £4.69. MENDONCA stated that he remembered both the sales, as he was the only member of staff working that night, and he confirmed that he never gained any form of proof of age identification before authorising the sales.

MENDONCA confirmed that he is both the Premises Licence Holder and Designated Premises Supervisor at Westlea Stores.

MENDONCAS was asked to provide CCTV images of both the sales however, he stated that he was unable to do so as the CCTV system was not recording images. It was explained to MENDONCA that this was contrary to the conditions of his Premises Licence and that the system needed to be fixed.

Whilst speaking to MENDONCA it was noticeable that he smelt of intoxicants (alcohol) and his demeanour gave credence to him being in an intoxicated state. Two cans of Polish lager were located within the store, both of which had been opened (one empty and one half full). MENDONCA confirmed that had been drinking alcohol within the store and confirmed that he had been drinking the Polish lager.

Signature!

Signature Witnessed by:

<u>Witness contact details</u>		URN			
Name of witness:					
Home Address:				Postcode:	
E-mail address:				Mobile:	
Home Telephone Number:				Work Telephone Number:	
Preferred means of contact <i>(specify details for vulnerable/intimidated victims and witnesses only)</i> :					
Gender:				Date and place of birth:	
Former name:				Ethnicity Code (16 + 1):	
<b>DATES OF WITNESS NON-AVAILABILITY:</b>					
<u>Witness care</u>					
a)	Is the witness willing to attend court?	If 'No', include reason(s) on form MG6.			
b)	What can be done to ensure attendance?				
c)	Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <i>(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)</i> If 'Yes' submit MG2 with file in anticipated not guilty, contested or indictable only cases.				
d)	Does the witness have any particular needs? If 'Yes' what are they? <i>(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)</i> .				
<u>Witness Consent (for witness completion)</u>					
a)	The Victim Personal Statement scheme (victims only) has been explained to me	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
b)	I have been given the Victim Personal Statement leaflet	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
c)	I have been given the leaflet "Giving a witness statement to the police..."	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
d)	I consent to police having access to my medical record(s) in relation to this matter <i>(obtained in accordance with local practice)</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
e)	I consent to my medical record in relation to this matter being disclosed to the defence	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
g)	Child witness cases only. I have had the provision regarding reporting restrictions explained to me.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
	I would like CPS to apply for reporting restrictions on my behalf.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>	
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>					
Signature of witness:		PRINT NAME:			
Signature of parent/guardian/appropriate adult:		PRINT NAME:			
Address and telephone number (of parent etc.), if different from above:					

Statement taken by:

Station: MEADOWFIELD

Time and place statement taken:

**DURHAM COUNTY COUNCIL – CONSUMER PROTECTION  
ENVIRONMENT, HEALTH & CONSUMER PROTECTION**

**STATEMENT OF WITNESS**

(Criminal Procedure Rules, r6.2; Criminal Justice Act 1967, s.9)

**STATEMENT OF:**

**AGE:** (if over 18 enter "over 18"): over 18  
**OCCUPATION:** Housewife  
**ADDRESS:** C/O EHCP (Trading Standards) PO Box 617,  
Durham, DH1 9HZ

This statement consisting of 2 pages each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 7 day of MARCH 2016

Signed .....  
\_\_\_\_\_

I live in Seaham with my husband and daughters. On Friday 5th February, 2016 at approximately 6.00pm my 14 year old daughter left home to visit my Mother in a nearby street, which is approximately 10 minutes' walk away.

She arrived at her grandmothers at approximately 8.45pm and was so drunk she couldn't stand.

My mother rang me to tell me, and asked my eldest daughter who lives across the street from her to drive her home. When she got in she needed to be helped in and was sick several times. I laid her on the sofa and because she has epileptic fits I sat with her all night.

When she sobered up next morning I asked her where she had got the alcohol from. She said she had bought cider from Westlea stores as soon as she left the house.

On Sunday 7<sup>th</sup> February, 2016, I went into the shop and spoke to a man who I would describe as Asian, in his mid to late 30's with dark hair and a moustache. I asked him who was serving on Friday night, and he said he couldn't remember.

Signed: .....  
\_\_\_\_\_

Statement Taken by: .....

**STATEMENT OF:**

Continuation Sheet 1

I then told him whoever was selling on Friday night was selling alcohol to kids. He apologised and I left.

On Monday 8<sup>th</sup> February, 2016, at approximately 4.00pm, I was driving down Stockton Road, when I was stopped at the pedestrian crossing so a group of kids could cross, all of them came from the direction of Westlea Stores and were carrying light blue carrier bags like those used at Westlea Stores, I could see at least one had a bottle of vodka in. None of the kids looked old enough to be 18. I was so angry that I rang to Police.

**Signed: ....**

.....

Statement Taken by: .....



## **APPENDIX 4 – APPLICANT'S ADDITIONAL INFORMATION**

**PROTECT**

**ADDITIONAL INFORMATION**

1. Further to the review submitted by the applicant, regarding a review of the premises licence for Westlea Foodstore, 4 West Grove, Seaham, County Durham further information is now provided as follows;
2. On Tuesday 17<sup>th</sup> May 2016 as part of Operation Harpoon Durham Trading Standards assisted by Durham Constabulary, carried out a test purchase of the premises for sale of alcohol. A 16 year old volunteer was instructed to enter the premises and attempt to purchase a bottle of wine. The child volunteer selected a bottle of Blossom Hill White Wine and approached the counter. The child was sold the alcohol by Sales Assistant  
The sale was recorded on a covert camera.
3. Graham Blount and PCSO Robson entered the premises and spoke to  
regarding the sale. She explained she had only been working in the shop for a week. When asked about training she explained that she had been told to ask for identification from anyone who looked under 18.
4. Graham Blount and PCSO Haigh returned on Wednesday 18<sup>th</sup> May 2016 and again spoke to  
she was caution and questioned regarding the incident, again she stated the only training she had undergone was to ask for identification from anyone under the age of 18. She was then issued with a fixed penalty notice by PCSO Haigh.

**PROTECT**

**DURHAM COUNTY COUNCIL – CONSUMER PROTECTION  
ENVIRONMENT, HEALTH & CONSUMER PROTECTION**

**STATEMENT OF WITNESS**

(Criminal Procedure Rules, r6.2; Criminal Justice Act 1967, s.9)

**STATEMENT OF:** Graham John Blount  
**AGE:** (if over 18 enter "over 18"): over 18  
**OCCUPATION:** Senior Trading Standards Officer  
**ADDRESS:** C/O EHCP (Trading Standards) PO Box 617,  
Durham, DH1 9HZ

This statement consisting of 2 page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that if it is tendered in evidence I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 20 day of May 2016

Signed ...

I am a Senior Trading Standards Officer employed by Durham County Councils Trading Standards Service in the Safety & Metrology Team. I hold the Diploma in Trading Standards awarded in 1992. I am currently qualified as a Trading Standards Practitioner through the Chartered Institute of Trading Standards. I am an Authorised Officer under the Licensing Act, 2003.

Further to my statement dated 1<sup>st</sup> March, 2016 I wish to add the following to my statement.

On 17<sup>th</sup> May, 2016 I was employed on Operation Harpoon an Underage test purchase exercise that was targeting off licences within the County. I was accompanied by PCSO 6388 Helen Robson of Durham Constabulary, and Paul Smith a Technical assistant with the Service. The premises targeted during that exercise had been identified after previous sales of alcohol to underage youths, during a previous test purchase exercise.

At approximately 1436 hours on the 17<sup>th</sup> May 2016, I tasked the underage volunteer to enter Westlea Foodstore, 4 West Grove, Seaham and attempt to

Signed: ..

Statement Taken by: ..

**STATEMENT OF: Graham Blount**

Continuation Sheet 1

purchase some alcohol. I then witnessed the volunteer enter the premises and a short time later she emerged carrying a bottle of wine. The transaction was recorded on covert surveillance camera and I now produce the footage from that camera as Exhibit GJB/6.

I then accompanied PCSO Helen Robson back into the premises where I spoke to a tall white woman, with blond hair, who I now know to be

. I explained the reason for my visit and she admitted selling to the child volunteer. I explained I intended to deal with the matter via a fixed penalty notice which would be issued by a Police Officer the next day.

On Wednesday 18<sup>th</sup> May, 2016 I returned to the premises accompanied by PCSO 7486 Martin Haigh, and again spoke to PCSO Haigh and I left approximately 30 minutes later.

**Signed: ...** .....

Statement Taken by: .....

**DURHAM CONSTABULARY**  
**Witness Statement**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN

Statement of **Helen ROBSON 6388**

Age if under 18 *(if over 18 insert 'over 18')*

Occupation: **Licensing PCSO**

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

Signature:

Date: 19<sup>th</sup> May 2016

Tick if witness evidence is visually recorded  (supply details on rear)

I am a serving Police Community Support officer within Durham Constabulary working from the Alcohol Harm Reduction Unit, Meadowfield, Durham.

On Tuesday 17<sup>th</sup> May, 2016 I was assisting Graham Blount, a Senior Trading Standards Officer on Operation Harpoon, an underage sales test purchase exercise. At 14:37 hours I heard Graham Blount instruct the volunteer to enter Westlea Stores, West Grove, Seaham to attempt to purchase some alcohol.

The volunteer left the vehicle to the side of the premises. A short while later emerge holding a bottle of Wine. I then went back to the store with Graham Blount to inform the premises of a failed test purchase who I now know to be who admitted she had just sold the bottle of wine thinking she was 18 years admitted to only working at the premises for a week, She was informed that a fixed penalty notice would be issued the next day. **6588**

*Robson*

**CONFIDENTIAL**

Signature:

Signature witnessed by:

**WITNESS STATEMENT**

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: PCSO Martin Haigh

Age if under 18: (if over 18 insert 'over 18')

Occupation: Specialist Licensing PCSO 7486

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature (witness)

Date:

18/05/2016

I am a serving Police Community Support Officer within Durham Constabulary working from the Alcohol Harm Reduction Unit, Meadowfield, Durham.

On Tuesday 17 May 2016 a joint 'Test Purchase' operation (Harpoon) was carried out by members of the Alcohol Harm Reduction Unit and Durham County Council Trading Standards .

At 14:36hrs a 16year old child volunteer entered West Lea Stores, 4 West Grove, Seaham and proceeded to purchase a bottle of Blossom Hill White Wine priced at £5.99, in contrary to Section 146(1) of the Licensing Act 2003, from a female member of staff.

On Wednesday 18 May 2016 I attended the shop with Graham Blount, Trading Standards and spoke to the female member of staff, who I now know to be dob ,ha . I informed her that during Test Purchase Operation Harpoon she had sold alcohol to a person under 18 contrary to Section 146(1) of the Licensing Act 2003 notably a bottle of Blossom Hill White Wine priced at £5.99. stated that he remembered the sale and she confirmed that she never gained any form of proof of age identification before authorising the sale

At 11:18hrs I cautioned and she informed me at this point, that she understood the caution. I issued Fixed Penalty Notice 011803-8013655-9-18, for the offence of 'Sale of Alcohol Anywhere to a Person under 18', contrary to S146 (1) of Licensing Act 2003 which she signed and accepted. It was explained to that she could, within 21 days, either pay the notice or request the matter be dealt with via the court and this could be can be done by completing either PART 2 or PART 3 at the bottom of the notice. If she failed to do this within the 21 days the fine would increase by one and a half times. it would be registered with the court against her and she may be charged with the relevant offence

<u>Witness contact details</u>	URN			
Name of witness:				
Home Address:	Postcode:			
E-mail address:	Mobile:			
Home Telephone Number:	Work Telephone Number:			
Preferred means of contact <i>(specify details for vulnerable/intimidated victims and witnesses only)</i> :				
Gender:	Date and place of birth:			
Former name:	Ethnicity Code (16 + 1):			
<b>DATES OF WITNESS NON-AVAILABILITY:</b>				
<u>Witness care</u>				
a)	Is the witness willing to attend court?	If 'No', include reason(s) on form MG6.		
b)	What can be done to ensure attendance?			
c)	Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness? <i>(youth under 18; witness with mental disorder, learning or physical disability; or witness in fear of giving evidence or witness is the complainant in a sexual offence case)</i>	If 'Yes' submit MG2 with file in anticipated not guilty, contested or indictable only cases.		
d)	Does the witness have any particular needs?	If 'Yes' what are they? <i>(Disability, healthcare, childcare, transport, disability, language difficulties, visually impaired, restricted mobility or other concerns?)</i> .		
<u>Witness Consent (for witness completion)</u>				
a)	The Victim Personal Statement scheme (victims only) has been explained to me	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
b)	I have been given the Victim Personal Statement leaflet	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
c)	I have been given the leaflet "Giving a witness statement to the police..."	Yes <input type="checkbox"/>	No <input type="checkbox"/>	
d)	I consent to police having access to my medical record(s) in relation to this matter <i>(obtained in accordance with local practice)</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
e)	I consent to my medical record in relation to this matter being disclosed to the defence	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
f)	I consent to the statement being disclosed for the purposes of civil, or other proceedings if applicable, e.g. child care proceedings, CICA	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
g)	<b>Child witness cases only.</b> I have had the provision regarding reporting restrictions explained to me.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
	I would like CPS to apply for reporting restrictions on my behalf.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
<i>'I understand that the information recorded above will be passed on to the Witness Service, which offers help and support to witnesses pre-trial and at court'.</i>				
Signature of witness:		PRINT NAME:		
Signature of parent/guardian/appropriate adult:		PRINT NAME:		
Address and telephone number (of parent etc.), if different from above:				

Statement taken by:

Station:

Time and place statement taken:

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

NAME OF SUBJECT: [REDACTED]  
ADDRESS: [REDACTED]  
CITY: [REDACTED] STATE: [REDACTED] ZIP: [REDACTED]  
DATE OF BIRTH: [REDACTED]  
SEX: [REDACTED] RACE: [REDACTED]  
HAIR: [REDACTED] EYES: [REDACTED]  
HEIGHT: [REDACTED] WEIGHT: [REDACTED]  
EDUCATION: [REDACTED]  
OCCUPATION: [REDACTED]

REASON FOR SURVEILLANCE: [REDACTED]

CHARACTER OF SUBJECT: [REDACTED]

DATE OF SURVEILLANCE: [REDACTED]

REPORT MADE BY: [REDACTED]

DATE OF REPORT: [REDACTED]

APPROVED AND FORWARDED: [REDACTED]  
SPECIAL AGENT IN CHARGE

UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

NAME OF SUBJECT: [REDACTED]  
ADDRESS: [REDACTED]  
CITY: [REDACTED] STATE: [REDACTED] ZIP: [REDACTED]  
DATE OF BIRTH: [REDACTED]  
SEX: [REDACTED] RACE: [REDACTED]  
HAIR: [REDACTED] EYES: [REDACTED]  
HEIGHT: [REDACTED] WEIGHT: [REDACTED]  
EDUCATION: [REDACTED]  
OCCUPATION: [REDACTED]

REASON FOR SURVEILLANCE: [REDACTED]

CHARACTER OF SUBJECT: [REDACTED]

DATE OF SURVEILLANCE: [REDACTED]

REPORT MADE BY: [REDACTED]

DATE OF REPORT: [REDACTED]

APPROVED AND FORWARDED: [REDACTED]  
SPECIAL AGENT IN CHARGE



## **APPENDIX 5 - REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

Contact: Kirsty Wilkinson  
Direct Tel:  
Fax:  
email:



21 MAR 2016

18 March 2016

Licensing Team Leader  
Licensing Authority  
Annand House  
Meadowfield  
Durham DH7 8RS

Dear Licensing Authority

**Review of a premises licence – Westlea Foodstores, Seaham**

I am in receipt of the review of Westlea Foodstores, Seaham submitted by Durham County Council Trading Standards, and write to confirm my support for the review.

