

## Statutory Licensing Sub-Committee

15<sup>th</sup> October 2018

### Application for the Review of a Premises Licence



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

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**Name and Address of Premises: Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham DL14 7PF.**

#### 1. Summary

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

Licensable Activity	Timings
Late Night Refreshment (Indoors)	Monday – Wednesday 23:00 – 03:00 hrs. Thursday - Sunday: 23:00 – 04:30 hrs. Christmas Eve and New Years Eve: 23:00 – 04:30 hrs.
Opening times of the premises	Monday – Wednesday 17:00 – 03:00 hrs. Thursday - Sunday: 17:00 – 04:30 hrs. Christmas Eve and New Years Eve: 17:00 – 04:30 hrs.

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

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

#### 2. Details of the Application

On 20<sup>th</sup> August 2018, the Licensing Authority received the application from Durham Constabulary asking for a review of the premises licence (No. WV/PRE0240/05) for Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham.

The current Premises Licence Holder is Mr Rafiq Sala.

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

The application for review relates to the following licensing objectives:

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

A copy of the application for the review of the premises licence from Durham Constabulary is attached at Appendix 3.

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

### **3. Representation**

Within the statutory consultation period, the licensing authority received one letter of representation from Mr Mark Quinn, Durham Local Safeguarding Children Board in support of Durham Constabulary's review application.

A copy of the representation is attached at Appendix 4.

### **4. The Parties**

The Parties to the hearing will be:

- Durham Constabulary – Applicant
- Mr Rafiq Sala -Premises Licence Holder
- Mr Mark Quinn – Durham Local Safeguarding Children Board (Responsible Authority)

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

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

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

Relevant information is attached at Appendix 5.

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

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

- 2.1 – 2.6 Crime and Disorder
- 2.7 – 2.14 Public Safety
- 2.15 0 2.21 Prevention of Public Nuisance
- 2.22 – 2.32 Protection of Children from Harm
- 11.1 – 11.29 Reviews

Relevant information is attached at Appendix 6.

## **7. For Decision**

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

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

### **Background Papers:**

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

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**Contact: Helen Johnson    Tel: 03000 265101**  
**E-mail: [helen.johnson2@durham.gov.uk](mailto:helen.johnson2@durham.gov.uk)**

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## **APPENDIX 1 – PREMISES LICENCE**



## LICENSING ACT 2003 PREMISES LICENCE

Premises Licence Number  
Granted  
Issued

<b>WV/PRE0240/05</b>
<b>24 November 2005</b>
<b>10 May 2018</b>

### Part 1 – Premises details

<b>Postal address of premises, or if none, Ordnance Survey map reference or description</b>	<b>Issuing Authority</b>
<b>BEST KEBAB ONE</b> 1A FORE BONDGATE BISHOP AUCKLAND DL14 7PF	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by this licence</b> Late Night Refreshment
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<b>Opening Hours of the Premises</b>		
<b>Mon</b>	17:00-03:00	<b>Non-standard/seasonal timings</b> Christmas Eve and New Years Eve: 17:00 - 04:30 hrs
<b>Tue</b>	17:00-03:00	
<b>Wed</b>	17:00-03:00	
<b>Thu</b>	17:00-04:30	
<b>Fri</b>	17:00-04:30	
<b>Sat</b>	17:00-04:30	
<b>Sun</b>	17:00-04:30	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> NO ALCOHOL SALES
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**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

<b>Late Night Refreshment</b> <b>Indoors</b>	<b>Further details</b> N/A
<b>Mon</b> 23:00-03:00	<b>Non-standard/seasonal timings</b> Christmas Eve and New Years Eve: 23:00 - 04:30 hrs
<b>Tue</b> 23:00-03:00	
<b>Wed</b> 23:00-03:00	
<b>Thu</b> 23:00-04:30	
<b>Fri</b> 23:00-04:30	
<b>Sat</b> 23:00-04:30	
<b>Sun</b> 23:00-04:30	

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR RAFIQ SALA 1A FORE BONDGATE BISHOP AUCKLAND DL14 7PF	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
NOT APPLICABLE

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

**Annex 1 – Mandatory conditions**

None

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

**General**

1. The Council's proper officer accompanied by any such other personas he deems necessary, or a police officer, shall at all times have access to the licensed premises for the purposes of ensuring compliance with the conditions of the licence.

**Prevention of Crime & Disorder**

1. The Licensee, that is the person in whose name the Premises Licence is issued, must ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the term and conditions of the licence and for preventing crime and disorder.

2. A CCTV system must be designed, installed and maintained in proper working order to provide continuous recording facilities for each camera to a good standard of clarity.

**Public Safety**

1. Fire fighting equipment must be provided in the licensed premises in accordance with the risk assessment with staff suitably trained as necessary.

**Prevention of Public Nuisance**

1. When food for consumption off the premises is sold, adequate waste receptacles for use by patrons will be provided in the local vicinity.
2. Noxious and smells from licensed premises shall not emanate from the licensed premises so as to cause nuisance to the residents of nearby properties by the provision of suitable and adequate means of extraction/ventilation.

## **Protection of Children from Harm**

None

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

**Conditions attached at a hearing of the Council's Statutory Licensing Sub-Committee on 16th April 2012:**

1. The premises licence to be suspended for a period of 30 days from 7th May 2012 until 5th June 2012 inclusive.
2. Immediately following the suspension period, the operating hours were modified and reduced to 17:00 to 01:00 hrs daily for a period of 2 months. At the end of this two month period, normal trading hours to resume.
3. The Premises Licence holder shall ensure that all staff are trained in relation to responding to incidents of crime and disorder which take place both on and within the vicinity of their premises and regularly reminded of their responsibilities in particular with respect to co-operating with the Police and reporting incidents to the Police and emergency services.
4. A written record of all forms of training shall be kept and shall be available upon request to either the Licensing Authority or Durham Constabulary. This shall bear the signatures of those providing the training and those who received the training.
5. The Premises Licence holder shall ensure that the premises operate an incident book, which must be kept up to date. The book must record all incidents which take place both on and within the vicinity of their premises and record the details of the staff present at the time of the incident. The book shall be available upon request to either the Licensing Authority or Durham Constabulary.
6. The following condition in relation to CCTV systems replaces the condition B2 on the licence:

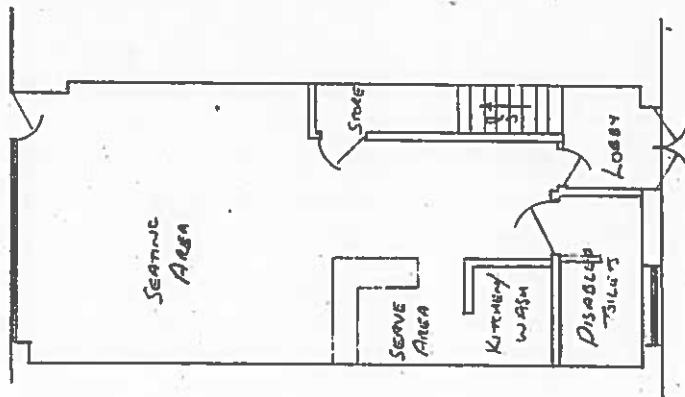
The Premises Licence holder shall ensure that a digital CCTV system is installed in the premises to the satisfaction of Durham Constabulary and in respect of which the following conditions shall apply:-

- a) It must be of such a quality that individuals can be readily identifiable from recordings made.
- b) It must cover all public entrances, points of sale and display and other areas to which the public, paying members and guests have admission with particular regard to those areas which may not be visible from the serving area.
- c) It must be operated by properly trained staff.
- d) It must be in operation at all times that the premises are being used for licensable activities.
- e) Recordings must be kept secure where they cannot be tampered with for a period of no less than 30 days or such other period as shall be specified by Durham Constabulary.
- f) Recordings must be made available on request to the Licensing Authority and/or Durham Constabulary or other responsible authority as defined in the Licensing Act.

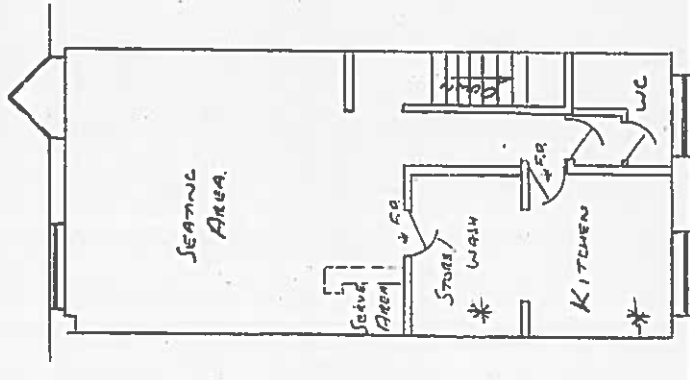
### **Annex 4 – Plans attached**

Attached

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



GROUND FLOOR PLAN



FIRST FLOOR PLAN

\* FIRE EXTINGUISHERS

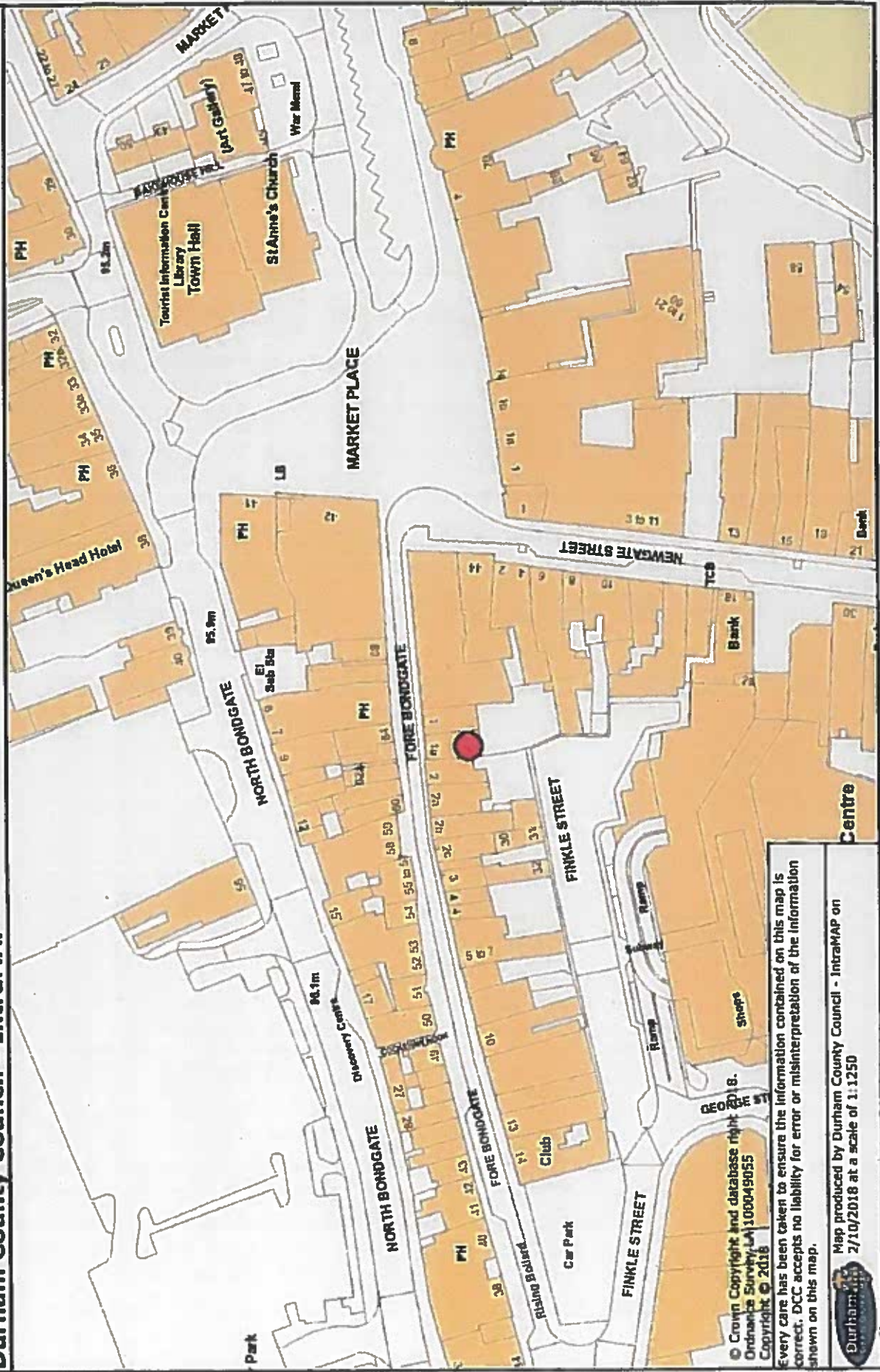
Project: /a Fore Bond Gate BIRAP BUCKLAND		Date: JULY 03	Scale: 1/100	Rev: 01
JADS Jim Atkinson Drawing Services Tel/Fax 01388 832860		Drawn: JAM	Drawn To: 03/55/1	



## **APPENDIX 2 – PLAN**

Plan for identification purposes only; not to be used for scaling or formal documentation


### 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 2/10/2018 at a scale of 1:1250



## **APPENDIX 3 – REVIEW APPLICATION**

**Durham Police Review Application – Best Kebab One, Bishop Auckland**

**Bundle of Evidence**

1. Application for Review of Best Kebab One, Bishop Auckland
2. Grounds for Review
3. Premises Licence
4. Statement of PC 93 McNaney dated 17<sup>th</sup> August 2018
5. Statement of ..... Home Office dated 23<sup>rd</sup> July 2018
6. Exhibits

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

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

## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I **Mr Michael Barton, Chief Officer of Police**.....

*(Insert name of applicant)*

apply for the review of a premises licence under section 51 / apply for the review of a club  
premises certificate under section 87 of the Licensing Act 2003 for the premises described in  
Part 1 below (delete as applicable)

### Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Pizza Place/Best Kebab One, 1a Forebondgate, Bishop Auckland, DL14 7PF	
Post town Bishop Auckland	Post code (if known) DL14 7PF

Name of premises licence holder or club holding club premises certificate (if known) Rafiq SALA
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Number of premises licence or club premises certificate (if known) WV/PRE0240/05
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### Part 2 - Applicant details

Please tick ✓ yes

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

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

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

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

Please tick ✓ yes

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick ✓ yes

**Current postal  
address if  
different from  
premises  
address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**



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

<b>Name and address</b> Mr Michael Barton Chief Officer of Police Durham Constabulary Aykley Heads Co Durham DH1 5TT
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>

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

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

**Please tick one or more boxes ✓**

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

**Please state the ground(s) for review (please read guidance note 2)**  
See attached report.

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

See attached report

**Please tick ✓ yes**

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



If yes please state the date of that application

Day	Month	Year
16	04	2012

**If you have made representations before relating to the premises please state what they were and when you made them**  
 16/04/2012

Please tick ✓

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

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

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

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

Signature

.....

Date 09/08/2018

.....

Capacity Ch/Insp 867 Robinson

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)**

Sgt Caroline Dickenson  
Police Licensing Unit  
Annand House  
John Street North

Post town  
Meadowfield

Post Code  
DH7 8RS



**Telephone number (if any)**

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

**Notes for Guidance**

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

## GROUNDS FOR REVIEW

1. The Applicant is seeking a review of the Premises Licence for Pizza Place, known as Best Kebab One, of 1A Fore Bondgate, Bishop Auckland, DL14 7PF as it is an appropriate course of action to address concerns relating to the Prevention of Crime and Disorder objective as well as the Public Safety, Public Nuisance and the Protection of Children from Harm objectives in the Licensing Act 2003.
2. The premises has been previously reviewed in April 2012, papers are attached.
3. The current named holder of the Premises Licence (PLH) is Mr. Rafiq SALA. Mr. SALA submitted an application, dated the 10th May 2018, to transfer the Premises Licence into his name. This application was given interim effect.
4. The Applicant's position is that the current PLH has been in control of this premises at least since the 13th December 2016. It is submitted the current PLH may have been in control before this date as the original PLH was recorded by UK Border Agency (UKBA) as having left the UK in 2011 and not legally returned since.
5. On the 16th December 2017 officers from the Constabulary along with representatives of the Licensing Authority, Fire and Rescue Service and other partners attended the premises following numerous calls of youth nuisance. Upon arrival officers reported finding a male, who was undocumented and with no right to work, working in the premises preparing food. The male was spoken to and said his "boss" had his passport.
6. The current PLH is then reported as later arriving at the premises, confirming he is the owner of business, producing a photocopy of a residence permit purporting that this proved the male was allowed to lawfully work. The residence permit he produced was assessed by UKBA who said that, whilst it was a genuine permit, the dates of allowed work were not accurate and the photograph appeared substituted. The permit was in the name of the original PLH for the premises, who left the UK in 2011. The Applicant submits that this is why the dates were changed and the photograph was replaced with the photograph of the male found working at the premises and this should have been identified by the current PLH.
7. This is not the only occasion the Applicant has noted a connection between the premises, the current PLH and suspected illegal workers. On the 13th April 2018 officers reported seeing an undocumented male, without the right to work, believed to be working behind the counter inside the premises whilst closed to the public. Upon seeing the officers this male attempted to leave the scene. In addition another male has recently been found working in the premises on the 15th June 2018. This male has no right to work to remain in the UK and no right to work. Finally another male with no right to work, has been seen working at another takeaway premises owned by the current PLH on the 16th July 2017. This same male was linked with two applications falsely submitted in the name of the original PLH of this premises.
8. In addition to this, upon attending the premises on the 16th December 2017, the current PLH proceeded to give a false name to the attending officers. The name he provided was the name of an earlier applicant for Transfer of the Premises Licence. This earlier applicant had also been in attendance at the premises earlier that day and falsely gave the current PLH's name. It is reported the current PLH was being obstructive and shouting at one officer conducting checks on a vehicle.

9. The premises was immediately closed due to concerns by the Council over the use of freestanding gas bottles to supply the premises and the safety risks this poses. The premises was subsequently served with two formal notices.

10. In addition to the above serious concerns, the Applicant also has other concerns over the standard of management of this premises. At the 16th December 2017 visit the Applicant did not have the Premises Licence on display, there was no staff training records and fixed seating was identified within the customer area that were not on the plan. These issues were raised and the current PLH took several months to remove the seating. In addition on the 17th August 2017 PCSO Quinn reported staff saying the CCTV had not been working for 2 years. Despite it then working at the visit on the 16th December 2017, the current PLH says it is again not working when footage is requested following an incident on the 14th December 2017.

11. In addition the premises has been the subject of numerous reports of youth and staff anti-social behaviours between October 2016 and December 2017. Whilst these reports have now significantly reduced, they show that the premises was used as more of a youth club rather than a takeaway, causing nuisance to those working and living nearby.

12. Whilst it is for the Licensing Authority to determine the appropriate action to promote the licensing objectives, the Applicant would respectfully seek the revocation of the Premises Licence for Pizza Place, known as Best Kebab



## LICENSING ACT 2003 PREMISES LICENCE

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

<b>WV/PRE0240/05</b>
<b>24 November 2005</b>
<b>10 May 2018</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>BEST KEBAB ONE</b> 1A FORE BONDGATE BISHOP AUCKLAND DL14 7PF	DURHAM COUNTY COUNCIL ADULT AND HEALTH SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

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

<b>Licensable activities authorised by this licence</b> Late Night Refreshment
---

<b>Opening Hours of the Premises</b>		
<b>Mon</b>	17:00-03:00	<b>Non-standard/seasonal timings</b> Christmas Eve and New Years Eve: 17:00 - 04:30 hrs
<b>Tue</b>	17:00-03:00	
<b>Wed</b>	17:00-03:00	
<b>Thu</b>	17:00-04:30	
<b>Fri</b>	17:00-04:30	
<b>Sat</b>	17:00-04:30	
<b>Sun</b>	17:00-04:30	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> NO ALCOHOL SALES
--

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

<b>Late Night Refreshment</b>	<b>Further details</b>
<b>Indoors</b>	N/A
<b>Mon</b>	<b>Non-standard/seasonal timings</b> Christmas Eve and New Years Eve: 23:00 - 04:30 hrs
<b>Tue</b>	
<b>Wed</b>	
<b>Thu</b>	
<b>Fri</b>	
<b>Sat</b>	
<b>Sun</b>	

**Part 2**

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR RAFIQ SALA 1A FORE BONDGATE BISHOP AUCKLAND DL14 7PF	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
NOT APPLICABLE

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

**Annex 1 – Mandatory conditions**

None

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

**General**

1. The Council's proper officer accompanied by any such other persons he deems necessary, or a police officer, shall at all times have access to the licensed premises for the purposes of ensuring compliance with the conditions of the licence.

**Prevention of Crime & Disorder**

1. The Licensee, that is the person in whose name the Premises Licence is issued, must ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the term and conditions of the licence and for preventing crime and disorder.

2. A CCTV system must be designed, installed and maintained in proper working order to provide continuous recording facilities for each camera to a good standard of clarity.

**Public Safety**

1. Fire fighting equipment must be provided in the licensed premises in accordance with the risk assessment with staff suitably trained as necessary.

**Prevention of Public Nuisance**

1. When food for consumption off the premises is sold, adequate waste receptacles for use by patrons will be provided in the local vicinity.
2. Noxious and smells from licensed premises shall not emanate from the licensed premises so as to cause nuisance to the residents of nearby properties by the provision of suitable and adequate means of extraction/ventilation.

## **Protection of Children from Harm**

None

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

**Conditions attached at a hearing of the Council's Statutory Licensing Sub-Committee on 16th April 2012:**

1. The premises licence to be suspended for a period of 30 days from 7th May 2012 until 5th June 2012 inclusive.
2. Immediately following the suspension period, the operating hours were modified and reduced to 17:00 to 01:00 hrs daily for a period of 2 months. At the end of this two month period, normal trading hours to resume.
3. The Premises Licence holder shall ensure that all staff are trained in relation to responding to incidents of crime and disorder which take place both on and within the vicinity of their premises and regularly reminded of their responsibilities in particular with respect to co-operating with the Police and reporting incidents to the Police and emergency services.
4. A written record of all forms of training shall be kept and shall be available upon request to either the Licensing Authority or Durham Constabulary. This shall bear the signatures of those providing the training and those who received the training.
5. The Premises Licence holder shall ensure that the premises operate an incident book, which must be kept up to date. The book must record all incidents which take place both on and within the vicinity of their premises and record the details of the staff present at the time of the incident. The book shall be available upon request to either the Licensing Authority or Durham Constabulary.
6. The following condition in relation to CCTV systems replaces the condition B2 on the licence:

The Premises Licence holder shall ensure that a digital CCTV system is installed in the premises to the satisfaction of Durham Constabulary and in respect of which the following conditions shall apply:-

- a) It must be of such a quality that individuals can be readily identifiable from recordings made.
- b) It must cover all public entrances, points of sale and display and other areas to which the public, paying members and guests have admission with particular regard to those areas which may not be visible from the serving area.
- c) It must be operated by properly trained staff.
- d) It must be in operation at all times that the premises are being used for licensable activities.
- e) Recordings must be kept secure where they cannot be tampered with for a period of no less than 30 days or such other period as shall be specified by Durham Constabulary.
- f) Recordings must be made available on request to the Licensing Authority and/or Durham Constabulary or other responsible authority as defined in the Licensing Act.

### **Annex 4 – Plans attached**

Attached

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





## LICENSING ACT 2003 PREMISES LICENCE SUMMARY

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

<b>WV/PRE0240/05</b>
<b>24 November 2005</b>
<b>10 May 2018</b>

**Part 1 – Premises details**

Postal address of premises, or if none, ordnance survey map reference or description	Issuing Authority
<p><b>BEST KEBAB ONE</b>            1A FORE BONDGATE            BISHOP AUCKLAND            DL14 7PF</p>	<p>DURHAM COUNTY COUNCIL            ADULT AND HEALTH SERVICES            LICENSING SERVICES            PO BOX 617            DURHAM            DH1 9HZ</p>
<p><b>Telephone number:</b></p>	

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

<p><b>Licensable activities authorised by this licence</b>            Late Night Refreshment</p>
--

<p><b>The opening hours of the premises (all times in 24hr format)</b></p>		
Mon	17:00-03:00	<p><b>Non-standard/seasonal timings</b>            Christmas Eve and New Years Eve: 17:00 - 04:30 hrs</p>
Tue	17:00-03:00	
Wed	17:00-03:00	
Thu	17:00-04:30	
Fri	17:00-04:30	
Sat	17:00-04:30	
Sun	17:00-04:30	

<p><b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales</b>            NO ALCOHOL SALES</p>
--

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

Late Night Refreshment Indoors	Further details
<p>Mon            23:00-03:00            Tue            23:00-03:00            Wed            23:00-03:00            Thu            23:00-04:30            Fri            23:00-04:30            Sat            23:00-04:30            Sun            23:00-04:30</p>	<p>N/A</p> <p><b>Non-standard/seasonal timings</b>            Christmas Eve and New Years Eve: 23:00 - 04:30 hrs</p>

Part 2

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

Mr Rafiq Sala  
1A Fore Bondgate  
Bishop Auckland  
DL14 7PF

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


Company no: N/A  
Charity no: N/A

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

NOT APPLICABLE

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

NOT APPLICABLE

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



## WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: **PC 93 McNaney**Age if under 18: **0'18** (If over 18 insert over 18)Occupation: **Police Constable 93**

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

Signature: \_\_\_\_\_ Date: **17/08/2018**Tick if victim wishes to personally read their Victim Personal Statement aloud in Court: Tick if witness evidence is visually recorded:  (supply witness details on rear)

1. I am Police Constable 93 of Durham Constabulary currently stationed within the Harm Reduction Unit. Part of my role is that of Licensing Officer, ensuring licensed premises are adhering to their licensing conditions and the premises are ran and managed in such a way so as not to undermine those conditions.
2. The Police seek a review of the Premises Licence for Pizza Place, known as Best Kebab One, of 1A Fore Bondgate, Bishop Auckland, DL14 7PF as it is an appropriate course of action to address concerns relating to the Prevention of Crime and Disorder objective as well as the Public Safety, Public Nuisance and the Protection of Children from Harm objectives in the Licensing Act 2003.
3. The premises was previously reviewed in April 2012.
4. Best Kebab operates as a late night refreshment venue under Premises Licence number WV/PRE0240/05. The premises is described by the owner as a takeaway primarily concerned in the sale of pizzas and kebabs.
5. The current named holder of the Premises Licence (PLH) is Mr. Rafiq Sala. Mr. Sala submitted an application, dated the 10th May 2018, to transfer the Premises Licence into his name. This application was given interim effect.
6. The Applicant's position is that the current PLH has been in control of this premises at least since the 13th December 2016 when he was named as the Food Business Operator. I can exhibit a copy of the Food Business Operator Application Form bearing SALA's details as exhibit CLM/1.
7. It is submitted that the current PLH has been in control before this date as the original PLH ..... was recorded by UK Border Agency (UKBA) as having left the UK in 2011 and not legally returned since.
8. For reasons I will outline below, both Police and UKBA believe that ..... is an identity falsely employed by two males, namely ..... and ..... both of whom have connections to Best Kebab One and the applicant Mr. SALA.
9. UKBA confirm that there is only one ..... recorded on Home Office systems. This male left the UK in 2011 and has not since returned. If ..... has returned to the UK then he would have entered the UK illegally as there is no trace of a visa application or an application for leave to remain in the UK. UKBA have provided an image of ..... which can be produced as exhibit CLM/2.

Signature: \_\_\_\_\_ Signature witnessed by: \_\_\_\_\_

10. UKBA first encountered .....and obtained a photograph of him which I exhibit as CLM/3.
11. Durham Police first encountered ..... in May 2010. An image of him was obtained which I can exhibit as CLM/4.
12. You will note that these two images CLM/3 and CLM/4 clearly show the same male.
13. On 22nd December 2017, UKBA received a copy of a driving licence in the name of..... as part of an application for a Replacement Biometric Residence Permit Card. The driving licence bears the photograph of ....., which I can exhibit this as CLM/5.
14. On 16th January 2018 a travel document application was submitted to UKBA in the name of ..... with a photograph of ..... attached which I can exhibit as CLM/6. The application is still awaiting a decision based on the intelligence regarding false identity.
15. .... currently has an outstanding application for Leave to Remain in the UK dated the 03/01/2018. He has no right to work in the UK.
16. .... has been witnessed by Police working in another takeaway premises owned by the PLH SALA on 16th July 2017. SALA was present at the time of this Police visit and confirmed that he was the owner of the premises.
17. Owing to the above facts regarding the false identity of the previous PLH, it is the belief of the Police that SALA has been in control of Best Kebab One premises since at least December 2016.
18. This is supported by various calls from the current PLH SALA and interactions with Police in which he confirms it is his shop. I will now go on to demonstrate that in the time SALA has been in control of the premises it has been ran very poorly, with little consideration for the upholding of the licensing objectives, particularly the prevention of crime and disorder.
19. Around 18:00 hours on Saturday 16th December 2017 Officers from the Police Licensing Unit including myself attended Best Kebab One in company with several other partners including Council Licensing, Fire and Rescue Service, Food Safety and Occupational Safety & Animal Welfare.
20. This was as a result of several calls and complaints from local residents raising concerns regarding youths congregating at the takeaway particularly young girls using the premises as a 'youth club'; being allowed to play music through the premises speakers; obtaining food at cheap rates or for free and being provided with cigarettes and alcohol which they could consume in the rear staff area. I will detail a number of these incidents later.
21. Upon initial attendance, SALA was not present however later arrived confirming that he was the owner of the business.
22. ...., an illegal immigrant, was found working at the premises, preparing food. .... initially provided officers with false details and when asked for identification he stated that his 'boss' had his passport.
23. ....was taken to Police custody where UKBA confirmed his identity and that he has no leave to remain in the UK, is an undocumented, non-removable national with no permission to work.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

24. Following advice from UKBA, Officers released ..... and transported him to the area outside Best Kebab One, at which time SALA arrived. SALA stated to Officers that ..... was legal to work and produced a photocopy of a Residence Permit bearing the details of the previous PLH who left the UK in 2011, which I can produce as Exhibit CLM/7.
25. The Residence Permit document was forwarded to UKBA via email who report the following:
26. "The National Document Fraud Unit were unable to state conclusively that the Residence Permit is genuine as it may well have a substituted image."
27. They continue that the unit who issued the original residence permit confirmed the document bore a valid residence permit number however, the dates on the vignette were incorrect.
28. They also confirmed that the image on the Residence Permit is a match for ....., the male found to be working on the premises illegally.
29. A copy of this email is available and can be produced as exhibit CLM/8.
30. The Applicant submits that this is why the dates were changed and the photograph was replaced with the photograph of the male found working at the premises, which should have been identified by the current PLH.
31. This is not the only occasion the Applicant has noted a connection between the premises, the current PLH and suspected illegal workers. On the 13th April 2018 officers reported seeing an undocumented male ....., without the right to work, believed to be working behind the counter inside the premises whilst closed to the public. Upon seeing the officers this male attempted to leave the scene.
32. In addition another male ..... has recently been found by Police Officers, working in the premises on the 15th June 2018. This male has no right to work to remain in the UK and no right to work. This is confirmed by a statement from .....an Executive Officer from the Home Office dated 23rd July 2018.
33. Finally another male, ..... with no right to work, has been seen working at another takeaway premises owned by the current PLH on the 16th July 2017. This same male was linked with the two applications falsely submitted in the name of the original PLH of this premises.
34. As the PLH of Best Kebab One, SALA has a responsibility to ensure all employees have the right to work in the UK.
35. Home Office Guidance (para 11.27) refers to the employment of an individual who has no permission to work due to their immigration status as something which should be 'treated particularly seriously'.
36. Throughout the remainder of the visit on 16th December 2017 SALA was obstructive to Police and Licensing Officers. When asked by Licensing Sgt Dickenson for his name, he provided a false name of ....., another male working on the premises. At the time there was no reason to doubt SALA and this was taken as fact.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_



37. Whilst I was conducting checks on a vehicle parked in the rear yard of the premises, SALA began shouting at me. I asked SALA who owned the vehicle, he told me on several occasions that he had stolen it.
38. SALA refused to hand over the vehicle keys to me resulting in me having to physically remove the keys from him.
39. SALA has been reported for the offence of Obstruct Police Officer in relation to these matters. I can produce Body Cam footage of this encounter as exhibit CLM/9.
40. The premises was closed with immediate effect by DCC Occupational Safety and Animal Health due to issues with the gas supply to the premises.
41. Subsequently, they served two formal notices in respect of the premises and Durham County Council Food Safety issued a written warning letter.
42. In addition to these serious concerns during the visit, several breaches of the licence were identified namely fixed seating within the customer area which was not annotated on the Premises Plan; the Premises Licence was not on display and there were no staff training records.
43. Police seized the CCTV hard drive from the premises and downloaded footage dated Friday 8th December 2017. The footage shows approximately 30 youths aged around 14-17 in the customer area from 20:00hrs to 21:10hrs. During this time, the youths engage in 'play' fighting, sitting and swinging on the fixed chairs whilst only a small handful appear to purchase food. They are seen to wander in and out of the premises. I can exhibit this footage as CLM/10
44. On 26th January 2018 a further visit took place at Best Kebab One. SALA was instructed to remove the fixed seating in the hope that it would deter youths from gathering and subsequent anti-social behaviour as a result. He was also instructed to erect a sign on the door stating no more than two person under 18 were to be present at any one time. These were both an attempt to promote the four licensing objectives namely prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.
45. The fixed seating was not removed until some months later following several enforcement visits by officers at Durham County Council. Officers are yet to witness a sign as requested.
46. During the visit Officers seized an A5 Food Hygiene Rating sticker displayed in the front window of the premises bearing a "5" rating and several food menus for the takeaway which were located on the customer counter, also bearing a "5" rating.
47. Durham County Council Trading Standards are investigating this as the business only held a "4" rating at that time. I can provide a copy of the letter sent to the current PLH informing him of the '4' food rating dated 20th December 2016 as exhibit CLM/11.
48. In addition on the 17th August 2017 PCSO Quinn reported staff saying the CCTV had not been working for 2 years. Despite it then working at the visit on the 16th December 2017, the current PLH says it is again not working when footage is requested following an incident on the 14th December 2017.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

49. Between October 2016 and December 2017 Police received several calls regarding the premises complaining about youths gathering and causing anti-social behaviour. I will outline some of these below.
50. On Saturday 15th April 2017 at 21:46 hours a call was received from a local resident reporting 12 youths aged 14-16 smoking, drinking and urinating. This is occurring on a nightly basis between 17:30-21:00 and in the school holidays up to 01:00 hours. The caller reports staff from Best Kebab One shouting, playing loud music and tooting their horns in the early hours of the morning. I can exhibit this log as CLM/12.
51. On Monday 17th April 2017 at 20:38 hours a call was received from a local resident reporting 20 youths aged 13-16 throwing items at a nearby property. The caller explains that these youths are allowed to congregate in Best Kebab One. I can exhibit this log as CLM/13.
52. On Tuesday 18th April 2017 at 21:52 hours a local resident called reporting 12 youths aged 16-17 outside the premises throwing bottles and food around in the street. The caller explained that youths regularly visit the premises for several hours resulting in disorderly behaviour. I can exhibit this log as CLM/14.
53. On Thursday 20th April 2017 at 20:30 hours a call was received from a member of the public reporting 6-7 youths aged 13-17 throwing food items around in the street. The caller describes that the youths congregate in Best Kebab One until the early hours of the morning.
54. At 20:36 hours a further call was received from this person reporting the youths had now caused damage to his window and were inside Best Kebab One. The caller goes on to explain that there are ongoing issues with youths attending the premises and describes the owner as having an 'unhealthy relationship' with the youths that attend the premises. I can exhibit this log as CLM/15.
55. On Friday 28th July 2017 at 21:35 hours a call was received from a local resident reporting ongoing problems with youths from Best Kebab One. The caller explains youths aged 12-16 congregate at the premises every night between 5pm-11pm, drinking lager and causing ASB. The premises is described as a youth club and young girls go in and chat to the staff. I can exhibit this log as CLM/16.
56. In August 2017, concerns are raised about Best Kebab One by local residents at a PACT meeting. Numerous residents reported groups of youths attending the premises every night between 18:30 - 23:00 onwards. The youths often drink alcohol in the premises and it is believed that the alcohol is either being supplied by staff or the youths are bringing their own alcohol. Although there are four other takeaway premises within 30 yards, all of the youths, predominantly female, are drawn to Best Kebab One.
57. On 15th September 2017 a local resident was contacted by PCSO Quinn. They reported excessive noise coming from the premises between 01:00-03:00 hours which is being played via phones and speakers as well as staff shouting in the street.
58. On Saturday 28th October 2017 at 20:29 a call was from a Street Warden reporting a 14 year old girl unconscious outside of the premises having consumed a large quantity of alcohol. Upon officer arrival there were at least 20 youths inside and immediately outside of Best Kebab One. One youth can be seen smoking inside the doorway of the premises. I can exhibit the Body cam footage of Police attendance as CLM/18.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

59. On 5th November 2017, Sgt Hancock attended the premises and spoke to staff about the ongoing issues. He reports that the staff were largely unconcerned by the issues.
60. On 10th November 2017, Licensing PCSO Robinson attended the premises and spoke to the current PLH. He reports that they appeared dismissive of the issues of anti-social behaviour.
61. On Friday 24th November 2017 at 19:24 hours a call was received from a local resident reporting they are too scared to leave the house due to 35 youths outside, causing a nuisance and throwing items at their premises. The caller explained that this is a regular occurrence and they are now terrified to leave the house. 10 youths aged 12-18 were stopped by Police inside and around Best Kebab One. I can exhibit this log as CLM/19.
62. On Friday 24th November 2017 at 21:50 hours the PLH SALA contacted called Police reporting a large group of youths 'smashing the shop up'. Upon Police arrival SALA stated that he had only contacted Police as youths were refusing to leave and had thrown food around the premises, they had not in fact caused any damage. In a later call to SALA to clarify the events, he stated that the youths had been simply talking loudly and he was frustrated that they were using the premises as a 'youth club'. I can exhibit this incident log as CLM/20.
63. On 1st December 2017 at 18:30 hours, officers moved on a large number of youths from Best Kebab One. Staff were advised about their responsibilities around the licensing conditions.
64. On Sunday 3rd December 2017 at 20:30 hours, a member of staff contacted Police reporting 8 youths who had earlier been throwing stones at cars were now in the premises and refusing to leave. Officers attended and spoke to the 'manager' who stated that there was not a problem. He was informed that Police Licensing Unit would be made aware of the incident. I can exhibit this incident log as CLM/21.
65. On Friday 8th December 2017 at 20:46 hours, member of staff contacted Police reporting 20 youths aged 15 messing around in the pizza shop refusing to leave having been asked several times. She reports they are being abusive to staff and banging on the counter I can exhibit this incident log as CLM/22.
66. CLM/10 refers to CCTV footage obtained from the premises showing events that evening between 20:00 hours and 22:00 hours on Friday 8th December 2017. I have produced a precis of the CCTV which I exhibit as CLM/23. The footage appears to show up to 30 youths in the premises at one point averaging 15 over the course of the 2 hours. In that time staff do not appear to interact with the youths other than to hand over food orders, of which there are 13 and on three occasions where youths are ushered from the store without apparent incident. Youths cannot be seen banging on the counter nor being abusive to staff.
67. Despite the 17 calls from members of the public during this period of time, staff contacted Police on only 5 occasions reporting issues with youths. These calls began after several visits from Police and the Licensing Unit. Whilst these calls from members of the public have reduced, which can be accounted for the fact the main complainants have since moved, they show that the premises was used as more of a youth club rather than a takeaway causing a nuisance to those working and living nearby.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_

68. Whilst it is for the Licensing Authority to determine the appropriate action to promote the licensing objectives, the Applicant would respectfully seek the revocation of the Premises Licence for Pizza Place, known as Best Kebab One.

Signature: \_\_\_\_\_

Signature witnessed by: \_\_\_\_\_



£  
Home Office

# Witness Statement

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, S 9)

Statement of: [REDACTED]  
Age if under 18: Over 18

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

Signature: [REDACTED].....

Date: 23<sup>rd</sup> July 2018

I am an Executive Officer employed in the Home Office. It is part of my duties to ascertain, from existing Home Office records, the immigration status of persons who are subject to control under the Immigration Act 1971 as amended, and to have responsibility for the custody of Home Office records.

The aforesaid records were created by officers at the Home Office in the course of their duties in relation to matters they had personal knowledge of at the time, from documents they received or from information supplied by persons who had personal knowledge of the case. The persons who created the records, or supplied the information, cannot reasonably be expected, having regard to the time which has elapsed since the information was supplied and to all the circumstances, to have any recollection of the matters dealt with at the time. Please note that I am not an Immigration Officer or a Home Office caseworker, therefore the only questions that I can answer, should I be called as a witness in the case, would be those concerning the facts that have been recorded in my statement that were obtained from Home Office records.

Home Office computer records show that on 5<sup>th</sup> November 2011, [REDACTED], a national of Iran, date of birth [REDACTED] was issued with Form IS151A, Notice to a Person Liable to Removal from the United Kingdom under the Immigration Act 1971, as amended, as an illegal entrant.

Signature: [REDACTED].....

Signature witnessed by: [REDACTED].....  
PRINT NAME: [REDACTED]



Home Office

# Witness Statement

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, S 9)

Statement of: [REDACTED]  
On the same day, [REDACTED] applied for Asylum in the United Kingdom, this was withdrawn on 27<sup>th</sup> July 2013 as he was recorded as an Absconder from Temporary Admission.

On 22<sup>nd</sup> March 2016, further submissions were submitted by or on behalf of [REDACTED] in connection with his asylum and/or human rights claim in the United Kingdom. On 6<sup>th</sup> September 2016, the submissions were refused.

On 19<sup>th</sup> January 2018, further submissions were submitted by or on behalf of [REDACTED] in connection with his asylum and/or human rights claim in the United Kingdom, this remains under consideration.

[REDACTED] has no valid leave to remain in the United Kingdom and has never been granted permission to work.

Below is an image of [REDACTED] recorded on Home Office records on 23<sup>rd</sup> March 2016.



Signature: ..... [REDACTED]

Signature witnessed by: [REDACTED] .....  
PRINT NAME: [REDACTED]

1/3  
1/1/01

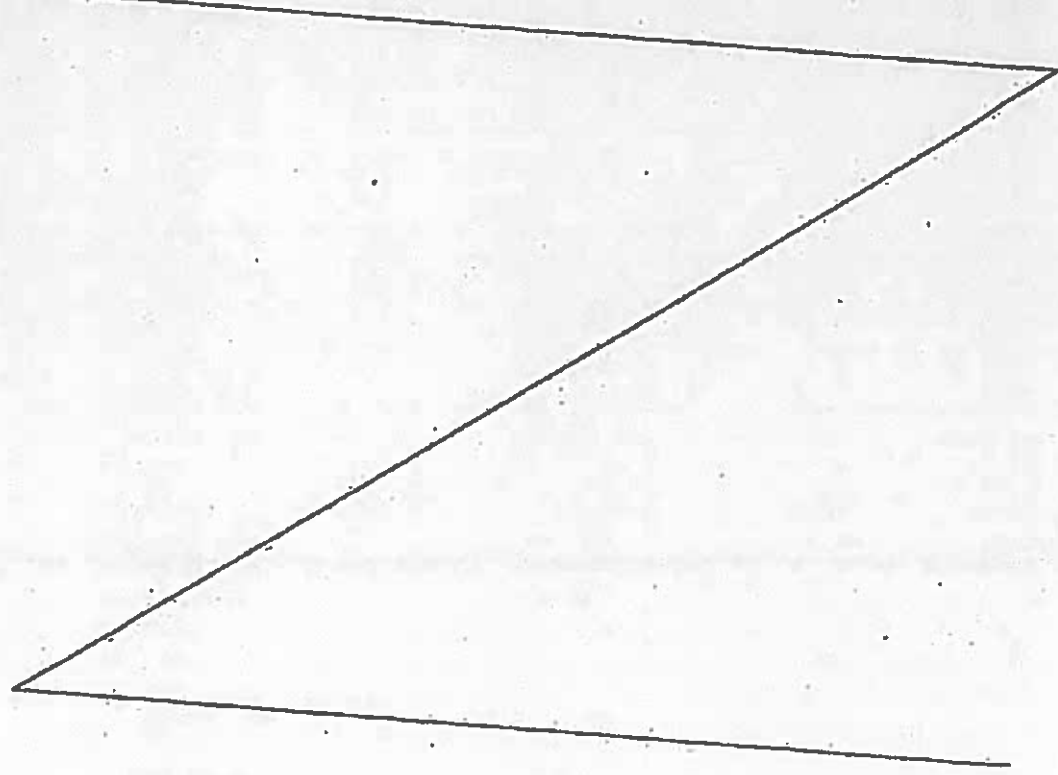
# Witness Statement

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, S 9)

Statement of: [REDACTED]  
To the best of my knowledge and belief this information is correct based on the Home Office records available to me at the time of writing.

[REDACTED] remains subject to control under the Immigration Act 1971, as amended, and as such is liable to deportation or administrative removal from the United Kingdom.

His circumstances will be considered in light of the court's findings and any recommendation it may make, subject to Form IM3 advising of his liability to deportation being served at least 7 days before sentencing, in accordance with Section 6 (2) of the Act.



Signature: ... [REDACTED]

Signature witnessed by: [REDACTED]  
PRINT NAME: [REDACTED]

CLM/1

**APPLICATION FOR THE REGISTRATION OF A  
FOOD BUSINESS ESTABLISHMENT**  
(Regulation (EC) No. 853/2004 on the Hygiene of Foodstuffs, Article 6(2))



This form should be completed by food business operators in respect of new food business establishments. The form must be received by Durham County Council 28 days before commencing food operations. On the basis of the activities carried out, certain food business establishments are required to be approved rather than registered. If you are unsure whether any aspect of your food operations would require your establishment to be approved, please contact Durham County Council, at the address given below, for guidance.

1. Address of establishment: 1A FOR BONDGATE  
(or address at which moveable establishment is kept)

BISHOP AUCKLAND DL14 7PF Post Code: \_\_\_\_\_

2. Trading Name of food business: BEST KEBAB ONE Telephone No \_\_\_\_\_

3. Full Name of food business operator(s): RAFIQ SALHA  
(or limited company where relevant)

4. Address of Food Business Operator: \_\_\_\_\_  
(where different from address of establishment)

Post Code: \_\_\_\_\_

Telephone No: [REDACTED] E-Mail: \_\_\_\_\_

5. Type of food business (Please tick ALL the boxes that apply):

- |  |  |                          |
|--|--|--------------------------|
| <input type="checkbox"/> Staff restaurant/canteen/kitchen    | <input type="checkbox"/> Hospital/residential home/school          | <input type="checkbox"/> |
| <input type="checkbox"/> Retailer (including farm shop)      | <input type="checkbox"/> Distribution/ Warehousing                 | <input type="checkbox"/> |
| <input type="checkbox"/> Restaurant/café/snack bar           | <input type="checkbox"/> Food Manufacturer/ Processor              | <input type="checkbox"/> |
| <input type="checkbox"/> Market/ Market Stall                | <input type="checkbox"/> Importer                                  | <input type="checkbox"/> |
| <input type="checkbox"/> Takeaway                            | <input checked="" type="checkbox"/> