

Statutory Licensing Sub-Committee

4th June 2019

Application for the Review of a Premises Licence



Ordinary Decision

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:

Burnopfield and Dipton

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham County Council Local Weights and Measures Authority to review the premises licence in respect of Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LU.
- 2 A plan showing the location of the premises is attached at Appendix 2.

Executive summary

- 3 On 6th March 2019, the Licensing Authority received the application from Durham County Council Local Weights and Measures Authority for a review of the premises licence number DCCC/PLA0283 for Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LU. However, the public notice was not displayed correctly (by the licensing authority) and the consultation period commenced again on 5th April 2019 for 28 consecutive days, expiring on 3rd May 2019.
- 4 During the consultation period the Licensing Authority received four representations in support of the review application, namely Durham Constabulary, Durham County Council Licensing Authority (Responsible Authority), Durham County Council Public Health and Durham Safeguarding Children Partnership.

- 5 County Durham and Darlington Fire and Rescue Service and Durham County Council Environmental Health 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.
- 7 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
 - (b) The representations (including supporting information) presented by all parties;
 - (c) Durham County Council's Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
 - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8.

Background

- 8 Background information

Applicant	Durham County Council Local Weights & Measures	
Type of Application: Review of a Premises Licence	Date received: 6th March 2019	Consultation ended: 3rd May 2019
Premises Licence Holder	Mr James Millican	
Designated Premises Supervisor	Mr Harjinder Ball	

- 9 The premises licence in respect of Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LU. currently permits the Sale of Alcohol, as detailed in the table below:

Licensable Activities	Days & Hours
Sale of Alcohol (off sales) and opening hours	Monday to Sunday: 06:00 – 23:00 hrs

- 10 A copy of the current premises licence for Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LU attached at Appendix 3.

Details of the application

- 11 The review application by Durham County Council Local Weights and Measures Authority was received by the Licensing Authority on 6th March 2019.
- 12 The review 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
 - The Prevention of Public Nuisance
 - The Protection of Children from Harm
- 14 A copy of the application and supporting documents from Durham County Council Local Weights and Measures Authority attached at Appendix 4.

The Representations

- 15 During the consultation period the Licensing Authority received four representations in support of the review application, from Durham Constabulary, Durham County Council Licensing Authority (Responsible Authority), Durham County Council Public Health and Durham Safeguarding Children Partnership. Attached as Appendix 5.
- 16 County Durham and Darlington Fire and Rescue Service and Durham County Council Environmental Health responded to the consultation with no comments. Attached at Appendix 6.

The Parties

- 17 The Parties to the hearing will be:
- Durham County Council Local Weights and Measures Authority – (Applicant)
 - Mr James Millican (Premises Licence holder)
 - Durham Constabulary (Responsible Authority)

- Durham County Council Licensing Authority (Responsible Authority)
- Durham County Council Public Health (Responsible Authority)
- Durham Safeguarding Children Partnership (Responsible Authority)

Options

- 17 The options open to the Sub-Committee are:
- (a) To take no further action;
 - (b) To modify or add conditions to the licence;
 - (c) Exclude a licensable activity from the licence;
 - (d) Remove the Designated Premises Supervisor;
 - (e) Suspend the licence for a period (not exceeding three months);
 - (f) 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 Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LU.

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
-

Contact: Karen Robson

Tel: 03000 265104

Appendix 1: Implications

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.

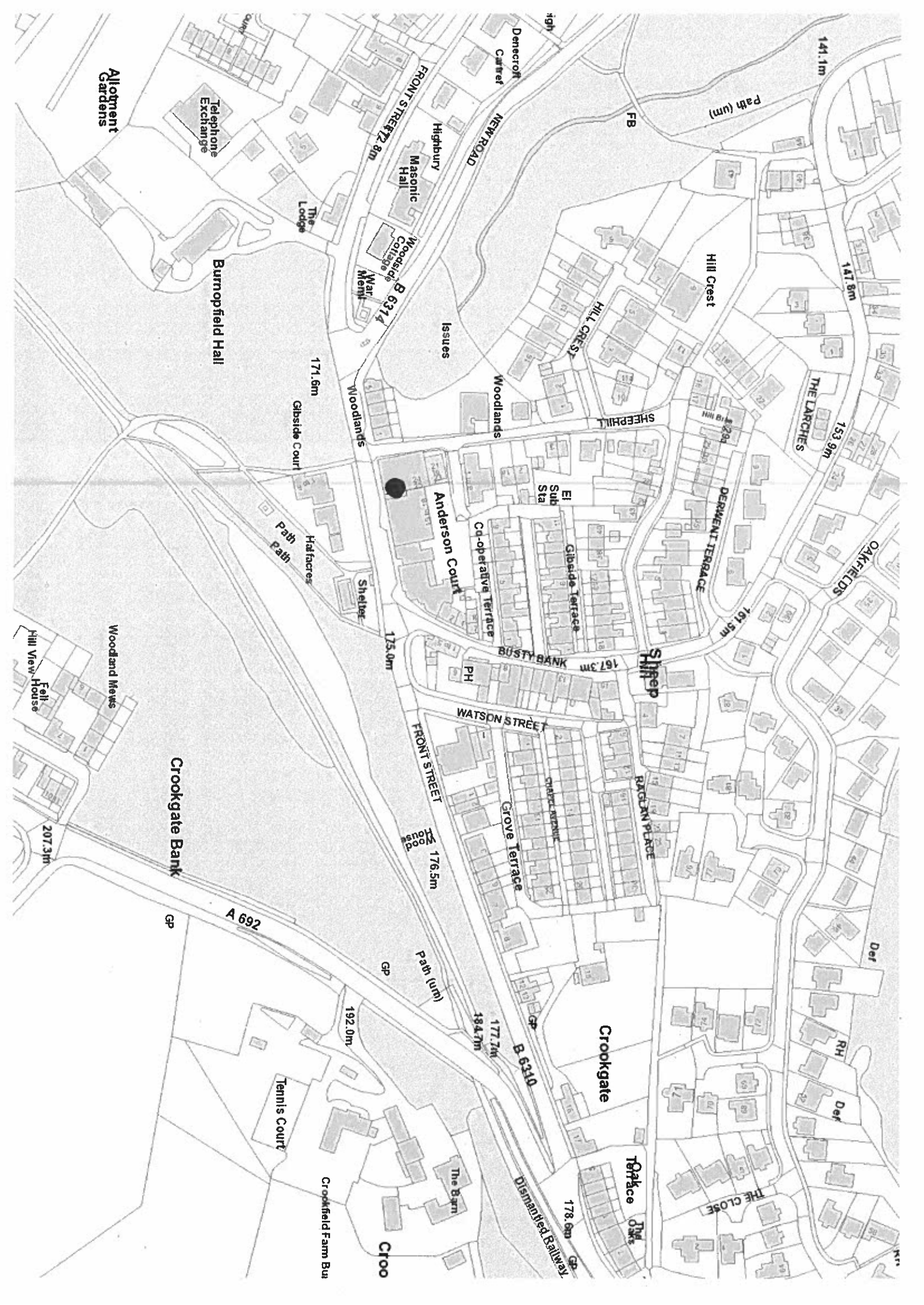
The Responsible Authorities were consulted on the application.

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.

Appendix 2: Location Plan



Allotment Gardens

Telephone Exchange

Burnopfield Hall

171.6m
Gibside Court

Path Path

Hafraces

Shelver

Anderson Court

Co-operative Terrace

El Sub Sta

Gibside Terrace

BUSTY BANK

PH

FRONT STREET

WATSON STREET

Grove Terrace

Woodhouse

176.5m

Path (un)

Crookgate Bank

A 692

207.3m

Tennis Court

Crookfield Farm Bus

Crook

The Barn

Dismantled Railway

Crookgate

Torke Oaks

THE CLOSE

178.6m

B 6310

177.7m

184.7m

192.0m

175.0m

167.5m

167.3m

167.3m

167.3m

167.3m

167.3m

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167.3m

167.3m

167.3m

167.3m

167.3m

DERMONT TERRACE

153.9m

THE LARCHES

OAKFIELDS

147.8m

147.8m

147.8m

147.8m

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147.8m

147.8m

147.8m

HILL CREST

SHEPHERD HILL

FB

141.1m

Path (un)

Denecroft

Carter

Highbury

Masonic Hall

Woodside Colliage

Mar Men

B 6314

Issues

Woodlands

Woodlands

171.6m

Gibside Court

175.0m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

167.3m

SHEEP HILL

BAYDON PLACE

Def

RH

Def

RH

Appendix 3: Premises Licence



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0283
16 March 2016
16 March 2016

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
COSTCUTTER UNITS 2 AND 3, OLD CO OP BUILDINGS FRONT STREET BURNOPFIELD NEWCASTLE UPON TYNE NE16 6LU	DURHAM COUNTY COUNCIL REGENERATION & LOCAL SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
Telephone number:	

Where the licence is time limited the dates
 N/A

Licensable activities authorised by this licence
 Sale by retail of alcohol

Opening Hours of the Premises

Mon	06:00-23:00	Non-standard/seasonal timings 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	

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

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

Sale by retail of alcohol	Further details
Mon 06:00-23:00	N/A
Tue 06:00-23:00	Non-standard/seasonal timings
Wed 06:00-23:00	N/A
Thu 06:00-23:00	
Fri 06:00-23:00	
Sat 06:00-23:00	
Sun 06:00-23:00	

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR JAMES MILLICAN	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	N/A
Charity no:	N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol
MR HARJINDER BAL

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

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

We will hold the 4 objectives in high regard and will strive to keep staff fully trained on all policies and procedures.

All training records will be made available to officers when requested

The Prevention of Crime & Disorder

Initial staff training to be carried out by the DPS to ensure no alcohol is sold to anyone underage and refresher training to be carried out every six months.

Training records to be kept for every member of staff and endorsed after every training session. The records will be made available to officers and responsible authorities when requested to do so.
No serving alcohol to any person who appears to be drunk.

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality. Cameras shall encompass the inside and outside of all entrances and exits to the premises and rear yards, fire exits and all areas where the sale/supply of alcohol occurs.

Equipment must be maintained in good working order, be correctly times and date stamped and kept for a period of 28 days.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at viewing the CCTV and downloading the footage onto a disc, hard drive or memory stick when requested to do so by the police/local authority.

The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the DPS or other responsible named individual.

An operational weekly log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

A sign will be displayed stating the opening hours and licensable hours for the sale of alcohol. The premises has a functioning burglar alarm and also a panic button.

Public Safety

Fire exits and fire equipment clearly marked.

Aware of requirements regarding health and safety.

First aid facilities will be available.

An incident log will be kept at all times.

The floor is fitted with non-slip vinyl tiles and necessary warnings will be in place if floors are damp. Access is possible for disabled persons with space to get around courtesy of the post office assessment.

The Prevention of Public Nuisance

Groups of people will be discouraged from congregating outside the premises.

The Protection of Children from Harm

The epos till will be fitted with a prompt for all age appropriate products.

Proof of age policy in place for people under 25 years of age via the Challenge 25 Scheme.

The only forms of identification accepted are Passport, Photo Driving Licence and 'PASS' hologram ID ie ID4U.

Training of staff - all staff responsible for selling age restricted goods will be trained to implement the age verification policy. Training records for staff will be maintained and refresher training will be provided annually.

A refusal register will be kept and endorsed after every sale refused. This is to include over 18's purchasing alcohol and passing it to under 18's (proxy sales).

Spirits shall be shelved behind the counter.

