

Statutory Licensing Sub-Committee

13th March 2018

Consideration of a Temporary Event Notice



Report of Jane Robinson, Corporate Director, Adult & Health Services

Name of Premises User: Mr Fabio Ciampolillo

1. Summary

The Sub-Committee is asked to consider an objection notice served by Durham Constabulary, in response to a Temporary Event Notice (TEN) given under Part 5 of the Licensing Act 2003 relating to:

La Spaghetтата
66 Saddler Street
Durham
DH1 3NP

Officers are unable to determine this matter due to an objection notice being received from Durham Constabulary on the basis that the event will undermine the licensing objectives, the Prevention of Crime and Disorder and Public Safety.

2. Details of the Notice

On 27th February 2018, the premises user, Mr Fabio Ciampolillo, served a Temporary Event Notice for La Spaghetтата, 66 Saddler Street, Durham. A copy of this notice is attached as Appendix 1.

The licensable activities that the premises user intends to carry out under the TEN are set out in the table below:

Licensable Activities	Date and Time
Sale by Retail of Alcohol (on the premises)	25 th March 2018 - 02:00 hrs until 03:00 hrs
The Provision of Regulated Entertainment	
The Provision of Late Night Refreshment	

For Members' information: The TEN has been applied to cover the last hour of trading at the premises to compensate for the hour which would be lost due to the start of British Summer Time.

La Spaghetтата currently has a premises licence issued under the Licensing Act 2003. The permitted licensable activities and times are as follows:

Licensable Activities	Days and Times
Sale by Retail of Alcohol (for consumption on the premises)	Monday to Sunday: 10:30 - 02:00 hrs
The Provision of Regulated Entertainment (Live Music, Recorded Music, Performance of Dance, and Anything similar) – (Indoors only)	Monday to Sunday: 10:30 - 02:00 hrs
Late Night Refreshment (Indoors only)	Monday to Sunday: 23:00 - 02:00 hrs
Opening Hours	Monday to Sunday: 10:30 - 02:30 hrs

A copy of the Premises Licence is attached at Appendix 2.

3. The Objection

On 1st March 2018, the Licensing Authority received an objection notice from Durham Constabulary on the grounds of the Prevention of Crime and Disorder and Public Safety and their objection is attached as Appendix 3.

On 27th February 2018, Environmental Health confirmed that they had no comments to make in relation to the Temporary Event Notice.

4. The Parties

The Parties to the hearing will be:

- Mr Fabio Ciampolillo (premises user)
- Durham Constabulary (responsible authority)

5. Durham County Council Statement of Licensing Policy

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

- 7.0 - The Prevention of Crime and Disorder
- 8.0 - Public Safety

Relevant information is attached at Appendix 4.

6. Section 182 Guidance

The Sub-Committee's attention is drawn to the Guidance issued under section 182 of the Licensing Act 2003 and in particular

- 2.1 – 2.7 Crime and Disorder
- 2.7 – 2.14 Public Safety
- 7.0 Temporary Event Notices

Relevant information is attached at Appendix 5.

7. For Decision

Members are requested to consider whether to allow the event to proceed and subsequently issue a notice of decision to the premises user and Durham Constabulary.

Alternatively, Members may wish to prohibit the event and subsequently issue a Counter Notice / Prescribed form of Notice and give reasons to both parties.

Background Papers:

- Durham County Council's Statement of Licensing Policy
- Guidance issued under section 182 of the Licensing Act 2003 (as amended April 2017)

Contact: Yvonne Raine

Tel: 03000 265256

Email: yvonne.raine@durham.gov.uk

**APPENDIX 1 – TEMPORARY EVENT
NOTICE APPLICATION**



County Durham
Application for a Temporary Event Notice
Licensing Act 2003

For help contact
licensing@durham.gov.uk
Telephone: 03000 265107

* required information

Section 1 of 9

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?

Yes No

Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

Applying as a business or organisation, including as a sole trader

Applying as an individual

A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

* Is your business registered in the UK with Companies House? Yes No

* Registration number

* Business name

If your business is registered, use its registered name.

* VAT number

Put "none" if you are not registered for VAT.

* Legal status

Continued from previous page...

* Your position in the business

Home country

The country where the headquarters of your business is located.

Registered Address

Address registered with Companies House.

* Building number or name

* Street

District

* City or town

County or administrative area

* Postcode

* Country

Section 2 of 9

APPLICATION DETAILS (See also guidance on completing the form, general notes and note 1)

Have you had any previous or maiden names?

Yes No

* Your date of birth / /
dd mm yyyy

Applicant must be 18 years of age or older

National Insurance number

This box need not be completed if you are an individual not liable to pay UK national insurance.

Place of birth

Correspondence Address

Is the address the same as (or similar to) the address given in section one?

Yes No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Continued from previous page...

Additional Contact Details

Are the contact details the same as (or similar to) those given in section one?

Yes

No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

E-mail

Telephone number

Other telephone number

Section 3 of 9

THE PREMISES

I, the proposed user, hereby give notice under section 100 of the Licensing Act 2003 of my proposal to carry out a temporary activity at the premises described below.

Give the address of the premises where you intend to carry on the licensable activities or if it has no address give a detailed description (including the Ordnance Survey references). (See also guidance on completing the form, note 2)

* Does the premises have an address?

Yes

No

Address

Is the address the same as (or similar to) the address given in section one?

Yes

No

If "Yes" is selected you can re-use the details from section one, or amend them as required. Select "No" to enter a completely new set of details.

* Building number or name

66

* Street

Saddler street

District

Durham

* City or town

Durham

County or administrative area

Durham

* Postcode

DH1 3NP

* Country

United Kingdom

* Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises)?

Neither

Premises licence

Club premises certificate

* Premises licence number

LAPREG05/0529

Location Details

* Provide further details about the location of the event

66 SADDLER street

Continued from previous page...

If you intend to use only part of the premises at this address or intend to restrict the area to which this notice applies, give a description and details below (see also guidance on completing the form, note 3)

bar only

Describe the nature of the premises below (see also guidance on completing the form, note 4)

the premise is used as a restaurant and bar

Describe the nature of the event below (see also guidance on completing the form, note 5)

applying for one more hour from 0,200 to 0,300 to compensate for the change to British summer time

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LICENSABLE ACTIVITIES

State the licensable activities that you intend to carry on at the premises (see also guidance on completing the form, note 6):

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The giving of a late temporary event notice

Late notices can be given no later than 5 working days but no earlier than 9 working days before the event.

(See also guidance on completing the form, note 7).

Event Dates

There must be a period of at least 10 working days between the date you submit this form and the date of the earliest event when you will be using these premises for licensable activities.

State the dates on which you intend to use these premises for licensable activities

(see also guidance on completing the form, note 8)

Event start date

25 / 03 / 2018
dd mm yyyy

The maximum period for using premises for licensable activities under the authority of a temporary event notice is 168 hours or seven days.

Event end date

25 / 03 / 2018
dd mm yyyy

Continued from previous page...

State the times during the event period that you propose to carry on licensable activities (give times in 24 hour clock)

FROM 0,200 TO 0,300

(see also guidance on completing the form, note 9)

State the maximum number of people at any one time that you intend to allow to be present at the premises during the times when you intend to carry on licensable activities, including any staff, organisers or performers

225

Note that the maximum number of people cannot exceed 499.

(see also guidance on completing the form, note 10)

If the licensable activities will include the supply of alcohol, state whether the supplies will be for consumption on or off the premises, or both

(see also guidance on completing the form, note 11):

- On the premises only
- Off the premises only
- Both

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RELEVANT ENTERTAINMENT (See also guidance on completing the form, note 12)

State if the licensable activities will include the provision of relevant entertainment. If so, state the times during the event period that you propose to provide relevant entertainment

time request from 0,200 to 0,300

Section 6 of 9

PERSONAL LICENCE HOLDERS (See also guidance on completing the form, note 13)

Do you currently hold a valid personal licence? Yes No

Provide the details of your personal licence below.

Issuing licensing authority

Licence number

Date of issue / /
dd mm yyyy

Date of expiry / /
dd mm yyyy

Continued from previous page... Any further relevant details

none

Section 7 of 9

PREVIOUS TEMPORARY EVENT NOTICES (See also guidance on completing the form, note 14)

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice?

Yes No

Have you already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or Yes No
- b) Begins 24 hours or less after the event period proposed in this notice?

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ASSOCIATES AND BUSINESS COLLEAGUES (See also guidance on completing the form, note 15)

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes No

Has any associate of yours already given a temporary event notice for the same premises in which the event period:

- a) Ends 24 hours or less before; or Yes No
- b) Begins 24 hours or less after the event period proposed in this notice?

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice?

Yes No

Continued from previous page...

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period:

Yes No

- a) Ends 24 hours or less before; or
- b) Begins 24 hours or less after the event period proposed in this notice?

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CONDITION (See also guidance on completing the form, note 17)

It is a condition of this temporary event notice that where the relevant licensable activities described in Sections 4 and 5 above include the supply of alcohol that all such supplies are made by or under the authority of the premises user.

PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

This formality requires a fixed fee of £21

ATTACHMENTS

AUTHORITY POSTAL ADDRESS

Address

Building number or name	<input type="text"/>
Street	<input type="text"/>
District	<input type="text"/>
City or town	<input type="text"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text"/>
Country	<input type="text" value="United Kingdom"/>

DECLARATION (See also guidance on completing the form, note 18)

- The information contained in this form is correct to the best of my knowledge and belief
- I understand that it is an offence:
 - (i) to knowingly or recklessly make a false statement in connection with this temporary event notice and that a person is liable on conviction for such an offence to a fine up to level 5 on the standard scale; and
 - (ii) to permit an unauthorised licensable activity to be carried on at any place and that a person is liable on conviction for any such offence to a fine not exceeding £20,000, or to imprisonment for a term not exceeding six months, or to both
- Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

Continued from previous page...

* Full name

* Capacity

Date (dd/mm/yyyy)

Add another signatory

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/temporary-event-notice/county-durham/apply-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

APPENDIX 2 – PREMISES LICENCE

LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number
 Granted
 Issued

LAPREG/05/0529
24 November 2005
23 November 2016

Part 1 – Premises details

Postal address of premises, or if none, Ordnance Survey map reference or description	Issuing Authority
LA SPAGHETTATA 66 SADDLER STREET DURHAM CITY DURHAM DH1 3NP	DURHAM COUNTY COUNCIL ADULT AND HEALTH 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 Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Facilities for Dancing Other Entertainment Facilities Similar to Making Music or Dancing Late Night Refreshment Sale by retail of alcohol
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Opening Hours of the Premises		
Mon	10:30-02:30	Non-standard/seasonal timings N/A
Tue	10:30-02:30	
Wed	10:30-02:30	
Thu	10:30-02:30	
Fri	10:30-02:30	
Sat	10:30-02:30	
Sun	10:30-02:30	

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>Live Music Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>
<p>Recorded Music Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>
<p>Performance of Dance Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>
<p>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>
<p>Facilities for Dancing Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00</p>	<p>Further details N/A Non-standard/seasonal timings N/A</p>

Other Entertainment Facilities Similar to Making Music or Dancing Indoors Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00	Further details N/A Non-standard/seasonal timings N/A
Late Night Refreshment Indoors 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	Further details N/A Non-standard/seasonal timings N/A
Sale by retail of alcohol Mon 10:30-02:00 Tue 10:30-02:00 Wed 10:30-02:00 Thu 10:30-02:00 Fri 10:30-02:00 Sat 10:30-02:00 Sun 10:30-02:00	Further details Non-standard/seasonal timings N/A

Part 2

Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence	
MR FABIO CIAMPOLILLO	
Registered number of holder, for example company number, charity number (where applicable)	
Company no:	NOT APPLICABLE
Charity no:	NOT APPLICABLE

Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol MRS LESLEY ANNE CIAMPOLILLO
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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.

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

Annex 2 – Conditions consistent with the premises Operating Schedule

General

The applicant does not consider by extending the opening hours by another hour that any of the licensing objectives will be compromised, the Applicant has had no trouble in the past at the premises and is not anticipating any rowdiness but would consider any proposal any party makes so as to achieve the licensing objectives.

The Prevention of Crime & Disorder

None

Public Safety

None

The Prevention of Public Nuisance

None

The Protection of Children from Harm

None

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

Statutory Licensing Committee - 8th September 2009

A minimum of one door supervisor at times between midnight and 2am on Fridays and Saturdays.
CCTV to be installed and maintained in accordance with the police and home office guidelines.
Noise levels and frequency must be kept at such levels that they shall not be a nuisance to occupiers of nearby properties. Any complaints or representations received must be taken into account and acted upon where necessary to prevent public nuisance.

Statutory Licensing Committee - 4th January 2011

Noise regulator / limiter to be installed in all floors where there is playing of recorded / live music and to be set at a level by the Pollution Control Officer.
All doors and windows to be closed during performances of live / recorded music.
No emptying of refuse / glass bottle bins between the hours of 23:00 and 07:00.

Statutory Licensing Committee - 22nd August 2012

Live music shall end at 2am.
Noise limiting equipment independently set to agreed level and report forwarded to relevant authorities.

Statutory Licensing Committee - 18 January 2013

- 1) A Personal Licence Holder will be present at the premises at all times that the premises are open for the sale of alcohol.
- 2) All incidents occurring at the premises will be recorded in an Incident Book which will be maintained by the Premises Licence Holder (or his nominee) to record details of any incidents including any refusals. This will include the time, date and signature of the person recording any action taken including staff details and witnesses.
- 3) A documented Monthly Training Schedule will record training, recipient, date and aspect of training (training to include an understanding of the Licensing Act 2003 and what the Premises Licence permits).
- 4) Notices to be prominently displayed at all exits requesting patrons to leave quietly.
- 5) A door supervisor will be placed at the entrance to the premises on Saddler Street from 20.00 hours on a Friday and Saturday evenings until close.
- 6) A further door supervisor will be placed on the entrance to Fabio's Bar from 21:00 hours until close on a daily basis.
- 7) Door Supervisors will assist in the implementation of the Premises Age Verification policy which is to request all patrons to provide proof of age prior to entering the premises.
- 8) The door supervisors will also assist in ensuring that customers depart from the premises and do not undermine the Licensing Objectives.
- 9) At least 3 members of the bar staff will undergo a National Licensing Qualification and obtain Personal Licences.
- 10) A documented Age Certification Policy will be implemented where all patrons believed to be under the age of 25 will be asked to provide proof of age in the form of a Driving Licence, Passport, Military ID Card or form of identification endorsed with the government PASS Holographic Logo

Statutory Licensing Sub-Committee on 9th September 2014

Staff involved in the sale of alcohol will be trained by an external training company on the responsible retailing of alcohol, and a training manual will be kept to record such training. From that training being implemented it will be refreshed initially after 3 months and thereafter every 6 months. A record will be kept of refresher training. New starters will not be permitted to commence working in the sale of alcohol unless they have received either interim training from a manager, prior to any refresher date, or training an external provider. A copy of the training manual will be made available to the licensing authority, trading standards or the Police upon providing reasonable notice.

All persons to be trained to ARAR level 1, unless they commence employment after July 2014, in which case they will be treated as new starters and will receive interim training from management until they are trained on the next training review date.

The CCTV system will cover all licensed areas, including the entrance and exit routes from the building, and shall allow for facial recognition standard recording of customers at the entrance to the premises. It will

record for 24 hours and management will be trained in its operation and use. Footage will be retained for 28 days and made available to the Police upon reasonable request. This condition replaces Annex 3 of the premises licence.

Door supervisors will be provided as follows:

A minimum of 1 door supervisor daily after 21:00 hrs

A minimum of 2 door supervisors every Friday and Saturday from 20:00 hrs with a minimum of 2 further door supervisors every Friday and Saturday from 22:00 (A total of 4 door supervisors every Friday and Saturday)

This ratio of door supervisors shall also be provided for the Sunday of a bank holiday weekend and any bank holiday except Christmas Day, Boxing Day and New Year's Day.

On being notified of particular events of concern by Durham Constabulary, door supervisors will be provided on a risk assessment basis.

At all other times door supervisors will be provided on a risk assessment basis.

The Premises Licence Holder will not allow the provision of the table meal exemption set out at Section 150(4) of the Licensing Act 2003, i.e. that persons aged between 16 and 17 years may consume beer, wine, or cider when seated at a table meal and the alcohol has been purchased by a person over 18 years.

No under 18's will be permitted entry to the second floor bar unless a temporary events notice has been applied for.

The premises Licence holder will provide maintain and use ID Scan / Visitor equipment, to scan identification of all customers attending Fabio's Bar. (the second floor bar). This will take place upon entry to the second floor during the operation of the restaurant, and upon entry to the building after the restaurant has closed.

The only exceptions will be customers who are not challenged under challenge 25. Accepted forms of identification will be passport, photo driving licence, Military ID or Proof of Age Standards Scheme (PASS). The ID scanning system installed should work by scanning the date page of the identification provided (for example the face of a drivers licence or identity card or the bio data page of a passport) which is then connected to a database of legitimate forms of identification. The user is alerted if a match for the scanned ID is not found in the database and is therefore potentially false ID. The system will be capable of calculating the age of the owner of the ID and verifying that the ID has not expired. The system will also be set up to ID anyone who is banned via Drinks Banning Orders, local Pub watch schemes or other similar initiatives with all such bans being added to the system within 7 days (subject to the provision of information locally to the premises).

In all circumstances of a breakdown or fault in the system, the police must be notified immediately and the fault rectified within 48 hours or a replacement installed / loaned in its place. The Police may approve an extension to these timescales where they consider it appropriate. During this period the premises will not have to close. The Sub-Committee note that the parties had also agreed that the Premises Licence in respect of the second floor bar (Fabio's) would be suspended between 9 and 29 September 2014.

Having regard to the information provided to them, the Sub-Committee consider it is appropriate to suspend the Premises Licence in respect of the second floor bar only for a period of twenty one days. The suspension shall have immediate effect and the second floor bar shall therefore remain suspended until 23:59 hours on 29 September 2014.

Annex 4 – Plans attached

Attached



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

APPENDIX 3 – POLICE OBJECTION

From: Judith Wilkinson |
Sent: 01 March 2018 13:33
To: Yvonne Raine <Yvonne.Raine@durham.gov.uk>
Cc: Karen Robson
Subject: FW: Licensing - TEN received

01/03/18

To Durham County Council

In relation to the TEN's notice submitted by La Spaghetтата, 66 Saddler Street Durham DH1 3NP for 25th March 2018 from 02.00 – 03.00 hours:

Durham Constabulary would like to OBJECT to this application on the grounds of – Prevention of Crime & Disorder and public safety

Following recent visits to the premises by police and licencing officers there are a number of concerns around the premises whereby the conditions on the licence are not being adhered to.

In relation to crime and disorder there is evidence of drug usage in the toilets, door staff are allowing drinks to be taken from the premises, the ID scanner is not fit for use and keeps freezing so the ID checks are not effectively been carried out.

In relation to public safety when officers have attend the premises the door staff have provided differing information around the numbers within the premises, and in relation to the queue management and movement of people entering and exiting the premises has highlighted concerns.

Durham Constabulary feel due to the issues highlighted which are still being addressed by the venue support the objection to this notice

Thanks

Caroline Dickenson

Caroline Dickenson
PS 484
Harm Reduction Unit
Darlington
Durham Constabulary

Airwave

Email:

Direct dial

Durham Police: 101

If you are deaf, hard of hearing or speech impaired you can textphone 18001 101.

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APPENDIX 4 – 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.

8.0 Public Safety

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

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

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

APPENDIX 5 – S.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 safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

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

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

¹ S 177 of the 2003 Act now only applies to performances of dance.

Temporary Event Notices (TENs)

- 7.1 This Chapter covers the arrangements in Part 5 of the 2003 Act for the temporary carrying on of licensable activities which are not authorised by a premises licence or club premises certificate.

General

- 7.2 The system of permitted temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the "premises user") gives notice to the licensing authority of the event (a "temporary event notice" or "TEN").
- 7.3 The TEN must be given to the licensing authority in the form prescribed in regulations made under the 2003 Act. The form requires the user to describe key aspects of the proposed event, including the general nature of the premises and the event, the licensable activities intended to be carried on at the proposed event, including whether they will include any relevant entertainment as defined in Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (i.e. displays of nudity designed to sexually stimulate any member of the audience including, but not limited to, lap dancing and pole dancing).
- 7.4 Unless it is sent electronically, it must be sent to the relevant licensing authority, to the police and "local authority exercising environmental health functions" ("EHA") at least ten working days before the event. A premises user may also give a limited number of "late TENs" to the licensing authority less than 10 working days before the event to which they relate, although certain restrictions apply (see paragraphs 7.12-7.14). "Working day" under the 2003 Act means any day other than a Saturday, Sunday, Christmas Day, Good Friday or Bank Holiday. For limited purposes in relation to a TEN, the 2003 Act defines a "day" as a period of 24 hours beginning at midnight.
- 7.5 If a TEN is sent electronically via GOV.UK or the licensing authority's own facility, the licensing authority must notify the police and EHA as soon as possible and no later than the first working day after the TEN is given.
- 7.6 The police or EHA ("relevant persons" for the purposes of TENs) may intervene to prevent such an event taking place by sending an objection to the licensing authority, which the licensing authority must consider on the basis of the statutory licensing objectives and decide whether the event should go ahead. A relevant person may also intervene by agreeing a modification of the proposed arrangements directly with the TENs user (see paragraph 7.36). If a relevant person sends an objection, this may result in the licensing authority imposing conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. When giving a TEN, the premises user should consider the promotion of the four licensing objectives. The licensing authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded (see paragraphs 7.15-7.22).
- 7.7 A TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission where it is required.

Standard and late temporary event notices

- 7.8 There are two types of TEN: a standard TEN and a late TEN. These are subject to different processes: a standard notice is given no later than ten working days before the event to which it relates; and a late notice is given not before nine and not later than five working days before the event.

Standard temporary event notices

- 7.9 "Ten working days" (and other periods of days which apply to other requirements in relation to TENs) exclude the day the notice is received and the first day of the event.
- 7.10 The police and EHA have a period of three working days from when they are given the notice to object to it on the basis of any of the four licensing objectives.
- 7.11 Although ten clear working days is the minimum possible notice that may be given, licensing authorities should publicise their preferences in terms of advance notice and encourage premises users to provide the earliest possible notice of events planned by them. Licensing authorities should also consider publicising a preferred maximum time in advance of an event by when TENs should ideally be given to them.

Late temporary event notices

- 7.12 Late TENs are intended to assist premises users who are required for reasons outside their control to, for example, change the venue for an event at short notice. However, late TENs may, of course, be given in any circumstances providing the limits specified at paragraph 7.15 are not exceeded.
- 7.13 Late TENs can be given up to five working days but no earlier than nine working days before the event is due to take place and, unless given electronically to the licensing authority, must also be sent by the premises user to the police and EHA. A late TEN given less than five days before the event to which it relates will be returned as void and the activities to which it relates will not be authorised.
- 7.14 A key difference between standard and late TENs is the process following an objection notice from the police or EHA. Where an objection notice is received in relation to a standard TEN the licensing authority must hold a hearing to consider the objection, unless all parties agree that a hearing is unnecessary. If the police, EHA or both give an objection to a late TEN, the notice will not be valid and the event will not go ahead as there is no scope for a hearing or the application of any existing conditions.

Limitations

- 7.15 A number of limitations are imposed on the use of TENs by the 2003 Act:
- the number of times a premises user may give a TEN is 50 times in a calendar year for a personal licence holder and five times in a calendar year for other people;
 - the number of times a premises user may give a late TEN is limited to 10 times in a calendar year for a personal licence holder and twice for other people. Late TENs count towards the total number of permitted TENs (i.e. the limit of five TENs a year for non-personal licence holders and 50 TENs for personal licence holders). A notice that is given less than ten working days before the event to which it relates, when the premises user has already given the permitted number of late TENs in that calendar year, will be returned as void and the activities described in it will not be authorised.

- the number of times a TEN may be given for any particular premises is 12 times in a calendar year (the Deregulation Act 2015 has increased this number to 15 with effect from 1 January 2016);
- the maximum duration of an event authorised by a TEN is 168 hours (seven days);
- the maximum total duration of the events authorised by TENs in relation to individual premises is 21 days in a calendar year;
- the maximum number of people attending at any one time is 499; and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user is 24 hours.

7.16 Any associate, relative or business partner of the premises user is considered to be the same premises user in relation to these restrictions. The 2003 Act defines an associate, in relation to the premises user, as being:

- the spouse or civil partner of that person;
- a child, parent, grandchild, grandparent, brother or sister of that person;
- an agent or employee of that person; or
- the spouse or civil partner of a person listed in either of the two preceding bullet points.

7.17 A person living with another person as their husband or wife, is treated for these purposes as their spouse. 'Civil partner' has its meaning in the Civil Partnership Act 2004.

7.18 A TEN that is given may be subsequently withdrawn by the TEN user by giving the licensing authority a notice to that effect no later than 24 hours before the beginning of the event period specified in the TEN. Otherwise, the TEN will be included within the limits of TENs allowed in a given calendar year, even if the event does not go ahead.

7.19 Once these limits have been reached, the licensing authority should issue a counter notice (permitted limits) if any more are given. Proposed activities that exceed these limits will require a premises licence or club premises certificate.

7.20 TENs may be given in respect of premises which already have a premises licence or club premises certificate to cover licensable activities not permitted by the existing authorisation.

7.21 In determining whether the maximum total duration of the periods covered by TENs at any individual premises has exceeded 21 days, an event beginning before midnight and continuing into the next day would count as two days towards the 21-day limitation.

7.22 There is nothing in the 2003 Act to prevent notification of multiple events at the same time, provided the first event is at least ten working days away (or five working days away in the case of a late TEN). For example, an individual personal licence holder wishing to exhibit and sell beer at a series of farmers' markets may wish to give several notices simultaneously. However, this would only be possible where the limits are not exceeded in the case of each notice. Where the events are due to take place in different licensing authority (and police) areas, the respective licensing authorities and relevant persons would each need to be notified accordingly.

Who can give a temporary event notice?

Personal licence holders

7.23 A personal licence holder can give a TEN at any premises on up to 50 occasions in a calendar year. This limit is inclusive of any late TENs given in the same year. The use of each TEN must of course observe the limits described above, including the limit of 12 TENs in respect of each premises in a calendar year.

Non-personal licence holders

7.24 The 2003 Act provides that any individual aged 18 or over may give a TEN to authorise the carrying on of all licensable activities under the Licensing Act 2003, whether or not that individual holds a personal licence. Such an individual will not, therefore, have met the requirements that apply to a personal licence holder under Part 6 of the 2003 Act. Where alcohol is not intended to be sold, this should not matter. However, many events will involve a combination of licensable activities and the 2003 Act limits the number of notices that may be given by any non-personal licence holder to five occasions in a calendar year (inclusive of any late TENs in the same year). In every other respect, the Guidance and information set out in the paragraphs above applies.

Role of the licensing authority

- 7.25 The licensing authority must check that the limitations set down in Part 5 of the 2003 Act are being observed and intervene if they are not (see paragraph 7.15). For example, a TEN would be void unless there is a minimum of 24 hours between events notified by the same premises user, or an associate or someone who is in business with the relevant premises user in respect of the same premises. This is to prevent evasion of the seven day (or 168 hour) limit on such events and the need to obtain a full premises licence or club premises certificate for more major or permanent events. In addition, for these purposes, a TEN is treated as being from the same premises user if it is given by an associate.
- 7.26 Where the application is not within the statutory parameters described earlier, the licensing authority will issue a counter notice to the premises user.
- 7.27 Where the TEN is in order, the relevant fee paid and the event falls within the prescribed limits, the licensing authority will record the notice in its register and send an acknowledgement to the premises user (which may be given electronically). The licensing authority must do so, no later than the end of the first working day following the day on which it was received (or by the end of the second working day if it was received on a non-working day), unless an objection notice is received beforehand from the police or EHA on the basis of any of the four licensing objectives (see paragraphs below).
- 7.28 If the licensing authority receives an objection notice from the police or EHA that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The licensing committee may decide to allow the licensable activities to go ahead as stated in the notice. If the notice is in connection with licensable activities at licensed premises, the licensing authority may also impose one or more of the existing licence conditions on the TEN (insofar as such conditions are not inconsistent with the event) if it considers that this is

appropriate for the promotion of the licensing objectives. If the authority decides to impose conditions, it must give notice to the premises user which includes a statement of conditions (a "notice (statement of conditions)") and provide a copy to each relevant party. Alternatively, it can decide that the event would undermine the licensing objectives and should not take place. In this case, the licensing authority must give a counter notice.

- 7.29 Premises users are not required to be on the premises during the event authorised by the TEN, but they will remain liable to prosecution for certain offences that may be committed at the premises during the period covered by it. These include, for example, the offences of the sale of alcohol to a person who is drunk; persistently selling alcohol to children and allowing disorderly conduct on licensed premises.
- 7.30 In the case of an event authorised by a TEN, failure to adhere to the requirements of the 2003 Act, such as the limitation of no more than 499 being present at any one time, would mean that the event was unauthorised. In such circumstances, the premises user would be liable to prosecution.
- 7.31 Section 8 of the 2003 Act requires licensing authorities to keep a register containing certain matters, including a record of TENs received. There is no requirement to record all the personal information given on a TEN.

Police and environmental health intervention

- 7.32 The system of permitted temporary activities gives police and EHAs the opportunity to consider whether they should object to a TEN on the basis of any of the licensing objectives.
- 7.33 If the police or EHA believe that allowing the premises to be used in accordance with the TEN will undermine the licensing objectives, they must give the premises user and the licensing authority an objection notice. The objection notice must be given within the period of three working days following the day on which they received the TEN.
- 7.34 Where a standard TEN was given, the licensing authority must consider the objection at a hearing before a counter notice can be issued. At the hearing, the police, EHA and the premises user may make representations to the licensing authority. Following the hearing, the licensing authority may decide to impose conditions which already apply to an existing premises licence or club premises certificate at the venue, or issue a counter notice to prevent the event going ahead. As noted above, there is no scope for hearings in respect of late TENs and if objections are raised by the police or EHA in relation to a late TEN, the notice will be invalid and the event will not go ahead.
- 7.35 Such cases might arise because of concerns about the scale, location, timing of the event or concerns about public nuisance. However, in most cases, where for example, alcohol is supplied away from licensed premises at a temporary bar under the control of a personal licence holder, (such as at weddings with a cash bar or small social or sporting events) this should not usually give rise to the use of these powers.

Modification

- 7.36 As noted above, the police or EHA (as “relevant persons”) may contact the premises user to discuss their objections and try to come to an agreement which will allow the proposed licensable activities to proceed. The TEN can be modified (for example, by changing the details of the parts of the premises that are to be used for the event, the description of the nature of the intended activities or their duration). The other relevant person has to agree for the modification to be made. There is no scope under the 2003 Act for the modification of a late TEN.

Applying conditions to a TEN

- 7.37 The 2003 Act provides that only the licensing authority can impose conditions to a TEN from the existing conditions on the premises licence or club premises certificate at the venue. The licensing authority can only do so:
- if the police or the EHA have objected to the TEN;
 - if that objection has not been withdrawn;
 - if there is a licence or certificate in relation to at least a part of the premises in respect of which the TEN is given;
 - and if the licensing authority considers it appropriate for the promotion of the licensing objectives to impose one or more conditions.
- 7.38 This decision is one for the licensing authority alone, regardless of the premises user’s views or willingness to accept conditions. The conditions must be notified to the premises user on the form prescribed by regulations.

Hearings to impose conditions

- 7.39 Section 105 of the 2003 Act is clear that a licensing authority must hold a hearing to consider any objections from the police or EHA unless all the parties agree that a hearing is not necessary. If the parties agree that a hearing is not necessary and the licensing authority decides not to give a counter notice on the basis of the objection, it may impose existing conditions on the TEN.

Duty of premises users to keep and produce TENs

- 7.40 Where a TEN is not prominently displayed at the premises, the police and licensing officers have the right under sections 109(5) and (6) of the 2003 Act to request the premises user (or relevant nominated person who has the TEN in their custody) to produce the TEN for examination. If the police do not intervene when a TEN is given, they will still be able to rely on their powers of closure under the Anti-social Behaviour, Crime and Policing Act 2014.