I am concerned at the ease at which young people appear to have been supplied with alcohol by the store in question, on more than one occasion. Underage drinking is a particular concern to public health, as well as the local community in Seaham. According to our latest alcohol harm reduction performance report (2015-16 Qtr 3) 42.7% of people perceive underage drinking and sale of alcohol to youths as a problem in the Seaham area.

In addition, on a site visit to the premise, a public health officer was able to identify the sales of single cans and bottles of alcohol including high strength lager in single cans. The sale of single cans and bottles makes alcohol much more accessible and affordable for people under the age of 18. There was also a considerable amount of shelf-space given over within the store to alcohol, as well as large packets of sweets being dispersed in amongst the shelves of alcohol.

I am also concerned that people without adequate training and authorisation are able to sell alcohol. Lack of training makes it much easier for alcohol to fall into the hands of those under age either by direct or proxy sales.

Yours sincerely

**Anna Lynch**  
**Director of Public Health, County Durham**

**Children and Adults Services**  
Durham County Council, County Hall, Durham DH1 5UJ  
Main Telephone 03000 260 000 Textphone 0191 383 3802 Text 07786 02 69 56



# Durham Constabulary



*Altogether Better Policing*

Harm Reduction Unit  
Annand House  
John Street North  
Meadowfield  
Co Durham  
DH7 8RS

30<sup>th</sup> March 2016

Dear Licensing Authority

**Review of a premises licence – Westlea Stores, 4 West Grove, Seaham, SR7 8EL**

I am in receipt of the review for Westlea Stores, Seaham submitted by Durham County Council Trading Standards and write to confirm my support for Trading Standards in their review. I attach the "Grounds for Representations".

Yours Faithfully

pp PCSO 7486 Martin Haigh

Enc



facebook

[www.durham.police.uk](http://www.durham.police.uk)

twitter



PROTECT



### GROUNDS FOR REPRESENTATIONS

1. Durham Constabulary have, as a Relevant Authority, received the application submitted by Durham County Council's Trading Standards to review the Premises Licence for Westlea Stores, 4 West Grove, Seaham, SR7 8EL. The current Premises Licence Holders (PLH) are S MENDONCA, dob , ha and A J PINTO, dob , ha MENDONCA is also the present Designated Premises Supervisor (DPS)
2. Durham Constabulary would like to make representations regarding this application on the grounds of the Protection of Children from Harm and the Prevention of Crime & Dis-order. Durham Constabulary has serious concerns as to the management of the premises and the failure of three test purchases
3. On Friday 1 May 2015 Durham Constabulary made a general visit to Westlea Stores where a , dob was spoken to. indicated that he lived above the store and that he worked for the owner , dob , ha . A copy of the Premises Licence was on show and this showed that the PLH at this time was R K J , and the DPS was H S . When asked, stated that both J and S no longer had anything to do with the shop and that D only attended the store occasionally. Further checks were made with Durham County Council's Licensing Team with regard to the official PLH and DPS.
4. On Thursday 7 May 2015 Durham Constabulary made a further visit to Westlea Stores to discuss the Harm Reduction Unit's concerns regarding the current situation with the PLH and DPS. On arrival a , dob , ha

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was spoken to who stated that he was working in the store for P D . On request, a phone call was made to D who stated that he had sold the lease of the shop to a D P , on Sunday 26 April 2015. He confirmed that he had purchased the lease in December 2013 from R K J and that it was his understanding that J was still the PLH and that H S was still the DPS. D also stated that he had never met the DPS whilst he had owned the store and that the DPS had never been to the store during this time. Due to this information, supervision within the Harm Reduction Unit confirmed that as the Designated Premises Supervisor had not authorised any sale of alcohol since December 2013 the Premises was in breach of the Premises Licence and that no alcohol could be sold.

was instructed that if further sales of alcohol were made the premises would be in breach of S136 of the Licensing Act 2003 (a person commits an offence if he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation or he knowingly allows a licensable activity to be carried out) and that all sales of alcohol should cease immediately. stated that he understood the instruction and sales of alcohol would stop

5. On Wednesday 20 May 2015 Durham County Council received an application to vary the DPS from H S to R K J . The application was accepted allowing sales of alcohol to resume.
6. On Saturday 23 May 2015 Durham Constabulary made a further visit to the premises. Present in the store was , dob , ha stated that he was in the process of buying the store from P D
7. On Tuesday 7 July 2015 Durham Constabulary received intelligence that 'the proprietors of the store are selling alcohol to underage children'. The intelligence also stated that 'whiskey and spirits were also being sold to local youths'.
8. On Thursday 30 July 2015 Durham Constabulary received further intelligence that sales of alcohol were being made to underage

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children at Westlea Stores and that '14 year olds have been coming out of the store with alcohol'.

9. On Thursday 3 September 2015 Durham Constabulary and Durham County Council's Trading Standards carried out a test purchase at Westlea Stores (Operation Destiny). During this test purchase a male member of staff sold a bottle of Kumala Rose Wine, ABV 13.5% priced at £5.99 to the child volunteer. This male was identified as A J PINTO, dob [redacted]. Also present was S MENDONCA, dob [redacted], ha [redacted] who indicated that he was the new owner of the lease for the premises. MENDONCA confirmed that he was not the PLH or DPS and that R K J remained in these two positions. Due to the on-going concerns surrounding the authorising of sales of alcohol at the store MENDONCA was instructed to apply for a DPS variation within 14 days.
10. On Monday 28 September Durham County Council received an application to vary the DPS to S MENDONCA and to transfer the Premises Licence to MENDONCA and A J PINTO. Durham Constabulary did not object to this application.
11. On Friday 9 October 2015 Durham Constabulary received intelligence that sales of alcohol were being made to underage children. The intelligence highlighted that two 13year old girls had been served alcohol.
12. On Friday 8 January Durham Constabulary and Durham County Council's Trading Standards carried out two test purchases at Westlea Stores (Operation Firebird). These test purchases took place at approximately 17:43hrs and 20:12hrs. On both occasions a male member of staff sold 4 cans of Guinness to the 15year old child volunteer. The male member of staff was identified as S MENDONCA, the Premises License Holder (jointly held) and Designated Premises Supervisor.
13. MENDONCAS was asked to provide CCTV images of both the sales however he stated that he was unable to do so as the CCTV system was not recording images. It was explained to MENDONCA that this

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was contrary to the conditions of his Premises Licence and that the system needed to be fixed. Whilst speaking to MENDONCA it was noticeable that he smelt of intoxicants (alcohol) and his demeanour gave credence to him being in an intoxicated state. Two cans of Polish lager were located within the store, both of which had been opened (one empty and one half full). MENDONCA confirmed that had been drinking alcohol within the store and confirmed that he had been drinking the Polish lager

14. On Monday 1 February 2016 Durham Constabulary received intelligence that sales of alcohol were being made to underage children. Further intelligence was received on Thursday 4 February 2016 and Sunday 7 February 2016 highlighting continuing concerns from members of the public that the store was selling alcohol to underage children
15. On Tuesday 9 February 2016 Durham Constabulary visited Westlea Stores to complete a general licensing check. During the visit S [REDACTED] MENDONCA (PLH / DPS) was asked to show the CCTV system in operation. MENDONCA admitted that he did not know how to use the system and signed a Pocket Note Book Entry to confirm this. MENDONCA was informed that within 14 days he must have received training in the systems use
16. S [REDACTED] MENDONCA contacted the Harm Reduction Unit within the 14 day period to confirm that he had received training in the CCTV systems use
17. Whilst it is for the Licensing Authority to determine the appropriate action to promote the licensing objectives, Durham Constabulary would support the applicants request in seeking the revocation of the Premises Licence for Westlea Stores, 4 West Grove, Seaham, SR7 8EL

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22 September 2010

PLH: R

DPS: H

1 May 2015

Licensing visit by Martin Haigh.

M [redacted] was found to be working in the shop. Premises licence on display. M [redacted] P [redacted] claimed to be working for the owner, who he named as P [redacted]. D [redacted] M [redacted] P [redacted] claimed to have no knowledge of [redacted] or [redacted].

7 May 2015

Licensing visit by Martin Haigh

K [redacted] P [redacted] working in the shop (no relation to M [redacted]). [redacted] again claims to be working for D [redacted]. Informed by Martin that with no DPS in place they should not be selling alcohol.

R [redacted]

Personal Licence: OOCMPER 1562

M [redacted] P [redacted]

P [redacted] D [redacted]

[redacted]



14 May 2015

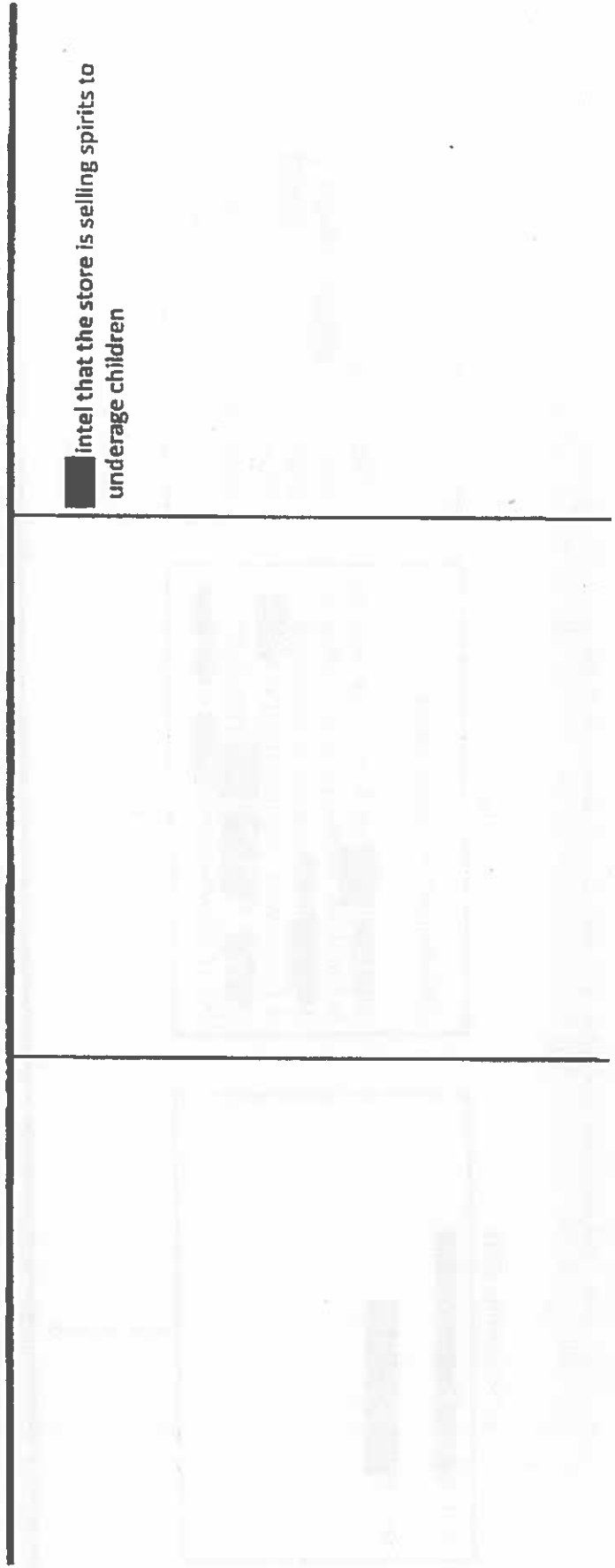
DPS variation for the removal of [REDACTED].  
R [REDACTED] became DPS  
(already PLH).