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**

**Appendix 4: Review application and supporting documents from
Durham County Council Local Weights & Measures**

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I Durham County Council - Local Weights and Measures Authority

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description COSTCUTTER Units 2-3 Old Coop Buildings Front Street Burnopfield	
Post town NEWCASTLE UPON TYNE	Post code (if known) NE16 6LU

Name of premises licence holder or club holding club premises certificate (if known) Mr James Millican
--

Number of premises licence or club premises certificate (if known) DCCC/PLA0283

Part 2 - Applicant details

I am

Please tick yes

1) an interested party (please complete (A) or (B) below)

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

c) a person involved in business in the vicinity of the premises

d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Durham County Council Environment, Health & Consumer Protection Weights and Measures Authority Annand House PO Box 617 Durham DH1 9HZ Contact: Craig Hudson
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
- 4) the protection of children from harm

Please state the ground(s) for review (please read guidance note 1)

See attached Grounds for Review

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

See attached Grounds for Review

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

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

N/A

<p>N/A</p>

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature

.....

Date . 06/03/2019

.....

Capacity Team Leader (Trading Standards)

.....

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

GROUNDS FOR REVIEW

1. The applicant is seeking a review of the Premises Licence for COSTCUTTER, Units 2-3 Old Coop Buildings, Front Street, BURNOPFIELD, NE16 6LU as it is an appropriate course of action to address concerns relating to the prevention of crime and disorder and protection of children from harm objectives of the Licencing Act, 2003.
2. The holder of the Premises Licence is Mr James MILLICAN and the DPS (Designated Premises Supervisor) is Mr Harjinder BAL. Mr BAL holds a personal licence issued to him by Northumberland County Council.
3. Evidence obtained by the Applicant shows that this premise sold alcohol to an underage person contrary to section 146(1) of the Licencing Act, 2003, on two occasions.
4. On 17th October 2018, Durham Trading Standards received intelligence from Durham Constabulary that this premise was possibly selling alcohol to young people under the age of eighteen.
5. On 13th December 2018, Durham Trading Standards, assisted by Durham Constabulary, carried out a test purchase exercise into the sale of alcohol to under age youths using a 16-year-old volunteer (Operation The 16-year-old child volunteer was given instructions to enter the premises and attempt to buy alcohol, along with some sundries. The volunteer selected a bottle of wine and approached the counter. A person who was later identified as James MILLICAN sold the child the alcohol. A visual recording was made of the sale. At the time of the sale, there was no one else present in the shop.
6. As a routine follow up, a second test purchase was carried out, again by Durham Trading Standards supported by Durham Constabulary (Operation . On 21st December 2018 a different 15-year-old volunteer was tasked again to enter the premises and was instructed to attempt to purchase alcohol and some sundries. The volunteer entered the premises and selected a bottle of wine and approached the counter. She was served by the same sales person as before. Again, the sale was covertly visually recorded.
7. On 15th January 2018, Senior Trading Standards Officer Graham Blount, accompanied by PCSO Michelle Williamson for Durham Constabulary visited the premises, where they spoke to James Millican, who confirmed it was him who served on both nights, he confirmed he was the person who worked in the shop[the majority of the time with a single part time member of staff that covered when he was not available.
8. On Tuesday 22nd January 2019 The Premises Licence Holder was issued with a fixed penalty notice by Durham Constabulary.
9. The premises Licence Holder does the majority of work in the premises and a lack of adherence to the licence conditions and the law relating to age

verification would indicate that inadequate processes are in place to protect children from harm.

10. The premise licence does include a full list of conditions at Annexe 2, including EPOS Prompts on the till, staff training and the use of a refusal register.
11. Whilst it is for the Licensing Authority to determine the appropriate course of action, the Applicant would ask the Authority revocation of the premises licence as the most appropriate action to promote the licensing objectives.



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DCCC/PLA0283
16 March 2016
16 March 2016

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
COSTCUTTER UNITS 2 AND 3, OLD CO OP BUILDINGS FRONT STREET BURNOPFIELD NEWCASTLE UPON TYNE NE16 6LU	DURHAM COUNTY COUNCIL EHCP LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ

Telephone number:

Where the licence is time limited the dates
 N/A

Licensable activities authorised by this licence
 Sale of Alcohol

Opening Hours of the Premises

	06.00-23.00	Non-standard/seasonal timings
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	

Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:
 Off Alcohol Supplies Only

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

Sale of Alcohol		Further details
Mon	06:00-23:00	N/A
Tue	06:00-23:00	Non-standard/seasonal timings
Wed	06:00-23:00	N/A
Thu	06:00-23:00	
Fri	06:00-23:00	
Sat	06:00-23:00	
Sun	06:00-23:00	

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

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol

MR HARJINDER BAL

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

NORTHUMBERLAND COUNTY COUNCIL

Annex 1 – Mandatory conditions

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

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

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

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

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

CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality.

Cameras shall encompass the inside and outside of all entrances and exits to the premises and rear yards, fire exits and all areas where the sale/supply of alcohol occurs.

Equipment must be maintained in good working order, be correctly times and date stamped and kept for a period of 28 days.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at viewing the CCTV and downloading the footage onto a disc, hard drive or memory stick when requested to do so by the police/local authority.

The recording equipment and discs/memory sticks shall be kept in a secure environment under the control of the DPS or other responsible named individual.

An operational weekly log report must be maintained and endorsed by a signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

A sign will be displayed stating the opening hours and licensable hours for the sale of alcohol.

The premises has a functioning burglar alarm and also a panic button.

Public Safety

Fire exits and fire equipment clearly marked.

Aware of requirements regarding health and safety.

First aid facilities will be available.

An incident log will be kept at all times.

The floor is fitted with non-slip vinyl tiles and necessary warnings will be in place if floors are damp. Access is possible for disabled persons with space to get around courtesy of the post office assessment.

Prevention of Public Nuisance

Groups of people will be discouraged from congregating outside the premises.

Protection of Children from Harm

The shop till will be fitted with a prompt for all age appropriate products.

Proof of age policy in place for people under 25 years of age via the Challenge 25 Scheme. The only forms of identification accepted are Passport, Photo Driving Licence and 'PASS' hologram ID ie ID4U.

Training of staff - all staff responsible for selling age restricted goods will be trained to implement the age verification policy. Training records for staff will be maintained and refresher training will be provided annually.

A refusal register will be kept and endorsed after every sale refused. This is to include over 18's purchasing alcohol and passing it to under 18's (proxy sales).

Spirits shall be shelved behind the counter.

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

We will hold the 4 objectives in high regard and will strive to keep staff fully trained on all policies and procedures.

All training records will be made available to officers when requested

Prevention of Crime & Disorder

Initial staff training to be carried out by the DPS to ensure no alcohol is sold to anyone underage and refresher training to be carried out every six months.

Training records to be kept for every member of staff and endorsed after every training session. The records will be made available to officers and responsible authorities when requested to do so.
No serving alcohol to any person who appears to be drunk.

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

MR JAMES MILLICAN

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

Company no: N/A

Charity no: N/A

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

MR HARJINDER BAL

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

NO RESTRICTIONS

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

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

STATEMENT OF WITNESS

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

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

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

Dated the 19 day of Feb 20 19

Signed

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

On 13th December, 2018 I was employed on Operation in underage test purchase exercise that was targeting off licences within the County. I was accompanied by PC Ian Robertson and PCSO Michelle Williamson, of Durham Constabulary. All the premises targeted during that exercise had been identified through complaints from the public or intelligence received that they were selling alcohol to underage youths.

At the beginning of the operation a photograph was taken of the volunteer which I now produce as Exhibit GJB/A.

Signed:

Statement Taken by:

STATEMENT OF: Graham John Blount

Continuation Sheet 1

Durham and attempt to purchase alcohol. At 19.01 hours the volunteer emerged from the premises carrying a bottle of wine. I took the wine from the volunteer and placed it in an evidence bag, and labelled it as Exhibit GJB/1. The transaction was recorded on a covert camera worn by the volunteer and I now produce the footage from the camera as Exhibit GJB/2.

On 21st December, 2018, again as part of Operation I returned to carry out a follow up test purchase from the premises accompanied again accompanied by PC Roberston and by PCSO Williamson. Before the operation commenced I took a photograph of the volunteer. I now produce a copy of this photo as GJB/B

At 19.09 hours I tasked the volunteer to enter Costcutter, Units2-3 Old Coop Buildings, Front Street, Burnopfield, County Durham and to attempt to again test purchase alcohol. At 19.12 hours the volunteer emerged from the premises carrying a bottle of wine. I took the bottle from the volunteer and placed them in an evidence bag and labelled them as Exhibit GJB/3. The transaction was again recorded on a covert camera worn by the volunteer and I now produce the footage from the camera as Exhibit GJB/4.

On 15th January, 2018 I visited Costcutter, Units 2-3 Old Coop Buildings, Front Street, Burnopfield, County Durham accompanied by PCSO Williamson to speak with the Premises Licence Holder. He was present and identified himself as James MILLICAN. I showed him the two photographs from the footage, and he confirmed he had served the alcohol in both cases.

Signed: ...

.....

Statement Taken by:

WITNESS STATEMENT**Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9**

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 4th 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.

On Thursday 13th December 2018 I was on duty taking part in Operation [redacted] which was a Trading Standards authorised test purchase operation in [redacted] County Durham. The operation involved sending a child volunteer wearing a covert camera 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 volunteers were instructed that if asked their age they could lie and say they were 18. The child volunteers were also instructed to state they had no identification if asked. The child volunteer for this operation was 16 years of age.

Approx 18:57 hrs on that day the child volunteer entered Costcutter, Old Co-op Buildings, Burnopfield and purchased a bottle wine. The volunteer and not asked for ID or how old they were.

On Friday 21st December 2018. I was again taking part in Operation [redacted] a Trading Standards test purchase operation in the [redacted] the operation involved sending a child volunteer wearing a covert camera 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 volunteers were instructed that if asked their age they could lie and say they were 18. The child volunteers were also instructed to state they had no identification if asked. The child volunteer for this operation was 15 years of age.

Approx 19:09hrs on that day the child volunteer entered Costcutter, Old Co-op Buildings, Burnopfield and purchased a bottle of wine. On this occasion the volunteer was asked for ID or how old they were.

At 15:13hrs on Tuesday 15th January 2019 I attended Costcutter with Graham BLOUNT, Trading Standards Officers from Durham County Council with a picture of the male who sold the alcohol to the volunteer during the 2 test purchases and spoke to the male behind the counter. The male confirmed it was him in both pictures and gave him details as James MILLICAN, bn [redacted] Arrangements were made for me to attend the premises to issue a ticket for the offence of sale of alcohol anywhere to a person under 18.

Witness contact details

URN

Name of witness: Michelle Williamson

Home Address:

Postcode: DH7 8RS

E-mail address:

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:

At 10:34hrs on Tuesday 22nd 2019 i attended Costcutter again in company with PC 1426 ROBERTSON. I cautioned MILLICAN and issued Penalty Notice for Disorder ticket number 011803 80167152, for the offence of Sale of alcohol anywhere to a person under 18, contrary to S146(1) of Licensing Act 2003 which he signed and accepted. It was explained to MILLICAN that he had 2 options, within 21 days he 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 he 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 him and he may be charged with the relevant offence.

Signature: {

Signature witnessed by:

Appendix 5: Representations

From: Judith Wilkinson
Harm Reduction Unit

To: Karen Robson

Cc: Yvonne Raine

Subject: FW: Costcutter review support statement

Attachments: Old Co-op Building review statement.docx

To Durham County Council

Please find enclosed a Statement in support of Durham County Council's application to review Costcutter, Units 2/3 Old Coop Buildings, Front Street, Burnopfield, NE16 6LU.

Many Thanks

Judith Wilkinson
Licensing Support

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 20th March 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 Costcutter, Old Co-op Buildings, Burnopfield is not promoting the licensing objectives namely protection of children from harm, prevention of crime and disorder, public safety and public nuisance.

The premises licence holder Mr James MILLICAN failed 2 test purchases, one being on 13th December 2018 and 21st December 2018.

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.

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

On Thursday 13th December 2018 I was on duty taking part in Operation _____ which was a Trading Standards authorised test purchase operation in Consett and Stanley, County Durham. The operation involved sending a child volunteer wearing a covert camera 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 volunteers were instructed that if asked their age they could lie and say they were 18. The child volunteers were also instructed to state they had no identification if asked. The child volunteer for this operation was 16 years of age.

Approx 18:57 hrs on that day the child volunteer entered Costcutter, Old Co-op Buildings, Burnopfield and purchased a bottle wine. The volunteer and not asked for ID or how old they were.

On Friday 21st December 2018, I was again taking part in Operatior a Trading Standards test purchase operation in the Consett and Stanley area. The operation involved sending a child volunteer wearing a covert camera 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 volunteers were instructed that if asked their age they could lie and say they were 18. The child volunteers were also instructed to state they had no identification if asked. The child volunteer for this operation was 15 years of age.

Approx 19:09hrs on that day the child volunteer entered Costcutter, Old Co-op Buildings, Burhopfield and purchased a bottle of wine. On this occasion the volunteer was asked for ID or how old they were.

At 15:13hrs on Tuesday 15th January 2019 I attended Costcutter with Graham BLOUNT, Trading Standards Officers from Durham County Council with a picture of the male who sold the alcohol to the volunteer during the 2 test purchases and spoke to the male behind the counter. The male confirmed it was him in both pictures and gave him details as James MILLICAN, bn Arrangements were made for me to attend the premises to issue a ticket for the offence of sale of alcohol anywhere to a person under 18.

At 10:34hrs on Tuesday 22nd 2019 i attended Costcutter again in company with PC 1426 ROBERTSON. I cautioned MILLICAN and issued Penalty Notice for Disorder ticket number 011803 80167152, for the offence of Sale of alcohol anywhere to a person under 18, contrary to S146(1) of Licensing Act 2003 which he signed and accepted. It was explained to MILLICAN that he had 2 options, within 21 days he 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 he 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 him and he may be charged with the relevant offence.

Durham Constabulary fully support Durham County Council in the revocation of the premises licence for Costcutter, Old Co-op Buildings, Burnopfield. {

Signature: ↴

Signature witnessed by:

From: Nicola Gill
To: Yvonne Raine; Karen Robson
Cc: Laura Cloney; Helen Johnson - Licensing Team Leader (N'hoods)
Subject: Premise Licence Review Application - Costcutter, Burnopfield

Good morning,

With reference to the above premises, Durham County Council's Licensing Enforcement (representing Licensing as a responsible Authority under the Licensing Act 2003) wish to make representations in relation to this application in connection with the following licensing objectives: The prevention of crime and disorder, the protection of children from harm and public safety.

We support the concerns of Durham County Council, Weights and Measures Authority regarding the sale of alcohol to persons under the age of 18.

In addition on the 15th March 2019 a Licensing inspection was carried out at Costcutter, Burnopfield. At the time of the inspection the following licence conditions attached to the Premises Licence under the categories of the Prevention of Crime and Disorder, Protection of Children from Harm and Public Safety were not being complied with:

Prevention of Crime & Disorder

- CCTV system not in working order/footage not retained
- Opening hours and licensable hours for sale of alcohol not displayed

Protection of Children from Harm

- No refusals register available for inspection
- No staff training records kept on implementation of age verification policy

Public Safety

- No incident log kept
- No dedicated first aid facility for the store

Premise Licence & Summary

- The summary of the Premises Licence (Part B) was not on display at the premises. In addition, the Designated Premises Supervisor/Manager/Staff were unable to produce the Premises Licence (Part A) upon request. It is a requirement by virtue of Section 57 (3) and (5) of the Licensing Act 2003 that the summary of the Premises Licence (Part B) be displayed at the premises and the Premises Licence (Part A) be produced upon request by an Authorised Officer.

A letter was sent to Mr Millican outlining the breaches found during the visit

Kind regards,
Nicola

Nicola Gill
Licensing Enforcement Officer
Regeneration and Local Services



Premises Copy/ Officer's Copy *
(delete as appropriate)

Environment, Health
&
Consumer
Protection
(Licensing))
PO Box 617
Durham
DH1 9HZ

NOTICE OF POWERS AND RIGHTS

THIS NOTICE IS ISSUED TO ADVISE YOU OF YOUR RIGHTS, AND OF THE OFFICER'S POWERS, ON THIS INSPECTION OF YOUR PREMISES IN ACCORDANCE WITH PARAGRAPH 7.1 OF THE CODE OF PRACTICE - POWERS OF ENTRY

Address of Premises COSTCUTTER, 293 OLD COOP BUILDINGS, FRONT STREET, BURNOPFIELD

Person Receiving Notice.....

Under the legislation listed below, an authorised officer may, at all reasonable times and on production of his/her credentials, if requested, enter any business premises for the purposes of carrying out an inspection.

You should expect an authorised officer to produce their credentials even where no requirement to do so in legislation exists.

This inspection visit is being carried out using statutory powers contained within the legislation indicated below. The powers may vary between each Act. A summary of your rights can be found on the reverse of this notice.

Unless the officer has advised you otherwise, you are not suspected of any offence.

INSPECTION NOT UNDER WARRANT

POWER(S) UNDER WHICH THE INSPECTION IS MADE

(NB: Circle appropriate legislation)

Statutory powers contained in:

Licensing Act 2003

Gambling Act 2005

Local Government (Miscellaneous Provisions) Act 1976

Local Government (Miscellaneous Provisions) Act 1982

Town Police Clauses Act 1847

Road Safety Act 2006

Clean Neighbourhoods and Environment Act 2005

§ Officer must always produce evidence of their identity and authority under this legislation

Authorised Officer: *N. Gill - NICOLA GILL*
Other Persons Present: *N/A*

SUMMARY OF YOUR RIGHTS

Persons whose premises are inspected have certain rights under the Code of Practice – Powers of Entry, a copy of which is available for inspection at the offices of Durham County Council, Environment, Health and Consumer Protection Service or online at www.gov.uk/powers-of-entry

In summary:

1. The inspection should take place only at a reasonable hour (normally meaning when open for business) and only after the officer has told you the purpose of the inspection and shown his/her credentials. Reasonable advance notice (usually not less than 48 hours) should be given unless this will frustrate the purposes of exercising the power of entry.
2. The number of persons present during the inspection should be no more than is reasonable and proportionate in the circumstances to ensure powers are exercised effectively.
3. Where an officer has reasonable cause to suspect an offence has been committed, the Code of Practice on Powers of Entry will cease to have effect and the requirements of the Police and Criminal Evidence Act 1984 Code B will apply. You should be provided with an appropriate Notice issued in accordance with PACE Code B informing you of any additional powers and rights that will apply in such circumstances.
4. You may be entitled to compensation for loss or damage caused in entering/inspecting your premises in certain circumstances.

Date: *08.03.19* Time Commenced: *10.00* Time Concluded *10.15*

Office Use Only



PROTECTION OF FREEDOMS ACT 2012:

APPROVAL FOR EXERCISE OF POWERS OF ENTRY:

WARRANT / ASSOCIATED POWERS / COMPLAINT / INVESTIGATION

SIG: ↖

NAME: JAMES MILLIGAN DATE: 18.03.19

LICENSING ACT 2003 PREMISES INSPECTION -- OFFICER CHECKLIST

DATE: 08.03.19	TIME:	OFFICERS: N. GILL
PREMISES: COSTCUTTER, BURNOPFIELD	LICENCE NO: DCCC/PLA0283	
NAME OF PERSON PRESENT: JAMES MILLIGAN		
POSITION: OWNER		
PERSONAL LICENCE NUMBER: N/A		
DPS NAME HARJINDER BAL	STILL AT PREMISES? YES/NO	
<input checked="" type="checkbox"/> LICENCE ON PREMISES <input checked="" type="checkbox"/> SUMMARY ON DISPLAY <input type="checkbox"/> N LICENSABLE ACTIVITIES AUTHORISED; SALE/ SUPPLY OF ALCOHOL (ON/OFF) / LIVE MUSIC / RECORDED MUSIC / PERFORMANCE OF DANCE / ANYTHING SIMILAR / EXHIBITION OF FILM / INDOOR SPORTING EVENTS / LATE NIGHT REFRESHMENT		
CONDITIONS	Y / N / n/a	ADDITIONAL COMMENTS
Door Supervisors	NIA	THU/FRI/SAT/SUN - Times & Numbers
CCTV CAMERA ON ORDER	Y - Not working	Digital/Colour/External/Internal/28/31 days footage retained / NOT RECORDING Required locations: ENTRANCE/EXITS?
Refusals Book	N	Date of last entry: NOT AVAILABLE
Drugs Box/Register	NIA	
Training Records	N	Refreshed? Date of last training:
Incident Book	N	Date of last entry:
Other signage	N	Leave Quietly, CCTV in operation, OPENING, LICENSABLE
DPS Authorisations	Y	VERBAL
Noise limiting device?	NIA	

Drinks Promotions	N	Irresponsible?
Age verification policy	Y	CHALLENGE 2S
Free tap water available	NIA	
Drinks available in small measures	NIA	
Smoke free signage		
Drinks/glass outside of premises	NIA	
Doors / windows open	NIA	
Other conditions		
BURGALAR ALARM	Y	
PANIC BUTTON	Y	

ADDITIONAL COMMENTS/NOTES

- * FIRE EXITS / EQUIPMENT CLEARLY MARKED? Y
- * FIRST AID FACILITIES AVAILABLE? N
- * NON-SLIP TILES - WET FLOOR SIGNAGE? Y
- * DISABLED ACCESS? Y
- * GROUPS CONGREGATING? NO ISSUE
- * TILL PROMPT? Y
- * CHALLENGE 2S? Y
- *

Number of AWP Machines:	Jackpots:	Gaming Machine Permit / Notification?
NIA	NIA	NIA

Risk Rating: High / Medium / Low / Very Low

Review: Yes / No

Recommended follow up actions:

- * LICENCE & SUMMARY TO BE OBTAINED .
- * CCTV OUT OF ORDER
- * NO REFUSALS REGISTERED
- * NO INCIDENT BOOK
- * FIRST AID
- * SIGNAGE NOT DISPLAYED
- * NO TRAINING RECORDS .



Premises Copy/ Officer's Copy *
(delete as appropriate)

Environment, Health
&
Consumer
Protection
(Licensing))
PO Box 617
Durham
DH1 9HZ

NOTICE OF POWERS AND RIGHTS

THIS NOTICE IS ISSUED TO ADVISE YOU OF YOUR RIGHTS, AND OF THE OFFICER'S POWERS, ON THIS INSPECTION OF YOUR PREMISES IN ACCORDANCE WITH PARAGRAPH 7.1 OF THE CODE OF PRACTICE - POWERS OF ENTRY

Address of Premises Castcutter, Front Street, Burnopfield

Person Receiving Notice... James Milligan

Under the legislation listed below, an authorised officer may, at all reasonable times and on production of his/her credentials, if requested, enter any business premises for the purposes of carrying out an inspection.

You should expect an authorised officer to produce their credentials even where no requirement to do so in legislation exists.

This inspection visit is being carried out using statutory powers contained within the legislation indicated below. The powers may vary between each Act. A summary of your rights can be found on the reverse of this notice.

Unless the officer has advised you otherwise, you are not suspected of any offence.

