

## **Statutory Licensing Sub-Committee**

**2<sup>nd</sup> April 2019**

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



### **Ordinary Decision**

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#### **Report of Ian Thompson, Corporate Director of Regeneration and Local Services**

#### **Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships**

#### **Electoral division(s) affected:**

Annfield Plain

#### **Purpose of the Report**

- 1 The Sub-Committee is asked to consider and determine an application by Durham County Licensing Authority (Responsible Authority) to review the premises licence in respect of News and Booze 1 Catherine Terrace, New Kyo, Stanley, Co Durham DH9 7TP.
- 2 A plan showing the location of the premises is attached at Appendix 2.

#### **Executive summary**

3. On 12<sup>th</sup> February 2019, the Licensing Authority received the application from Durham County Council Licensing Authority asking for a review of the premises licence number DWTSPR0153 for News and Booze, 1 Catherine Terrace, New Kyo, Stanley, Co Durham DH9 7TP.
- 4 During the consultation period the Licensing Authority received five representations in support of the review application, namely Durham Constabulary, Durham County Council Environmental Health, Durham Local Safeguarding Children Board, Durham County Council Trading Standards and the Home Office Immigration Enforcement Team.
- 5 County Durham and Darlington Fire and Rescue Service responded to the consultation with no comments.

#### **Recommendation(s)**

- 6 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.

- 11 The review application by Durham County Council Licensing Authority was received by the Licensing Authority on 12<sup>th</sup> February 2019.
- 12 The application is deemed by the Licensing Authority to be relevant and the application was advertised in accordance with the regulations.
- 13 The application for review relates to the following licensing objectives:
  - The Prevention of Crime and Disorder
  - Public Safety
  - The Protection of Children from Harm
- 14 A copy of the application and supporting documents from Durham County Council Licensing Authority (Responsible Authority) are attached at Appendix 4.

### **The Representations**

- 15 During the consultation period the Licensing Authority received five representations in support of the review application, from Durham Constabulary, Durham County Council Environmental Health, Durham Local Safeguarding Children Board, Durham County Council Trading Standards and the Home Office Immigration Enforcement Team. Attached as Appendix 5.

County Durham and Darlington Fire and Rescue Service responded to the consultation with no comments. The response is attached at Appendix 6.

### **The Parties**

- 16 The Parties to the hearing will be:
  - Durham County Council Licensing Authority – Responsible Authority - (Applicant)
  - Mr Shadab Azam (Premises Licence holder)
  - Durham Constabulary (Responsible Authority)
  - Durham County Council Environmental Health (Responsible Authority)
  - Durham Local Safeguarding Children Board (Responsible Authority)

- Durham County Council Trading Standards (Responsible Authority)
- The Home Office Immigration Enforcement Team (Responsible Authority)

## **Options**

- 17 The options open to the Sub-Committee are:
- To take no further action;
  - To 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.

## **Main implications**

### *Legal Implications*

- 18 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

### *Consultation*

- 19 The review application was subject to a 28 day consultation.

See Appendix 1

## **Conclusion**

- 20 The Sub-Committee is asked to determine the application for the review of the premises licence for News and Booze, 1 Catherine Terrace, New Kyo, Stanley, Co Durham.

## **Background papers**

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

## Other useful documents

- None
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**Contact:** Karen Robson

Tel: 03000 265104

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## **Appendix 1: Implications**

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### **Legal Implications**

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

### **Consultation**

The premises licence review application was subject to a 28 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

The notice of application was displayed on the premises for a period of 28 days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 28 day consultation period.

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## Appendix 2: Location Plan

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## **Appendix 3: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

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

<b>DWTSPR0153</b>
<b>06 January 2006</b>
<b>21 January 2019</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>NEWS &amp; BOOZE</b> 1 CATHERINE TERRACE NEW KYO STANLEY DH9 7TP	DURHAM COUNTY COUNCIL REGENERATION & LOCAL SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</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>Non-standard/seasonal timings</b>
Mon	06:00-23:00	N/A
Tue	06:00-23:00	
Wed	06:00-23:00	
Thu	06:00-23:00	
Fri	06:00-23:00	
Sat	06:00-23:00	
Sun	06:00-23:00	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> OFF ALCOHOL SALES ONLY
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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>Further details</b>
Mon	08:00-23:00	<b>Non-standard/seasonal timings</b>
Tue	08:00-23:00	N/A
Wed	08:00-23:00	
Thu	08:00-23:00	
Fri	08:00-23:00	
Sat	08:00-23:00	
Sun	12:00-22:30	

**Part 2**

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR SHADAB AZAM : : : :	
<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 SHADAB AZAM : : : :

<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.

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

### **General**

CCTV camera in operation inside premises.  
Security light outside of premises. Loitering of young adults outside of premises is quickly dealt with.

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

Anti-Social behaviour is not tolerated.  
Lewd behaviour is not tolerated.  
Customers who we consider to be under the influence of drugs- or acting aggressively are not tolerated.  
Outside premises is under constant supervision.

### **Public Safety**

Several fire extinguishers are on the premises.  
No tolerance of drunkenness on premises.  
First Aid kit is always available. Third party insurance cover.

### **Prevention of Public Nuisance**

Anti-Social behaviour of any description is quickly dealt with either by ourselves or with police assistance.

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

The law is upheld where young adults are concerned. Cigarettes are no sold to persons under 16 years of age, nor is alcohol sold to any young adult without personal ID.

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

None

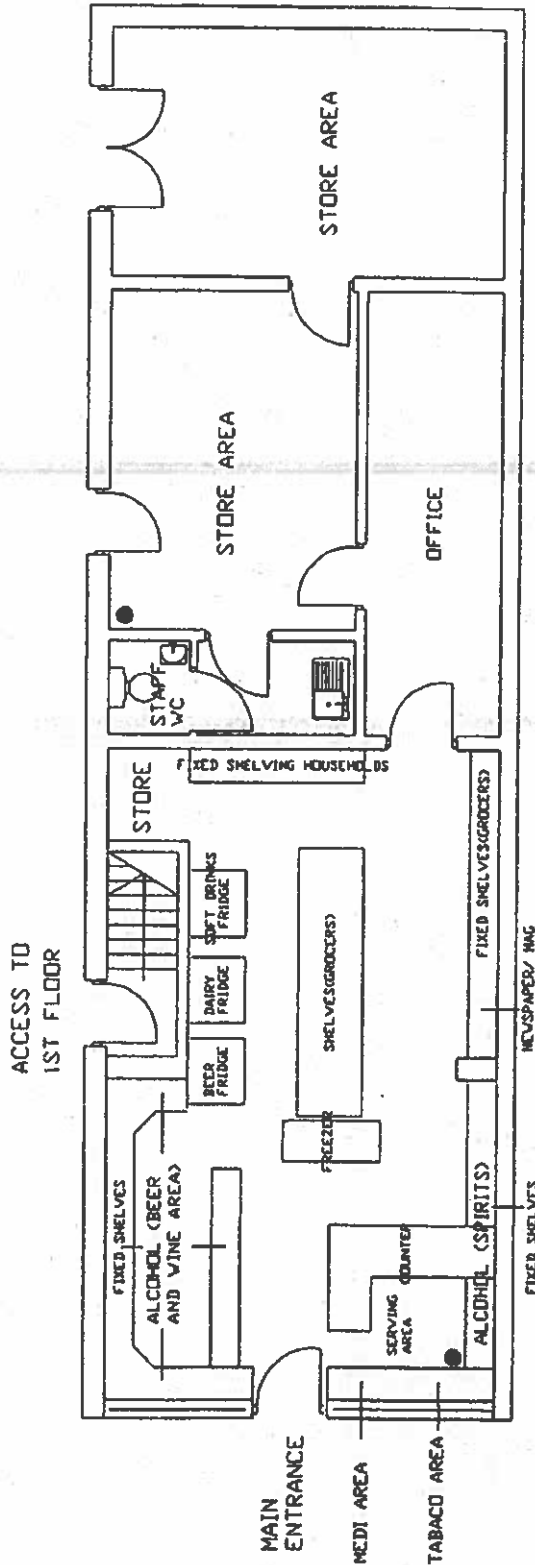
## **Annex 4 – Plans attached**

Attached

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

NOTE: PLAN TO BE USED FOR THE  
PURPOSE OF LICENSING ONLY

CATHERINE TERRACE



ADJACENT PROPERTY

- FIRE EQUIPMENT
- 1 X CO2
- 1 X BC FIRE

Job Title NEWS 'N' BOOZE 1 CATHERINE TERRACE NEW KYO CO. DURHAM DH9 7TP		Drawing Title EXISTING FLOOR PLAN		Scale 1/100	Date 24/7/05	Drawn	Checked
				100	01		

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**Appendix 4: Review application and supporting documents from  
Durham County Council Licensing Authority**

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Durham County Council PO Box 617 Durham DH1 9HZ

**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 Nicola Anderson, on behalf of the Licensing 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**

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> 1 Catherine Terrace New Kyo	
<b>Post town</b> Durham	<b>Post code (if known)</b> DH9 7TP
<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Shadab Azam	
<b>Number of premises licence or club premises certificate (if known)</b> DWTSPR0153	

**Part 2 - Applicant details**

I am:

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 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 ✓ yes

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**

Nicola Anderson, Licensing Enforcement Officer  
Environment, Health and Consumer Protection  
Licensing Services (Enforcement)  
Annand House  
Meadowfield  
Durham  
DH7 8RS

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 | ✓                               |
| 2) public safety                        | ✓                               |
| 3) the prevention of public nuisance    | <input type="checkbox"/>        |
| 4) the protection of children from harm | ✓                               |

**Please state the ground(s) for review (please read guidance note 2)**

Durham County Council's Licensing Enforcement section (representing Licensing as a Responsible Authority under the Licensing Act 2003) wish to review this premises licence with a view to seeking the revocation of the premises licence.

On 5<sup>th</sup> December 2018 a joint enforcement operation was carried out involving Immigration Officers and Licensing Enforcement officers. During the inspection of the premises the Licensing Enforcement Officer (LEO) identified the following defects and non-conformities:

- 1. The premises licence holder confirmed that the DPS no longer had any involvement with the business.**

*The mandatory conditions of a premises licence state:*

*"No supply of alcohol may be made at any time when no designated premises supervisor has been specified in the licence or at any 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 how holds a personal licence."*

Licensing Enforcement were informed by the Licence Holder that the DPS sold the business to the Licence Holder and has had no involvement since then. The S182 Guidance says:

*"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."*

Although there is a named DPS on the licence, this person was, according to the premises licence holder not actually involved in the running of premises. As a result, this named person could not realistically be held responsible for the sale of alcohol. This situation undermined the protection of children licensing objective (increasing the possibility of underage sales of alcohol) and undermined the prevention of crime and disorder and public nuisance objectives.

A vary DPS application was submitted on 22<sup>nd</sup> January 2019 by Mr Azam and was accepted as being properly made. The application has now been processed and Mr Asam is the named DPS of the premises.

- 2. The summary licence was not on display and the licence holder could not produce the full licence.**

*Section 57 of the Licensing Act 2003 states:*

*(3) The holder of a premises licence must secure that -  
(a) the summary of the licence or a certificate copy of that summary are prominently displayed at the premises.*

*(5) A constable or an authorised person may require the person who, by virtue of arrangements made of the purposes of sub-section (2) is required to have the premises licence (or a certified copy of it) in his custody or under control to produce the licence (or such a copy) for examination.*

- 3. There was only 1 fire extinguisher on the premises.**

*The licence condition states that:*

*Several fire extinguishers are on the premises*

- 4. Immigration officers had received intelligence that there was somebody working in the shop who didn't have the necessary status to allow them to do so. Officers did find such a person in the flat upstairs who admitted to working in the shop.**

*The revised Guidance under s182 of the Licensing Act 2003 states the following:*

*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 employing a person who is disqualified from that work by reason of their immigration status in the UK.*

*11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.*

This situation undermines the prevention of crime and disorder licensing objective.

- 5. DCC Trading Standards officers have carried out test purchases in the premises.**

*The shop failed 2 test purchases which took place on January 2016 and again on July 2016. A more recent test purchase was carried out on December 2018. Each time the licence holder (Mr Azam) has been notified that the TP has failed but no efforts have been put in place to ensure staff are sufficiently trained. This shows a blatant disregard for the Protection of Children from Harm licensing objective.*

- 6. DCC Occupational Health & Safety officers have carried out an inspection on the premises and several safety related defects were highlighted.**

**W.C.**

- *Thoroughly clean and redecorate the WC in the rear shop.*
- *Provide adequate lighting to the WC in the rear shop.*
- **Sink**
  - *Provide a smooth and impervious, easily cleanable surface to the walls above the sink unit in the rear shop*
  - *Repair / renew the floor surface so as to prevent slip / trip hazard*
- **Rear store**
  - *Carry out the repairs necessary to prevent ingress of water from the roof of the store area.*
  - *Provide a smooth and impervious, easily cleanable surface to the walls above the sink unit in the rear shop*
- **Rear Passage / store**
  - *Repair / renew the floor surface so as to prevent slip / trip hazard*
  - *Highlight the change of level in the area so as to prevent trip hazard*
- **Shop**
  - *Repair / renew the damaged tiles / floor surface so as to prevent slip / trip hazard*

- **Accident book**
  - Provide an accident book
- **First Aid**
  - Provide a first aid kit
- **Electrical**
  - Ensure that portable electrical equipment has been PAT tested
  - It is strongly recommended that the electrical installation is tested every five year. Please carry out this test.

*Photos are attached.*

The presence of a number of these defects at the premises undermines the public safety licensing objective.

**Please provide as much information as possible to support the application (please read guidance note 3)**

During the inspection on 5<sup>th</sup> December I asked to see the CCTV. Mr Azam said he'd just had the CCTV updated and he didn't have the password to access it. However, before Mr Azam had arrived at the shop an employee had told me that Mr Azam accesses the CCTV in the shop via his mobile phone.

A further inspection was carried out on January 2019.

Mr Azam was able to show me the CCTV. It records 24 hours a day and recordings are kept for 3 days.

The summary licence was on display but none of the other issues identified had been rectified.

The Licence Holder advised that fire extinguishers had been ordered and paid for, but he was awaiting delivery.

A Vary DPS form was submitted on 3<sup>rd</sup> January 2019 but it was an incorrect application and was returned. A further application was submitted on 22<sup>nd</sup> January 2019 and was accepted. The length of time the application was left indicates poor management and little or no regard for the promotion of licensing objectives.

The fact that at the time of the the revisit none of the issues raised in the initial inspection had been rectified demonstrates a disregard for the licensing objectives by the Licence Holder.

**Prevention of Crime and Disorder**

- The absence of an accountable DPS with involvement in the business
- Having an employee who had overstayed their right to work in the UK

**Prevention of Public Nuisance**

- The absence of an accountable DPS with involvement in the business
- Underage sales taking place

**Protection of Children from Harm**

- The absence of an accountable DPS with involvement in the business
- Underage sales taking place

**Public Safety**

- The absence of an accountable DPS with involvement in the business
- Several safety defects identified within the shop following an Occupational Health & Safety inspection
- Failure to comply with the conditions of the premises licence in relation to the provision of fire extinguishers.



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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date **11/02/2019**

.....

Capacity **Responsible Authority**

.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)</b>	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

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## Appendix 5: Representations

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**From:** Michelle Williamson < >  
**Sent:** 19 February 2019 15:45  
**To:** Karen Robson  
**Cc:** Caroline Dickenson; Alcohol Harm Reduction Unit  
**Subject:** Review of News & Booze, New Kyo  
**Attachments:** News & Booze review statement.docx

Hi Karen

Durham Constabulary fully support the review application which has been submitted by Durham County Council for News & Booze, 1 Catherine Terrace, New Kyo, Stanley. Please see the attached statement outlining our support.

Many thanks

Michelle

PCSO 6832 Williamson  
Harm Reduction Unit  
Annand House  
John Street North  
Meadowfield  
Durham  
DH7 8RS

**DURHAM CONSTABULARY, Protecting Neighbourhoods, Tackling Criminals, Solving Problems...Around the Clock**

**NEIGHBOURHOOD POLICING:** Use your postcode to get access to local news and events from your Neighbourhood Policing Team, at <https://www.durham.police.uk>

**Witness contact details**

URN

Name of witness: Michelle Williamson

Home Address: Annand House, Meadowfield

Postcode: DH7 8RS

E-mail address: n  
u

Mobile:

Home Telephone Number:

Work Telephone Number:

Preferred method of contact:

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? Yes  No  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*) Yes  No  If 'Yes' submit MG2 with file in anticipated not guilty, contested or indictable only cases.
- d) Does the witness have any particular needs? Yes  No  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

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. 16.2; Criminal Justice Act 1967, s. 9**

URN

Statement of Michelle Williamson

Age if under 18: over 18

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

Occupation: Licensing PCSO

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

Date 19th February 2019

Tick if victim wishes to personally read their Victim Personal Statement aloud in Court:

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

I am a serving Police Community Support Officer within Durham Constabulary working from the Alcohol Harm Reduction Unit, Meadowfield. I have responsibility for licensed premises within county Durham, I hold a national certificate for licensing practitioners.

Durham Constabulary fully support the review application submitted by Durham County Council. there is evidence to support that Mr AZAM of News and Booze, 1 Catherine Terrace, New Kyo, Stanley is not promoting the licensing objectives namely protection of children from harm, prevention of crime and disorder, public safety and public nuisance.

News and Booze employees have failed 2 test purchases, the most recent being on 14th December 2018 and Sharab AZAM has employed people who don't have the right to work in the UK.

As the PLH and DPS of the shop I would expect Shadab AZAM to have had better management of his employees and to have a full understanding of his employee's right to work in the UK or lack of it.

The revised guidance issued under section 182 of the Licensing Act 2003 (issued April 2018) and states at section 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;

This shows that Mr Sharab AZAM not carried out the entitlement to work in the UK as per the Sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006.

It is Durham Constabulary's position that it is a very serious matter to employ workers who do not have the right to work in the UK.

In relation to the 2 failed test purchases Durham Constabulary deem the sale of alcohol to children to be not only reckless, but very irresponsible as NHS studies show that drinking alcohol can damage a child's health, even if they're 15 or older. It can affect the normal development of vital organs and functions, including the brain, liver, bones and hormones.

Beginning to drink before age 14 is associated with increased health risks, including alcohol-related injuries, involvement in violence, and suicidal thoughts and attempts.

Drinking at an early age is also associated with risky behaviour, such as violence, having more sexual partners, pregnancy, using drugs, employment problems and drink driving.

Durham Constabulary feel the business owner by failing to train his staff adequately and his employees are putting profit ahead of protecting children from harm.

On Friday 13th December 2018 I was on duty taking part in Operation 2018, which was a Police authorised test purchase operation in Consett and Stanley, County Durham. The operation involved sending a child volunteer into off licensed premises, the child volunteer would attempt to purchase alcohol with an ABV above 0.5%.

A briefing took place in which the child volunteer was instructed that if asked their age they could lie and say they were 18. The child volunteer was also instructed to state they had no identification if asked. The child volunteer for this operation was 16 years of age.

Approx. 18:00 hrs on that day the child volunteer entered News & Booze, 1 Catherine Terrace, New Kyo and purchased a bottle of Echo Falls wine. The volunteer and not asked for ID or how old they were.

Acting on information I had received from the child volunteers I entered the premise and spoke to a female who I now know to be Mrs R W DOB if

W was cautioned informed that we were carrying out a test purchase operation in the area and a child volunteer were sent into the store and purchased alcohol. I asked W if she remembers selling a male within the last 5 minutes with a bottle of Echo Falls Rose wine and showed her the bottle.

I asked W if she had asked the youth for identification, she replied 'NO', I then asked W why she hadn't asked for identification she replied 'HE WALKED STRAIGHT INTO THE SHOP AND CAME TO THE TILL, HE KNEW WHAT HE WAS COMING IN FOR. I THOUGHT HE WAS OLDER THAN 18'.

I then asked W if she had asked the youth his age, she replied 'NO'. When asked why she didn't ask his age she replied 'I THOUGHT HE LOOKED OLDER THAN 18'.

W was asked if the store operated a challenge 25 to which she replied 'I DON'T KNOW', she also didn't know if the store had a refusal register. When asked what training she had received W explained she had one hour training from a female called A in the use of the till, lottery machine and how to stack shelves. She had received no training on the sale of alcohol or challenge 25.

At 17:15 hrs on Thursday 14th February 2019 I attended the home address of W and issued Penalty Notice for Disorder ticket number 011803 80167160, 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 W that she had 2 options, within 21 days she should either pay the notice or request the matter be dealt with at court, both can be done by completing either PART 3 or PART 4. If she failed to do this with the 21 days the fine would increase by one and a half times and it would be registered with the court against her and she may be charged with the relevant offence.

I also assisted Trading Standards in a Test Purchase operation on 14th July 2016 which resulted in me issuing a Penalty Notice for Disorder number 0118038014586818 to A dob for the offence of sale of alcohol anywhere to a person under 18, contrary to S146(1) of Licensing Act 2003 which was paid in full on 02/08/2016.

Durham Constabulary fully support Durham County Council in the revocation of the premises licence for News & Booze, New Kyo, Stanley.

Signature:

Signature witnessed by:

**From:** Ian Redshaw  
**Sent:** 07 March 2019 14:10  
**To:** AHS Licensing <[Licensing@durham.gov.uk](mailto:Licensing@durham.gov.uk)>  
**Subject:** SR 175504 News'n'Booze, New Kyo

Nicola

Further to your email below, I can confirm that following

1. The above premises was visited on 10<sup>th</sup> December 2018 subsequent to a Service Request (SR 171076) which was initiated 6/12/18 by yourself.
2. An inspection was carried out under the auspices of the Health and Safety at Work 1974 Act.
3. Several contraventions of the above legislation were noted. These were principally of a physical nature due to the fact that the owner of the business was not available at the time of the visit to discuss health and safety management matters.
4. A brief summary of the work required is as below;
  - **W.C.**
    - Thoroughly clean and redecorate the WC in the rear shop.
    - Provide adequate lighting to the WC in the rear shop.
  - **Sink**
    - Provide a smooth and impervious, easily cleanable surface to the walls above the sink unit in the rear shop
    - Repair / renew the floor surface so as to prevent slip / trip hazard
  - **Rear store**
    - Carry out the repairs necessary to prevent ingress of water from the roof of the store area.
    - Provide a smooth and impervious, easily cleanable surface to the walls above the sink unit in the rear shop
  - **Rear Passage / store**
    - Repair / renew the floor surface so as to prevent slip / trip hazard

- Highlight the change of level in the area so as to prevent trip hazard
- **Shop**
- Repair / renew the damaged tiles / floor surface so as to prevent slip / trip hazard
- **Accident book**
- Provide an accident book
- **First Aid**
- Provide a first aid kit
- **Electrical**
- Ensure that portable electrical equipment has been PAT tested
- It is strongly recommended that the electrical installation is tested every five year. Please carry out this test.

For your information I have attached a number of photographs which illustrate some of the issues requiring attention.

A Record of Visit form was left at the premises, outlining the work required to achieve compliance with the statutory requirements. This was followed by a confirmatory email to the owner.

A telephone conversation with the owner occurred during the visit. Mr Azam indicated that he expected to vacate the premises early in the new year, re-establishing the business in a neighbouring property.

A revisit was carried out on 31/1/19 during which it was noted that the majority of work had been addressed and carried out.

A final visit was carried out on the 27/2/19 during which visit it was noted that the required structural / physical work was complied with. Some minor administrative work needed to be addressed. I can confirm that I will be taking no further action with regard to this matter

Mr Azam maintained that he intends to relocate the business to a neighbouring property although he had no firm detail with regard to a proposed date.

I hope that this is suitable to your requirements.

Any queries please do not hesitate to contact me.

Thanks  
Ian

**Ian Redshaw**  
**Senior Environmental Health Officer**  
**Regeneration and Local Services**

M:  
E:

Web: [www.durham.gov.uk](http://www.durham.gov.uk)

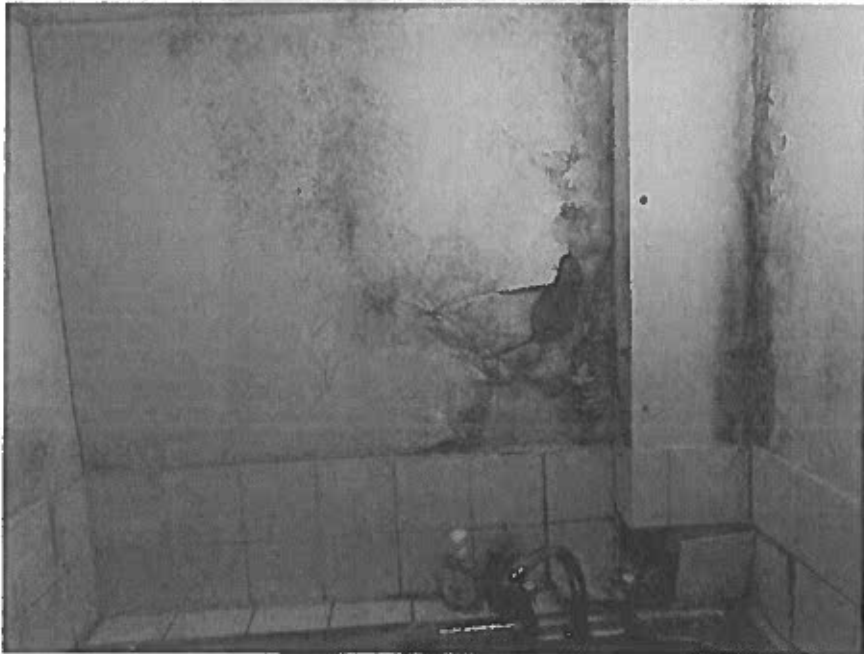
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*visit: [www.durham.gov.uk/dataprivacy](http://www.durham.gov.uk/dataprivacy)*













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**From:** Lee Peacock  
**Sent:** 08 March 2019 15:06  
**To:** Helen Johnson - Licensing Team Leader (N'hoods)  
**Cc:** Karen Robson  
**Subject:** Review of a Premises Licence - News & Booze, 1 Catherine Terrace, New Kyo, Stanley, Co Durham

Good Afternoon,

In my capacity as representative of the Durham Local Safeguarding Children Board ( LSCB) I support the review in light of the breaches to the conditions for the protection of children from harm, namely

The absence of an accountable DPS

Under-age sales

Best wishes

Lee Peacock

Durham LSCB

Contact: Graham Blount  
Direct Tel:  
email:  
Your ref:  
Our ref:



**Karen Robson**  
**Senior Licensing Officer**  
Environment, Health & Consumer Protection  
Regeneration and Local Services  
Durham County Council  
Annand House  
Meadowfield  
Durham  
DH7 8RS

11<sup>th</sup> March 2019

Dear Madam

**Licensing Act, 2003 News & Booze, West Kyo**

Further to the application made for a review of the premises licence of the above premises, I would support this application.

The Local Weights and Measures Authority are a responsible authority under the Licensing Act 2003, primarily involved in the Protection from Children from Harm objective. I have led on a number of test purchase operations using underage volunteers at off licences in the County.. In relation to News and Booze, West Kyo,

I have instructed a volunteer to attempt a test purchase of alcohol at that premises on three occasions, those dates being 22<sup>nd</sup> January, 2016, 14<sup>th</sup> July 2016, and 13<sup>th</sup> September, 2016. Sales were made on the first two test purchase attempts. The store owners wife , was given advice on refusing sales, checking of age and forms of identity, keeping a refusals register and the training of staff. The advice was confirmed in a letter dated 4<sup>th</sup> August 2016 a copy of which is attached. On the third attempt the sale was refused. .

It is disappointing that a further sale has taken place which apparently shows that the advice provided earlier has not been adhered to.. Access to alcohol is a major contributing factor to anti-social behaviour in this area.

**Continued...**

**Regeneration and Local Services**  
Durham County Council, PO Box 617, Durham, DH1 9HZ  
Main Telephone 03000 26 1016

**News & Booze continued...**

Intelligence received from the local Police suggests there is an increasing problem in the local area with alcohol fuelled anti-social behaviour, which would support the fact that under age youths are obtaining alcohol. Therefore I support the review taken by Licensing Enforcement and would be happy to attend any hearing and give evidence as to my involvement with this premises

Yours ~~faithfully~~ *Blount*

*Blount*  
Graham Blount  
Senior Trading Standards Officer  
Business Compliance Team

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Contact: Graham Blount  
Tel: 03000 260908  
Fax:  
e-mail: ehcpnorth@durham.gov.uk  
Your ref:  
Our ref: GB/Anthem/Notification



News & Booze  
Catherine Terrace  
New Kyo  
STANLEY  
DH9 7TP

4<sup>th</sup> August, 2016

Dear Retailer,

**Notification Of a Failed Test Purchase – Alcohol**

This is a standard letter of notification to inform you that recently an attempt was made to purchase Alcohol from your premises at Catherine Terrace, New Kyo, by a young person under the age of 18 years.

On this occasion, the operation resulted in a sale of alcohol being made to the young person. This letter is to confirm the advice given at the time.

You are reminded to ensure that you and your staff are vigilant in the sale of age-restricted products and that you **always** ask for proof of age and refuse to sell where there is any doubt as to the age of the purchaser.

As an additional note, during the test purchase attempt, the member of staff asked our volunteer for identification to prove their age. When the volunteer failed to provide that identification they still sold the alcohol to them. It is essential that you instruct all your staff to always ask for identification in the first instance and never to rely on asking a young person their age. If identification is not provided you should not continue with the sale

As a result, and to reflect the fact that a young person attempting to purchase an age-restricted product will lie about their age, we in future, will continue to ask our young volunteers to lie about their age. This will assist us in highlighting those retailers requiring additional training needs/assistance in the area of age-restricted sales.

I must warn you that we will carry out further test purchases in the future and a second failure could result in you premises licence being reviewed.

As part of our service we offer free training for staff, through the "Do You Pass" training course. The course takes approximately 2.5 hours to complete and on successful completion participants will be awarded and nationally recognised qualification.

Continued overleaf...

Neighbourhood Services

Durham County Council, Annand House, Meadowfield, Durham, DH7 8RS  
Switchboard (0191) 383 3000 Minicom (0191) 383 3802 Text (07786) 026 956

Website: [www.durham.gov.uk](http://www.durham.gov.uk)



INVESTOR IN PEOPLE



Should you have any queries or wish to discuss anything in this letter further, please do not hesitate to contact me on the above number.

Yours sincerely,

**Graham Blount**  
**Senior Trading Standards Officer**

*Please note this information is for guidance only and only the Courts can interpret the law. The Trading Standards Service works almost exclusively with, through and for people. We are therefore passionate about Durham County Council's commitment to promoting a just society that gives everyone an equal chance to learn, work and live, free from discrimination and prejudice.*

*Please remember that summaries or parts of this information can be made available in a range of languages or formats on request. Please telephone Alison Foggon on 03000 260923 for further information. If you have any comments to make about the accessibility of our services please do not hesitate to write to Joanne Waller, Head of Environment, Health and Consumer Protection at the address at the bottom of the first page.*

# Do You Pass?



## Helping you prevent under age sales

Durham County Council Trading Standards are now providing a free training course aimed at retailers that sell age restricted products.

### About the course

The course is the Age Restricted Sales Module of the fair trading award accredited by the Trading Standards Institute which is designed to help businesses and their staff understand the trading regulations that protect customer interests and promote good business.

### Who is it for?

- all sizes and types of organisations - from sole traders to large international companies
- anyone who supplies goods and services to the public
- all levels of staff from part-time employees to managers.

### How will business benefit?

- your staff and managers will become more confident when dealing with customers
- dealing fairly with customers saves time and money from unnecessary payouts or claims
- increased customer confidence enables informed choices and purchases
- you will enhance your business reputation by supporting consumer rights and protection.

### How will local authorities benefit?

- it will deliver knowledge and best practice to local businesses and make effective use of your resources, and save you time
- it will help trading standards working with businesses through the home authority principle
- It will provide knowledge and education to businesses, to help raise awareness and avoid breaches

### Why do I need the Age Restricted Sales Module?

- Developed for the business sector;
- Builds business confidence;
- Nationally recognised training;
- Supported by Government Departments & PASS;
- Regularly updates & reviewed by Experts

### What does the course cover?

- Age Restricted products
- They all look older now - don't they?
- Why it is important to control certain goods?
- The Local & National picture
- The legal position
- What you as a retailer can do
- Test

### How much does it cost?

At present we have secured external funding so this course is free.

### How long is the Course?

Half a day (approximately 3 hours)

### Who do I contact to find out more or book a course?

Trading Standards  
Safety & Metrology Team  
Tel: 03000 261016  
Email: [ehcpnorth@durham.gov.uk](mailto:ehcpnorth@durham.gov.uk)

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**From:** Wynter Paul < >homeoffice.gov.uk>  
**Sent:** 06 March 2019 13:47  
**To:** Nicola Anderson < >  
**Subject:** FW: Re: 1 Catherine Terrace New Kyo DH9 7TP (Shadab AZAM) AL23342

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Good afternoon,

Thank you for providing us with the review of the above premises.

Further to our check we wish to add to your submission advising you that the owner (Shadab AZAM) was liable for employing an illegal worker.

A visit was made to the above premises on 05/12/2018 where a subject was confronted by officers. Mr Azam was issued with a civil penalty of £10,000 which he has until 18/ 3/2019 to appeal against.

Regards

*Interventions and Sanctions Directorate | Alcohol and LNR licensing Team  
Immigration Enforcement  
Apollo House | 3rd Floor  
36 Wellesley Rd | Croydon  
CR9 2BY*

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## **Appendix 6: Response from Responsible Authority**

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Date: 13 February 2019

This matter is being dealt with by: Jonathan Smith

Ext:

Our Ref: 2E11670001

Your Ref: DWTSPR0153

Direct Dial Telephone:

E-mail:

Karen Robson  
Senior Licensing Officer  
Environment, Health & Consumer Protection  
Regeneration and Local Services  
Durham County Council  
Annand House  
Meadowfield  
Durham.  
DH7 8RS

Dear Karen

**Licensing Act 2003**

**Regulatory Reform (Fire Safety) Order 2005**

**Ahmeds News & Booze, 1 Catherine Terrace, Annfield Plain, Stanley, DH9 7TP**

I acknowledge your application dated 12 February 2019 for a Review of a Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website [www.ddfire.gov.uk](http://www.ddfire.gov.uk) and follow the link to Fire safety at work.

Yours faithfully

  
Jonathan Smith  
Fire Safety Section

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## **Appendix 7: Statement of Licensing Policy**

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## **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 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.

## **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.



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## **Appendix 8: Section 182 Guidance**

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## **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 including the prevention of illegal working in licensed premises (see paragraph 10.10). 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.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## Public safety

- 2.7 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.
- 2.8 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 2.12-2.13, 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).
- 2.9 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 (8.38-8.46), 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

- 2.10 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

- 2.11 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

- 2.12 “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.
- 2.13 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

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 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.
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## Protection of children from harm

- 2.22 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.
- 2.23 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.
- 2.24 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.
- 2.25 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.
- 2.26 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.
- 2.27 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.

- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 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.
- 2.30 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.
- 2.31 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**

- 2.32 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 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

## **Section 182 Guidance - The review process**

- 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 14 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 promoting 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. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 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)<sup>10</sup>;
  - 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 or preventing illegal working. 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 and for the prevention of illegal working in licensed premises. 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 and the prevention of illegal working 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 the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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 or illegal working compliance 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 under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. 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**

11.29 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.