23 May 2015

Licensing visit by Martin Haigh  
R [REDACTED] K [REDACTED] P [REDACTED] spoken to and states  
he's in the process of buying the  
premises.

7 July 2015

INTEL [REDACTED]  
Underage sales



25 September 2015

INTEL [REDACTED]  
Underage sales



[REDACTED] Reports that the corner shop on Westlea Road is selling alcohol to underage children. Name of the store not known but it is the only store in the street.  
Persons aged 14yrs have been coming out of the store with alcohol.

3 September 2015

DCC Trading Standards lead on TP operation.



Premises fails TP.  
A [REDACTED] PINTO [REDACTED] sells a bottle of wine to a child volunteer.  
S [REDACTED] MENDONCA [REDACTED] identified himself as the premises owner.

25 September 2015

PLH transfer to S [REDACTED] MENDONCA and A [REDACTED] PINTO.



MENDONCA and PINTO are business partners.  
S [REDACTED] MENDONCA [REDACTED]  
Personal Licence OOC MPER 02710  
A [REDACTED] PINTO [REDACTED]

9 October 2015

INTEL [REDACTED]  
Underage sales



27 October 2015

DPS varied to S [REDACTED] MENDONCA



8 January 2016

DCC Trading Standards lead on TP operation.



[REDACTED]

[REDACTED]

Contact from local Town Councillor who has had 2 (two) x reports from persons wishing to remain anonymous that the off licence on West Grove, Westlea, Seaham (Westlea Stores) is selling alcohol to underage youths.

Premises fails 2 x TP in same day.

MENDONCA served x 2 and appeared to be drinking alcohol at the time.

CCTV was requested of these sales but not provided as it was not working.

1 February 2016

INTE [REDACTED]  
Underage Sales



[REDACTED]

Reports shop at Westlea in Seaham known as "The Grove" to locals is selling alcohol on a regular basis to underage children. The shop changes hands regularly which is how they have been getting away with it for so long. This has been witnessed for several weeks and heard that Police were already aware.

4 February 2016

INTE [REDACTED]  
Underage Sales



[REDACTED]

Westlea Stores, 4, West Grove, Seaham, SR78EL

Above premises are possibly selling alcohol to underage children approx 15 years old on a regular basis. Youths are coming in and out with alcohol or bags with bottles in which looks like alcohol.

7 February 2016

INTE [REDACTED]  
Underage Sales



[REDACTED]

Westlea Stores, 4, West Grove, Seaham, SR78EL

Owner of above is selling alcohol to underage persons

9 February 2016

Licensing visit by Helen Robson  
CCTV check conducted



S ■■■■■ MENDONCA spoken to and confirmed he couldn't operate the CCTV system. Asked to rectify the situation.  
This would constitute a breach of the licence conditions

18 February 2016

INTE ■■■■■  
Underage sales



■■■■■  
14yr old female discloses that she is purchasing alcohol from Westlea Stores

7 March 2016

Trading Standards make application to review Premises Licence



Police also made representations

25 April 2016

Application to transfer PLH and DPS  
PLH: Kuldeep SINGH  
DPS: [REDACTED] SINGH

Kuldeep SINGH [REDACTED]  
G [REDACTED] SINGH [REDACTED]

Personal Licence: OOC MPER 02173

G [REDACTED] SINGH is also DPS and PLH for G&M, Fox Street Seaham.

26 April 2016

Review hearing adjourned to allow background checks in to new DPS and PLH.

Application to vary DPS and PLH made just one day before

4 May 2016

Licensing visit  
Martin Haigh visits G&M, Fox Street as part of checks following G [REDACTED]

Several breaches of licence conditions were found:

There was no working CCTV system

There was no refusals register

There was no training record for the member of staff, in fact he had not had any training.

Working in the shop at the time of the visit was [REDACTED] he gave the same previous home address as Kuldeep SINGH [REDACTED]

5 May 2016

S [redacted] arrested whilst at work at G&M, Fox Street.  
Immigration offence – Overstay S24 Immigration Act 1971

7 June 2016

Review hearing adjourned

14 June 2016

UKBA visit Westlea Stores  
Arrested S [redacted]

UKBA confirm that [redacted] was removed to a detention centre awaiting his removal from the UK.

S [redacted] arrested for immigration offences whilst working behind the counter in Westlea Stores.

20 June 2016

Application to vary DPS to Kuldeep SINGH

Removal of G [REDACTED] SINGH as DPS and replaced with Kuldeep SINGH (PLH).

24 June 2016

Visit to Westlea stores and CCTV seized

CCTV System checked by Durham Constabulary Technical Support Unit and found to be no functioning correctly.  
Breach of licence conditions

30 June 2016

CCTV system returned to Westlea Store.

CCTV system returned to staff member K [REDACTED] F [REDACTED] who states he is working for the new owners. Kuldeep SINGH confirms he is in process of selling premises. No details of new owners provided.



**Westlea Foodstore, 4 West Grove, Seaham. SR7 8EL**

**Additional information from Durham Constabulary**

### WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

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Statement of: [REDACTED]

Age if under 18: (if over 18 insert 'over 18')

Occupation: Immigration Officer [REDACTED]

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] (witness) Date: 16/06/2016

I am an Immigration Officer (IO) for the Home Office and work as part of the Immigration and Enforcement Compliance Arrest Team, based at [REDACTED] Newcastle upon Tyne [REDACTED]

On Tuesday 14<sup>th</sup> June 2016, I was a member of the Arrest Team that visited Westlea Stores, 4a West Grove, Seabam SR7 8EL. We were acting on information that an Indian male named [REDACTED] born [REDACTED] was seen working there previously by Durham Constabulary. PSCO7486 Martin HAIGH of the Durham Constabulary Alcohol Harm Reduction Unit was also present during the visit.

The Officer in Charge, IO [REDACTED] advised that a possible trace had been made for [REDACTED] in Home Office records, suggesting that he may be an absconder.

I was allocated the role of External Cover with IO [REDACTED]. The other team members were IO [REDACTED] IO [REDACTED] IO [REDACTED] and IO [REDACTED]

We arrived at Westlea Stores at 08:30, when I took up position at the rear of the premises with IO [REDACTED]. At 08:35, I received a radio message from IO [REDACTED] advising that [REDACTED] had been encountered, and it was agreed that I would enter the premises to assist. I immediately entered the store, where IO [REDACTED] was already questioning the subject who I now know to be [REDACTED] born [REDACTED] in India. He was standing behind the counter and IO [REDACTED] was speaking with him from the opposite side. There was no sign of any other employees in the premises. IO [REDACTED] advised me that she had observed him serving a customer when she entered the store and that checks through the RAPID Identity scanner had confirmed him to be the suspected absconder from Home Office records. I then asked [REDACTED] some questions about his employment:

Q1: HOW LONG HAVE YOU WORKED HERE?

A1: ONE WEEK.

Q2: HAVE YOU WORKED HERE BEFORE THIS?

A2: I WAS WORKING IN COVENTRY.

At this point, IO [REDACTED] advised [REDACTED] that he had been seen working here in May.

Q3: SO, AS MY COLLEAGUE EXPLAINED, YOU WERE SEEN WORKING HERE IN MAY. WHEN DID YOU FIRST WORK HERE?

A3: ONE MONTH AGO.

Q4: HOW OFTEN DO YOU WORK?

A4: 2 TO 3 HOURS, MONDAY TO FRIDAY.

Q5: WHAT TIMES DO YOU WORK?

A5: ANY TIMES.

Q6: OUR INFORMATION SUGGESTS THAT YOU WORK BEFORE 9AM AND AFTER 4PM?

A6: I STARTED AT 8AM TODAY. I OPENED THE SHOP, BUT I DON'T DO THIS EVERY DAY.

Q7: HOW MANY DAYS DO YOU OPEN THE SHOP?

A7: NORMALLY 3 DAYS A WEEK.

Q8: SO WHEN YOU OPEN THE SHOP AT 8AM, WHEN DO YOU FINISH?

A8: AT 9AM, WHEN THE OWNER TAKES OVER.

Q9: WHO IS THE OWNER?

A9: KULDIP SINGH.

Q10: DID HE ASK TO SEE ANY DOCUMENTS BEFORE YOU STARTED WORKING FOR HIM?

A10: YES, BUT I DIDN'T SHOW THEM.

Q11: DO YOU HAVE AN EMPLOYMENT CONTRACT?

A11: NO.

Q12: HOW MUCH ARE YOU PAID?

A12: I DON'T WORK FOR MONEY.

Q13: HOW DO YOU SURVIVE WITHOUT MONEY?

A13: I HAVE MONEY FROM WHEN I WAS WORKING BEFORE.

At this point, IO [REDACTED] asked if he lived in the flat above the shop rent free and if he was able to take food and drink from the shop. He confirmed that this was the case.

Q14: IS IT ONLY YOU WORKING IN THE SHOP TODAY?

A14: YES.

Q15: YOU WERE SEEN SERVING A CUSTOMER?

A15: YES.

Q16: IS IT ONLY YOU WORKING IN THE SHOP ON OTHER DAYS WHEN YOU OPEN UP?

A16: YES.

Q17: WHAT IS YOUR JOB ROLE?

A17: SERVING CUSTOMERS. I AM ALWAYS BEHIND THE TILL.

Q18: DO YOU HAVE A CONTACT NUMBER FOR THE OWNER?

A18: YES.

At this point, [REDACTED] showed me the number in his phone - [REDACTED]

[REDACTED] then signed my notebook to show that I had made a correct record of our conversation

At 09:00, I arrested [REDACTED] under Schedule 2, Paragraph 17(1) of the Immigration Act 1971, as a person liable to detention for the purpose of removal from the United Kingdom, under Schedule 2, Paragraph 16(1) of the Immigration Act 1971. I advised [REDACTED] "OUR RECORDS SHOW THAT YOU HAVE NO LEGAL ENTITLEMENT TO REMAIN IN THE UNITED KINGDOM, THEREFORE I AM ARRESTING YOU AS A PERSON LIABLE TO DETENTION AND REMOVAL FROM THE UNITED KINGDOM. YOU WILL BE TAKEN TO A POLICE STATION, WHERE YOU WILL BE GIVEN FURTHER INFORMATION ABOUT WHAT WILL HAPPEN NEXT." He nodded, remaining calm and compliant, as he had been throughout. [REDACTED] English was good and there was no requirement for an interpreter.

IO [REDACTED] then searched [REDACTED] under the power of Schedule 2, Section 25B of the Immigration Act 1971.

At 09:05, I accompanied IO [redacted] who escorted [redacted] to the flat above the shop in the escort position, so that he could put on some shoes, as he was only wearing flip-flops. He obtained his shoes from the bedroom to the right hand side at the rear of the property.

At 09:10, I escorted [redacted] to our van in the escort position, via a back lane to the rear of the property. I was accompanied by IO [redacted] who proceeded to custody with [redacted]

At 09:15, I proceeded to assist with a search of the flat above the shop to look for a travel document for [redacted] under Section 25A, Schedule 2 of the Immigration Act 1971, followed by a search of Westlea Stores. The search was concluded at 10:05, with no document being located.

Signature: [redacted] ..... Signature witnessed by: [redacted] .....

**APPENDIX 6 –  
STATEMENT OF LICENSING POLICY**

## **7.0 The Prevention of Crime and Disorder**

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25',. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good

practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the premises in order to prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer

Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

## 10.0 Protection of Children from Harm

10.1 While the Act does not prohibit children from having free access to any licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting.

10.2 The Act makes it an offence for any child under the age of 16 who is not accompanied by an adult from being present:

- At any time on pub premises, or other premises being used exclusively or primarily for the supply of alcohol for consumption on those premises; or
- Between the hours of midnight and 05:00 hours on restaurant premises or other premises that supply alcohol for consumption on the premises
- The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

10.3 The Licensing Authority may consider the following when dealing with a licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations on under 18s
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four licensing objectives.

10.4 The Licensing Authority will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17 year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

10.5 The Licensing Authority is aware of young persons' vulnerability to alcohol and events which are aimed at children under the age of 18 years on licensed premises



will not be supported by the licensing authority unless the applicant can demonstrate that all safeguards for children have been addressed such as the removal of alcohol advertising.

10.6 The Licensing Authority, Durham Constabulary Alcohol Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the Licensing Authority and should be adhered to by licence holders and event organisers.

10.7 Recorded staff training programmes, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are to be encouraged.

10.8 The Licensing Authority commends the use of the 'Portman Group' Code of Practice on the naming, packaging and the promotion of alcoholic drinks in all licensed premises.

10.9 Access to Cinemas: In the case of premises requiring an licence to show films, applicants should include in the operating schedule arrangements for restricting access only to those children who meet the required age limit, in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Local Authority.

10.10 The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the Licensing Authority itself.

10.11 Should the Licensing Authority need to adopt its own system of film classification the information regarding such classifications will be published on the Local Authority's website.

10.12 Children and Public Entertainment: Many children go to see and / or take part in an entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises.

10.13 Where entertainment requiring a Licence is specifically presented for children, the Licensing Authority will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The Council will require those caring for or supervising children to have undergone an appropriate Criminal Record check with the Disclosure and Barring Service.

10.14 With regard to this Licensing Objective, the Licensing Authority considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All

safeguarding concerns identified as a result of premises, personal applications and all variations to licences are covered by this protocol.

10.15 Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications

## **22.0 Reviews**

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the review to enable others (responsible authorities or other persons) to comment on it.

Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the review, the premises licence holder or any other person who made relevant

representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

**APPENDIX 7 –  
SECTION 182 GUIDANCE**

## **S182 GUIDANCE – CRIME AND DISORDER**

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

## **S182 GUIDANCE – PROTECTION OF CHILDREN FROM HARM**

2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.



## Offences relating to the sale and supply of alcohol to children

2.31 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

**Table of relevant offences under the 2003 Act**

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 148 1	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

## S182 GUIDANCE- REVIEWS

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport

routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted

within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

### **Powers of a licensing authority on the determination of a review**

11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption) 10;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

### **Reviews arising in connection with crime**

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the

alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

### **Review of a premises licence following closure order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;

- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

### **Review of a premises licence following persistent sales of alcohol to children**

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

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