INSPECTION NOT UNDER WARRANT

POWER(S) UNDER WHICH THE INSPECTION IS MADE

(NB: Circle appropriate legislation)

Statutory powers contained in:

- Licensing Act 2003
- Gambling Act 2005
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Town Police Clauses Act 1847
- Road Safety Act 2006
- Clean Neighbourhoods and Environment Act 2005

§ Officer must always produce evidence of their identity and authority under this legislation

Authorised Officer: Nicola Gill / Nicola Andersen
Other Persons Present:

SUMMARY OF YOUR RIGHTS

Persons whose premises are inspected have certain rights under the Code of Practice – Powers of Entry, a copy of which is available for inspection at the offices of Durham County Council, Environment, Health and Consumer Protection Service or online at www.gov.uk/powers-of-entry

In summary:

1. The inspection should take place only at a reasonable hour (normally meaning when open for business) and only after the officer has told you the purpose of the inspection and shown his/her credentials. Reasonable advance notice (usually not less than 48 hours) should be given unless this will frustrate the purposes of exercising the power of entry.
2. The number of persons present during the inspection should be no more than is reasonable and proportionate in the circumstances to ensure powers are exercised effectively.
3. Where an officer has reasonable cause to suspect an offence has been committed, the Code of Practice on Powers of Entry will cease to have effect and the requirements of the Police and Criminal Evidence Act 1984 Code B will apply. You should be provided with an appropriate Notice issued in accordance with PACE Code B informing you of any additional powers and rights that will apply in such circumstances.
4. You may be entitled to compensation for loss or damage caused in entering/inspecting your premises in certain circumstances.

Date: 04.04.2019 Time Commenced: 11.30 Time Concluded 11.45

Office Use Only



PROTECTION OF FREEDOMS ACT 2012:

APPROVAL FOR EXERCISE OF POWERS OF ENTRY:

WARRANT / ASSOCIATED POWERS / COMPLAINT / INVESTIGATION

SIG:

NAME:

DATE:

James Millican

2/4/14

LICENSING ACT 2003 PREMISES INSPECTION – OFFICER CHECKLIST

DATE: 04.04.2014	TIME: 11.30	OFFICERS: NG/NA
PREMISES: Castcutter, Burnopfield	LICENCE NO: DCC/PLA0283	
NAME OF PERSON PRESENT: POSITION: PERSONAL LICENCE NUMBER:	James Millican Licence holder	
DPS NAME <u>Haryinder Bal</u>	STILL AT PREMISES? <u>YES</u> /NO	
<input checked="" type="checkbox"/> LICENCE ON PREMISES <input checked="" type="checkbox"/> SUMMARY ON DISPLAY LICENSABLE ACTIVITIES AUTHORISED; SALE/ SUPPLY OF ALCOHOL (ON/OFF) / LIVE MUSIC / RECORDED MUSIC / PERFORMANCE OF DANCE / ANYTHING SIMILAR / EXHIBITION OF FILM / INDOOR SPORTING EVENTS / LATE NIGHT REFRESHMENT		
CONDITIONS	Y / N / n/a	ADDITIONAL COMMENTS
Door Supervisors		THU/FRI/SAT/SUN – Times & Numbers
CCTV	Y	Digital/Colour/External/Internal/28/31 days footage retained / <u>Y</u> - 21st March - new system installed Required locations: <u>Y</u>
Refusals Book	Y	Date of last entry: 10.07.16
Drugs Box/Register		
Training Records	Y	Refreshed? Date of last training:
Incident Book	Y	Date of last entry:
Other signage	Y	Leave Quietly, CCTV in operation, licensable hours
DPS Authorisations		
Noise limiting device?		

Drinks Promotions		Irresponsible?
Age verification policy		
Free tap water available		
Drinks available in small measures		
Smoke free signage		
Drinks/glass outside of premises		
Doors / windows open		
Other conditions		
* First Aid Facility	Y	

ADDITIONAL COMMENTS/NOTES

Number of AWP Machines:	Jackpots:	Gaming Machine Permit / Notification?

Risk Rating: High / Medium / Low / Very Low

Review: Yes / No

Recommended follow up actions:

Contact: Sean Barry
Direct Tel:
Fax:
email:
Our ref:



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

Dear Sir / Madam

Re – Costcutter, Unit 2-3 Old Coop Buildings, Front Street, Burnopfield NE16 6LU.

I represent County Durham Public Health department within Durham County Council which is a responsible authority under the Licensing Act 2003. Due to information contained in this review Public Health wish to record their support for a licensing review of the premises above.

Evidence presented in the application of review raises concerns about the protection of children from harm.

We know alcohol is linked to 200 different diseases and injuries including heart disease, liver disease and seven types of cancer.¹ It's harmful for adults - but the risks are even greater for under 18s whose minds and bodies are still developing, for example;

- **Young brains continue to develop and change until the mid-twenties.** *Drinking alcohol before adulthood can change or delay the development of the logical, thoughtful part of the brain.*²
- **Alcohol can affect a child's mental health and wellbeing.** *It is linked to stress, depression and self-harming behaviour.*³
- **Children are smaller, which means alcohol's effects work more quickly.** *Alcohol poisoning can result in young people being admitted to hospital or worse.*⁴

Adult & Health Services
Durham County Council, County Hall, Durham DH1 5UG
Main Telephone 03000 26 0000
www.durham.gov.uk

- **Alcohol can lead to other risky, impulsive behaviour.** *Young people who drink regularly are four times more likely to smoke and three times more likely to take other, illegal drugs. They are more likely to get hurt due to an accident or as a result of violence.*⁵
- **Children's bodies are still developing through the teenage years.** *We know that drinking alcohol can affect their liver, bones, hormones and their growth.*⁶

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

Public Health believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Given the information in the review Public Health would have no confidence at this time that the premises in question can be considered as a responsible licence premises.

Therefore, on behalf of Public Health, I would support the application to review the premises licence.

Yours sincerely

Amanda Healy
Director of Public Health

Lee Peacock
Strategy & Development Officer
Local Safeguarding Children Board
Transformation and Partnerships
Durham County Council
County Hall
Durham
DH1 5UL

Ref LP/2019/027

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

To whom it may concern

Re: Costcutter, Front St, Burnopfield

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

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

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

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

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

- Under age sales

Durham LSCB believe the role of the premises licence holder and designated premises supervisor are positions of responsibility. Based on the evidence provided in

this review it is apparent that the conditions of licence are not being adhered to and the premises licence holder and designated premises supervisor are not fulfilling their roles in respect to the premises licence.

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

Yours sincerely

**Lee Peacock
Strategy & Development Officer
Local Safeguarding Children Board**

Appendix 6: Responsible Authorities Responses – No comments



Chief Fire Officer: Stuart Errington

Fire and Rescue Service Headquarters,
Belmont Business Park, Durham, DH1 1TW

This matter is being dealt with by: **than Smith**

Ext:

Our Ref: 2E10300005

Your Ref: Licensing Act 2003
- Review application

Direct Dial Telephone:

E-mail:

Helen Johnson
Environment, Health and Consumer Protection
Regeneration and Local Services
Durham County Council
Annand House
Meadowfield
Durham. DH7 8RS

Dear Helen

Licensing Act 2003

Regulatory Reform (Fire Safety) Order 2005

Costcutter, Old Co-op Buildings, Unit 2/3 Front Street, Burnopfield, Newcastle Upon Tyne, NE16 6LX

I acknowledge your application dated 8 March 2019 for a Licence review 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.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about 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 and follow the link to Fire safety at work.

Yours faithfully

Jonathan Smith
Fire Safety Section



From: Ted Murphy
Sent: 07 March 2019 14:22
To: Helen Johnson - Licensing Team Leader (N'hoods)
Subject: RE: Licensing Act 2003 - Review application rec'd - Costcutter, Front Street, Burnopfield

Hi Helen,

I have no representations to make.

Regards

Ted Murphy
Senior Environmental Health Officer
Regeneration and Local Services

T: [0191 278 3434](tel:01912783434)
E: t.murphy@durham.gov.uk

Web: www.durham.gov.uk
Follow us on Twitter @durhamcouncil
Like us at [facebook.com/durhamcouncil](https://www.facebook.com/durhamcouncil)

From: Helen Johnson - Licensing Team Leader (N'hoods)
Sent: 07 March 2019 11:22
Subject: Licensing Act 2003 - Review application rec'd - Costcutter, Front Street, Burnopfield
Importance: High

Dear Sir/Madam,

The following application has been received by Durham County Council Licensing Services and a copy of the application will be delivered by the applicant to all responsible authorities and the premises licence holder.

Application Type - Application for the Review of a Premises Licence (to address concerns relating to the Prevention of Crime and Disorder, prevention of public nuisance and the protection of children from harm licensing objective)

Applicant – Durham County Council Local Weights and Measures Authority (Responsible Authority)

Premises – Costcutter, Unit 2-3 Old Coop Buildings, Front Street, Burnopfield NE16 6LU

Date of Application – 6th March 2019 Last date for representations – 3rd April 2019

A redacted copy of the review application is attached, along with a copy of the current premises licence for your information.

Please note the last date for representations.

Regards,

Appendix 7: Statement of Licensing Policy

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

7.0 The Prevention of Crime and Disorder

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

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

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

9.0 Prevention of Public Nuisance

9.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

9.2 The concerns relate, amongst other things, to litter, light pollution, noxious odours and noise nuisance resulting from music, human voices, ventilation equipment and vehicles. The Licensing Authority will expect applicants to demonstrate that suitable and sufficient measures have been identified, and will be implemented and maintained, with the intention of preventing public nuisance relevant to the individual style, location and characteristics of the premises and events.

9.3 If an external structure or area is to be used by customers, whether for consumption of alcohol or for smoking, the applicant will be expected to offer measures designed to minimise its impact on local residents in respect of both public nuisance and crime and disorder. These measures may include a restriction on hours that areas / structures will be used, appropriate signage requesting customers to consider local residents and monitoring of such areas by staff.

9.4 The placement of tables and chairs outside of licensed premises may give rise to public nuisance including noise and litter. When tables and chairs are situated on the public highway relevant consents will often be required. Enquiries for such consents should be made to the Council's Highway's Section of the Regeneration and Economic Development Department. In predominantly commercial areas such as shopping centres the Licensing Authority, the use of tables and chairs outside may be allowed however, the Council will normally expect them to be removed before the premises close, and any resulting litter/ debris cleared away.

9.5 Applicants should give consideration to reducing potential noise nuisance by, for example (this list is not exhaustive):

- Assessment of likely noise levels in the premises.
- Assessment of likely noise levels if outdoor drinking is allowed.
- The sound insulation the building would provide (e.g. double glazing, double doors / lobbies to entrances, windows used for ventilation).
- The distance and direction to the nearest noise sensitive premises.
- Likely noise sources outside of the premises (e.g. emptying bottle bins, taxis, unruly customers leaving the premises).
- Dispersal of patrons – where necessary the Licensing Authority will expect a dispersal policy for patrons at the end of the evening. The policy will specify such issues as alterations to the style and volume of music played, public address announcements and use of appropriate signage at exits.
- Ways to limit noise / disorder from patrons leaving the premises.

9.6 The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of

premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

9.7 Applicants are advised to seek advice from Durham County Councils Environmental Health Team and incorporate any recommendations in their Operating Schedule before submitting their applications.

9.8 Takeaways and fast-food outlets: The Licensing Authority expects takeaways and late night refreshment premises to take reasonable steps in clearing litter from outside their premises and along the pavement in either direction as necessary, whilst the premises are open and at the end of the working day. These premises should maintain clean, dirt or grease free frontages. Such premises should also provide notices displayed advising customers of the location of bins and patrons should use the bins any provided.

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

10.0 Protection of Children from Harm

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY

22.0 Reviews

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Appendix 8: Section 182 Guidance

Crime and disorder

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

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

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

Section	Offence	Prosecuting Authority
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). 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)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the

representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives 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.