

Statutory Licensing Sub-Committee

15th November 2022

Application to Vary a Premises Licence to Specify an Individual as Designated Premises Supervisor



Ordinary Decision

Report of Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change

Councillor John Shuttleworth, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships

Electoral division(s) affected: Consett North

Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application to vary the premises licence for Chaplains 17-21 Front Street, Consett, Co Durham DH8 5AB to specify an individual as the Designated Premises Supervisor. The application was submitted by Mr James McDonald, the premises licence holder and a committee date was scheduled for 10th November 2022. Durham Constabulary requested an adjournment and the hearing was re-scheduled.
- 2 A plan showing the location of the premises is attached at Appendix 2.
- 3 It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

Executive summary

- 4 The application from Mr James McDonald to vary the Designated Premises Supervisor (DPS) named on the premises licence for Chaplains 17-21 Front Street, Consett, Co Durham DH8 5AB was received on 4th October 2022 and names Mr James McDonald as the proposed Designated Premises Supervisor.
- 5 Durham Constabulary have made a representation objecting to Mr James McDonald being named as the Designated Premises Supervisor.

Recommendation(s)

- 6 The Sub-Committee is asked to determine the 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 5;
 - (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 6;
 - (e) The Licensing Act 2003. The relevant parts of the act are attached at Appendix 7.

Background

- 8 Background information

Applicant	Mr James McDonald	
Type of Application: Vary the DPS	Date received: 4th October 2022	Consultation ended: 17th October 2022
Premises:	Chaplains 17-21 Front Street, Consett, Co Durham DH8 5AB	
Proposed DPS	Mr James McDonald	

- 9 Under Section 37 of the Licensing Act 2003, a copy of the application to vary a Designated Premises Supervisor must also be given to Durham Constabulary. If Durham Constabulary consider that granting the application would undermine the licensing crime prevention objective, they must give notice to the licensing authority stating their concerns.

Details of the application

- 10 An application from Mr James McDonald to specify Mr James McDonald as the Designated Premises Supervisor on the premises licence for Chaplains 17-21 Front Street, Consett, Co Durham DH8 5AB was received by the Licensing Authority on 4th October 2022.

See Appendix 3.

The Representation

- 11 On 14th October 2022 a representation was received from Durham Constabulary's Cohesion & Licensed Economy Unit on behalf of the Chief Officer of Police, objecting to Mr James McDonald being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection is attached as Appendix 4.

The Parties

- 12 The Parties to the hearing will be:
- Mr James McDonald (Applicant & Premises Licence Holder)
 - Mr James McDonald (Proposed Designated Premises Supervisor)
 - Durham Constabulary (Responsible Authority)

Options

- 13 The options open to the Sub-Committee are:
- (a) To grant the application or
 - (b) To reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective.

Main implications

Legal Implications

- 14 None

Consultation

- 15 The vary DPS application was subject to a 14 day consultation with Durham Constabulary.

See Appendix 1

Conclusion

- 16 The Sub-Committee is asked to determine the application to vary the Premises Licence to specify Mr James McDonald as the Designated Premises Supervisor.

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

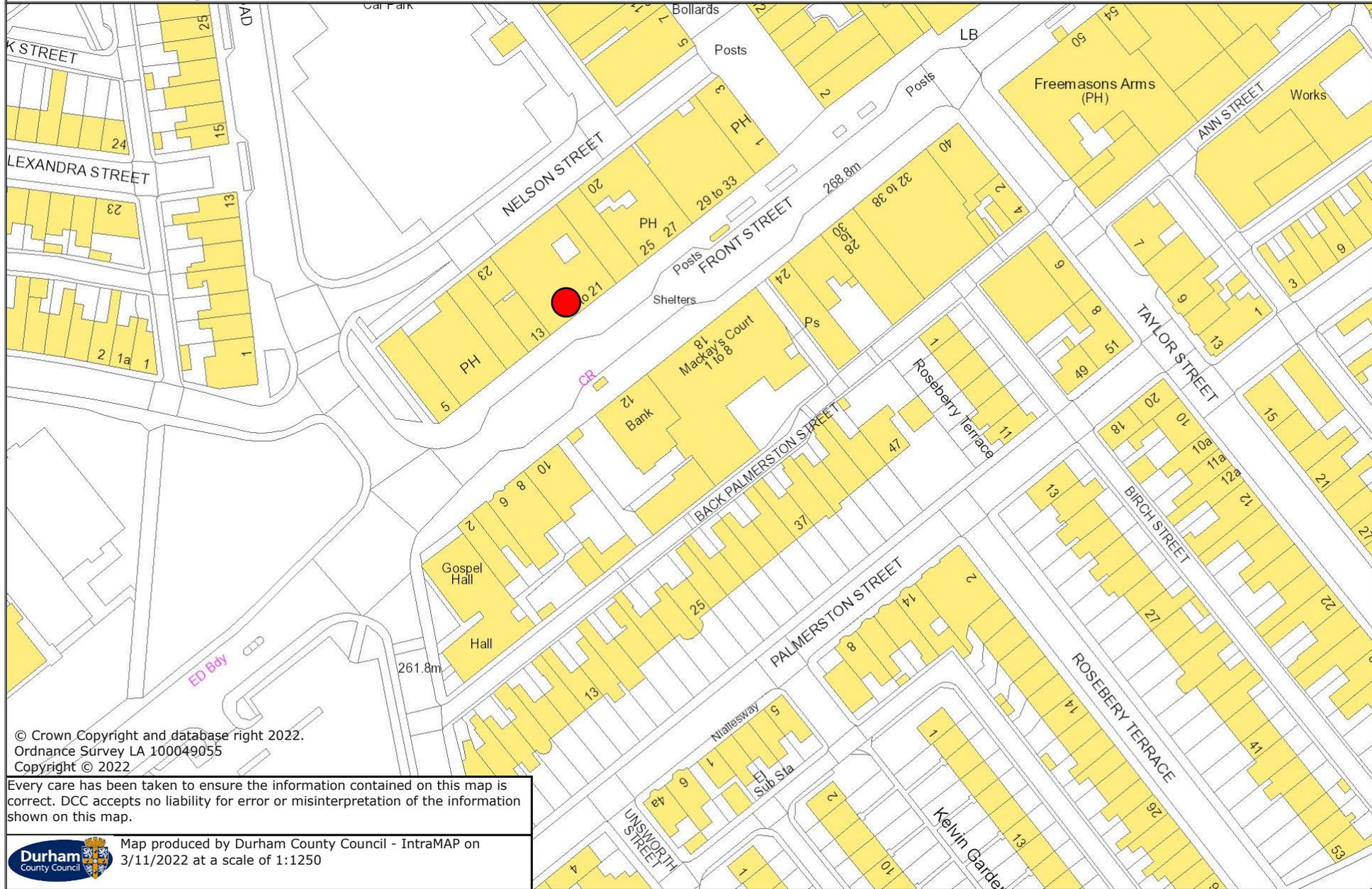
Appendix 1: Implications

Consultation

The application was subject to a 14 day consultation with Durham Constabulary in accordance with the Licensing Act 2003 and its regulations.

Appendix 2: Location Plan

Durham County Council - IntraMAP



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



Map produced by Durham County Council - IntraMAP on
3/11/2022 at a scale of 1:1250

Appendix 3: Application Form

**DURHAM COUNTY COUNCIL, Licensing Services, PO Box 617,
Durham. DH1 9HZ**

**Application to vary a premises licence to specify an individual as designated
premises supervisor 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 / we James mcdonald

(full name(s) of premises licence holder)

**being the premises licence holder, apply to vary a premises licence to specify
the individual named in this application as the premises supervisor under
section 37 of the Licensing Act 2003**

Premises licence number

DWTSP No 74

Part 1 – Premises details

**Postal address of premises or, if none, ordnance survey map reference or
description**

Chaplain's

17-21

Front Street

Post town

Consett

Post code (if known)

DL8 5AB

Telephone number (if any)

Description of premises (please read guidance note 1)

Public House

late night Bar + Lounge

Part 2

Full name of proposed designated premises supervisor
James Edward McDonald

Nationality

F

D

Personal licence number of proposed designated premises supervisor and issuing authority of that licence (if any)

2

Full name of existing designated premises supervisor (if any)

Rhys Charles Robert Turner

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003 (please read guidance note 2)

I have enclosed the premises licence or relevant part of it

(If you have not enclosed the premises licence, or relevant part of it, please give reasons why not)

Reasons why I have failed to enclose the premises licence or relevant part of it

Please tick yes

- I have made or enclosed payment of the fee
- I will give a copy of this application to the chief officer of police (please read guidance note 3)
- I have enclosed the consent form completed by the proposed premises supervisor
- I have enclosed the premises licence, or relevant part of it or explanation
- I will notify the existing premises supervisor (if any) of this application (please read guidance note 4)
- I understand that if I do not comply with the above requirements my application will be rejected

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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971 FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS.

THOSE WHO EMPLOY AN ADULT WITHOUT A VALID LEAVE TO ENTER OR REMAIN IN THE UK OR AN ADULT WHO IS SUBJECT TO CONDITIONS WHICH WOULD PREVENT THAT PERSON FROM TAKING UP EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED BY VIRTUE OF THEIR IMMIGRATION STATUS.

Part 3 – Signatures (please read guidance note 5)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 6). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

03/10/22

.....

Capacity

owner

.....

For joint applicants signature of 2nd applicant, 2nd applicant's solicitor or other authorised agent (please read guidance note 7). If signing on behalf of the applicant please state in what capacity.

Signature

.....

Date

.....

Capacity

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 8) Chaffers 17 - 21 Flood Street	
Post town Coussett	Post Code DL18 8AB
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. An application to vary a premises licence so as to name a different premises supervisor may be given immediate effect (that is, from the time that the application is received by the licensing authority) if the premises licence holder requests it at the time he makes an application under section 37. Section 38 enables the holder of a premises licence to continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work. If the application is rejected, the licence reverts to the form it took before the application was made.
3. A full copy of the application form must be sent to the chief officer(s) of police for the police area(s) in which the premises are situated. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
4. Section 37(4)(b) of the Licensing Act 2003 requires the premises licence holder to notify the existing designated premises supervisor (if any) about this application. It is sufficient for the licensee to inform the existing premises supervisor in writing, without the need to share the specific details of the application. The notice should state whether section 38 of that Act (circumstances in which section 37 application given interim effect) applies to the application.
5. The application form must be signed.
6. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have authority to do so.
7. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
8. This is the address which we shall use to correspond with you about this application.



LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
Granted
Issued

DWTSPR0074
24 November 2005
10 March 2022

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
CHAPLAINS 17-21 FRONT STREET CONSETT DH8 5AB	DURHAM COUNTY COUNCIL NEIGHBOURHOODS AND CLIMATE CHANGE COMMUNITY PROTECTION 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 Plays Films Indoor Sporting Events Boxing or Wrestling Entertainment Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Late Night Refreshment Sale by retail of alcohol
--

Opening Hours of the Premises		
Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00	Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:30	

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

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

<p>Plays Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings N/A</p>
<p>Films Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Indoor Sporting Events</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Boxing or Wrestling Entertainment Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. Applicable from New Year's Eve to 2nd January each year.</p>
<p>Live Music Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details</p> <p>N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:30</p>

<p>Recorded Music Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:30</p>
<p>Performance of Dance Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:30</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:30</p>
<p>Late Night Refreshment Indoors</p> <p>Mon 23:00-02:00 Tue 23:00-02:00 Wed 23:00-02:00 Thu 23:00-02:00 Fri 23:00-02:00 Sat 23:00-02:00 Sun 23:00-02:00</p>	<p>Further details N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day.</p>
<p>Sale by retail of alcohol</p> <p>Mon 10:00-02:00 Tue 10:00-02:00 Wed 10:00-02:00 Thu 10:00-02:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-02:00</p>	<p>Further details N/A Non-standard/seasonal timings An additional hour on the day when British Summertime commences. New Year: from the end of permitted hours on New Year's Eve to the start of permitted hours on New Year's Day. Bank Holiday Sundays and Boxing Day: 10:00 - 04:00</p>

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR JAMES EDWARD MCDONALD	
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 JAMES MCDONALD

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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;

(d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;

(e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

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.

The responsible person must ensure that –

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Price of Alcohol:

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

2 For the purposes of the condition:

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

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

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

Where –

(i) P is the permitted price,

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

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

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

(i) the holder of the premises licence,

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

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

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

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

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

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

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

Mandatory condition: door supervision

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection (1) requires such a condition to be imposed-
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or
 - (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).
3. For the purposes of this section-
 - (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
 - (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Mandatory condition: exhibition of films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
 - (a) the film classification body is not specified in the licence, or
 - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-
"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

Annex 2 – Conditions consistent with the premises Operating Schedule

General

All staff shall be fully trained to perform their role. They will be trained in the contents of the premises licence including times of operation, licensable activities and all of the conditions associated with the licence. Staff training will take place prior to commencement of any employment paid or unpaid with refresher training for all staff carried out 3 monthly. All training will be recorded in a register which shall be made available to the police/council upon request. Training records shall be kept on site at all times.

The Prevention of Crime & Disorder

Notices are displayed at the premises advising customers that ID checks and searches are undertaken. "Drugs Safes" must remain installed at the premises (locked metal containers, fitted to the wall) in order for customers to surrender such items and for depositing such items in the event that drugs are confiscated as a result of a search. The cellar must be kept locked at all times except for access and deliveries.

There shall be a minimum of 2 SIA door supervisors on duty from the Venue Wednesday, Thursday and Sunday. A minimum of 3 SIA door supervisors Friday and Saturday opening to close. Each of the door supervisors shall wear a body cam which shall be fully operational and switched on during operational hours. Recording must be kept for a minimum of 28 days and made available to police within 48 hours of request.

An operation daily log must be kept documenting door supervisor information. This is to include full name, date of birth, full badge number, contact phone number, security companies name and start and finish times. An ID scanner will be used at the door of the premises and ID logged for all persons under 25 years of age. The data on this system will be provided for the police when a properly made request is submitted.

A CCTV system will be installed and in operation at all times and images need to be clear which allow for proper identification of people.

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

There will be a constant and accurate date and time.

It must be operated by properly trained staff. All public areas will be covered, including entrances, exits and outside areas.

Breakdown of any part of the CCTV system including cameras so it is not working to the required standard will be reported to Durham Constabulary Licensed Economy Team and repaired without Delay. Recording will be retained for a minimum of 28 days.

The premises will ensure that at least one trained member of staff is available to operate the system at all times the premises is open for licensable activities. Any images requested by an authorised officer shall be provided within 7 days of the request. The premises will maintain an incident book where all incidents are recorded which will be made available on request to police or authorised officers from the council.

Public Safety

The premise has Fire Safety Equipment, which is serviced, as well as Emergency Lighting, of which the lights above the doors are permanently left on. Fire fighting equipment is provided on the premises in accordance with reasonable requirements of the Fire Authority. Fire escape routes are identified by adequate signage. No person shall be allowed to leave the premises whilst in the possession of any open drinking vessel.

The Prevention of Public Nuisance

Clear and legible notices will be displayed for patrons to have regard for local residents and to keep noise to a minimum when leaving the premises. The only entrance and exit for members of the public is located on Front Street, which faces other commercial properties and is directed away from residential properties.

The Protection of Children from Harm

Staff carry out frequent ID checks on the door and at the bar.

The premises shall operate the Challenge 25 Scheme whereby anyone who appears to be under 25 will be asked to provide identification which will consist of either a passport or photo card driving licence. A refusal register will be available for immediate inspection by police or authorised officers by the council.

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

None

Annex 4 – Plans attached

Attached

**Signature of Authorised Officer
Head of Community Protection**

Appendix 4: Representation from Durham Constabulary

From: Caroline Dickenson
Sent: 14 October 2022 12:01
To: Karen Baker; AHS Licensing
Cc: Licensed Economy Team
Subject: objection to vary DPS - Chaplains

Categories:

To whom it may concern

I am a temporary police inspector employed in the role of Licensing for Durham Constabulary and I am authorised by a delegation given by the chief officer of police to act on her behalf in all matters pertaining to the Licensing Act 2003.

I have considered the varied DPS application received from James McDonald for CHAPLAINS, 17-21 Front Street, Consett, Co. Durham, DH8 5AB proposing that he is the DPS for the premises.

I am satisfied that granting the application will undermine prevention of crime and disorder objective.

The role of designated premises supervisor is a responsible position requiring day to day control of alcohol sales at licensed premises and ensuring that they and other staff members are fully trained and supported in sales while upholding the licensing objectives.

On 8th August 2022, a licensing check was carried out at CHAPLAINS at 13:18hrs. James McDonald was spoken to, and it was found several conditions under annex 2 of the licence were not being adhered to.

1. Training for members of staff had not been carried out 3 monthly and the training records were not on site.
2. The doorstaff logs provided were only going back to the 10th July 2022 and it was found the minimum number of SIA doorstaff required was not being adhered to on 3 separate occasions the 23rd of July 5th August and 6th August. The licence condition states there was to be a minimum of 3 members of doorstaff however only 2 were on duty. The door supervisor log was not completed correctly.
3. There was also CCTV footage of people drinking outside of the premises from open vessels after 11pm which again is a breach of conditions. The off sales extension under COVID only allows up to 11pm.

The above conditions which were not being adhered to were only agreed following a minor variation application on 23rd February 2022.

Following a serious incident at CHAPLAINS which resulted in a summary review at the premises it was found during investigations Chaplains had been employing door supervisors who are not licensed with the SIA at the time James MCDONALD was the premise licence holder.

The SIA have a code of conduct which states a person must be fit and proper if they want to hold an SIA licence. This is because the people who hold SIA licences are in positions of responsibility. They are entrusted to protect people, property, and premises.

It is also a mandatory condition under the licensing act 2003 that any door supervisors must be SIA registered and it is illegal to work as a Door Supervisor without a Security Industry Authority licence as door supervisors are entrusted to protect people, property, and the premises.

Durham County Council prosecuted James MCDONALD and on 13th September 2022 he was convicted of 2 offences of carry-on licensable activity on/from premises other than in accordance with an authorisation between the dates of 07/07/2021 – 03/11/2021. One of the offences related to CHAPLANS and the other to K2/UNION which is another premises which James MCDONALD was PLH for at the time. These convictions related to the unlicensed doorstaff.

The above offences are listed on schedule 4 which are relevant offences for anyone holding a personal license under the licensing act 2003.

Durham Constabulary have requested that Durham County Council consider revocation of James MCDONALD'S personal license.

Due to the evidence around this premises of breach of licence conditions and the recent conviction Durham Constabulary have no faith in the proposed DPS James MCDONALD upholding the crime prevention objective.

Thankyou

Caroline

T/Insp 484 Caroline Dickenson
Cohesion & Licensed Economy Team Insp
Safeguarding Neighbourhoods Command
Durham Constabulary

Our Values & Vision:

Positive | Fair | Courageous | Inclusive | With Integrity

Protecting Neighbourhoods, Tackling Criminals, Solving Problems

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

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Appendix 5: Statement of Licensing Policy

3.11 The designated premises supervisor (DPS) - This person must hold a personal licence and be in general day-to-day control of the premises. No alcohol may be sold or supplied from a licensed premise unless it is sold by a personal licence holder or a personal licence has authorised others to sell alcohol in their absence. This is mandatory.

In 2009, the Government empowered licensing authorities, on the application of a management committee of a community premises, not to apply the normal mandatory conditions in relation to the sale of alcohol. Instead the council can impose a condition rendering the management committee responsible for the supervision and authorisation of all alcohol sales made pursuant to the licence.

Any application for a change of the DPS must be made to the council either electronically, via gov.uk, or in hardcopy. Any hardcopy applications must also be served on the Police. An application form completed by the premises licence holder, a consent form signed by the prospective DPS, the premises licence and the appropriate fee must be submitted.

Where an objection is received by the council from the Police in respect of the proposed DPS, the council is required to hold a hearing before the Licensing Sub-Committee within the timescales set out in the Act and accompanying regulations.

6.1 The designated premises supervisor (DPS) - The application for a premises licence must identify a designated premises supervisor (DPS) who must also hold a personal licence. It is important that the DPS 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.

Most premises, where alcohol is sold under a premises licence, must have a designated premise supervisor (DPS). The DPS will be named in the premises licence, a summary of which must be displayed on the premises. A DPS must be a personal licence holder. Every sale of alcohol must be made or authorised by a person who holds a personal licence (or must be made or authorised by the management committee in the case of community premises).

The Licensing Act 2003 does not require a DPS, or any other personal licence holder, to always be present on the premises when alcohol is sold. However, DPS and the premises licence holder always remain responsible for the premises. The premises licence holder will be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided.

The DPS is the person who has day-to-day responsibility for the running of the business associated with the retail sale of alcohol. All businesses and organisations selling or supplying alcohol, except members' clubs and certain community premises must have a designated premises supervisor. Whoever holds this role must be named in the operating schedule, which you will need to complete as part of the application process, when you apply for a premises licence.

The person chosen to be the DPS will act as primary contact for the council and the Police. They must understand the social and local issues and potential problems associated with the sale of alcohol and have a good understanding of the business itself.

If the police or authorised council officers have any questions or concerns about the business, they will expect to be able to reach the DPS. Each business may have only one supervisor selected for this role, but the same person may act as the DPS at more than one business.

The Licensing Act requires the DPS and personal licence holders to take responsibility for the sale and supply of alcohol. This is because of the impact alcohol has on the wider community, on crime and disorder and antisocial behaviour. Because of these issues, selling alcohol carries greater responsibility than licensing regulated entertainment and late-night sales of food and non-alcoholic drinks.

The council will expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that normally the DPS would be present at the licensed premises most of the time. To put it another way, the council will be concerned if the DPS is regularly absent from the premises and if difficulties are encountered when trying to contact a DPS. Such concerns will be magnified should there be any licensing related problems associated with the premises.

7.1 The Prevention of Crime and Disorder - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

The council encourages, and will look positively on, the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

The council expects 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, a marquee, in a smoking shelter etc.

The **council expects** all applicants to 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.

The council recommends that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

The council encourages personal licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the "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.

The council recognises and promotes effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice,

such as 'Challenge 25'. These are amongst the most important control measures for the achievement of all Licensing Objectives.

The council will take a positive view of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

The council also 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 are 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.

Maximum occupancy: When its discretion is invoked, the council 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 premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (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.

Security: 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. 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 as well as the hours of trading.

Toughened/Safety Glass: 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 especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly

relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

Drugs/Knives/Weapons: The council 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 or consumed within the premises to prevent tragedies and harm because of drug misuse.

The council will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council 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.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

Appendix 6: 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.

Specification of new designated premises supervisors

- 4.31 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.52 to 4.65 of this Guidance.
- 4.32 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS' personal address should not be included in the summary form in order to protect their privacy.
- 4.33 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and
 - the relevant part (Part A) of the licence.
- 4.34 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.35 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.36 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.37 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.
- 4.38 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

Police objections to new designated premises supervisors

- 4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular

premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.

- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

Appendix 7: Relevant part of Licensing Act 2003

LICENSING ACT 2003

SECTION 37 – APPLICATION TO VARY LICENCE TO SPECIFY INDIVIDUAL AS PREMISES SUPERVISOR

37 Application to vary licence to specify individual as premises supervisor

- (1) The holder of a premises licence may –
 - (a) If the licence authorises the supply of alcohol, or
 - (b) If he applied under section 34 to vary the licence so that it authorises such supplies,
Apply to vary the licence so as to specify the individual names in the application (“the proposed individual”) as the premises supervisor.
- (2) Subsection (1) is subject to regulations under-
 - (a) Section 54 (form etc. of applications etc):
 - (b) Section 55 (fees to accompany applications etc):
- (3) An application under this section must also be accompanied by-
 - (a) A form of consent in the prescribed form given by the proposed individual, and
 - (b) The premises licence (or the appropriate part of that licence) or, if that is not practicable, a statement of the reasons for the failure to provide the licence (or part).
- (4) F1 Notice of an application under this section must be given-
 - (a) To the chief officer of police for the police area (or each police area) in which the premises are situated, and
 - (b) To the designated premises supervisor (if there is one)

And that notice must state whether the application is one to which section 38 applies.

- (4a) F2 Notice under subsection (4)(a) is to be given by-
 - (a) The relevant licensing authority, in a case where the holder of the **premises licence submitted the application to the relevant licensing authority** by means of a relevant electronic facility;
 - (b) The holder of the premises licence, in any other case.
- (4b) Notice under subsection (4)(b) is to be given by the holder of the premises Licence.
- (5) Where a chief officer of police notified under subsection (4) is satisfied that the exceptional circumstances of the case are such that granting the application would undermine the crime prevention objective, he must give the relevant licensing authority a notice stating the reasons why he is so satisfied.
- (6) The chief officer of police must give that notice within the period of 14 days beginning with the day on which he is notified of the application under subsection (4).

38 Circumstances in which section 37 application given interim effect

- (1) This section applies where an application made in accordance with section 37, in respect of a premises licence which authorises the supply of alcohol, includes a request that the variation applied for should have immediate effect.
- (2) By virtue of this section, the premises licence has effect during the application period as if it were varied in the manner set out in the application.
- (3) For this purpose, “the application period” means the period which-
 - (a) Begins when the application is received by the relevant licensing authority, and
 - (b) Ends-
 - (i) If the application is granted, when the variation takes effect,
 - (ii) If the application is rejected, at the time the rejection is notified to the applicant, or
 - (iii) If the application is withdrawn before it is determined, at the time of the withdrawal.

39 Determination of section 37 application

- (1) This section applies where an application is made, in accordance with section 37, to vary a premises licence so as to specify a new premises supervisor (“the proposed individual”).
- (2) Subject to subsection (3), the relevant licensing authority must grant the application.
- (3) Where a notice is given under section 37(5) (and not withdrawn), the authority must-
 - (a) Hold a hearing to consider it, unless the authority, the applicant and the chief officer of police who gave the notice agree that a hearing is unnecessary, and
 - (b) Having regard to the notice, reject the application if it considers it (F1 appropriate) for the promotion of the crime prevention objective to do so.
- (4) Where an application under 37 is granted or rejected, the relevant licensing authority must give notice to that effect to-
 - (a) The applicant,
 - (b) The proposed individual, and
 - (c) The chief office of police for the police area (or each police area) in which the premises are situated.
- (5) Where a chief office of police gave a notice under subsection (5) of that section (and it was not withdrawn), the notice under subsection (4) of this section must state the authority’s reasons for granting or rejecting the application.
- (6) Where the application is granted, the notice under subsection (4) must specify the time when the variation takes effect.
That time is the time specified in the application or, if that time is before the applicant is given that notice, such later time as the relevant licensing authority specifies in the notice.

40 Duty of applicant following determination under section 39

- (1) Where the holder of a premises licence is notified under section 39(4), he must forthwith-
 - (a) If his application has been granted, notify the person (if any) who has been replaced as the designated premises supervisor of the variation, and
 - (b) If his application has been rejected, give the designated premises supervisor (if any) notice to that effect.
- (2) A person commits an offence if he fails, without reasonable excuse, to comply with subsection (1).
- (3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.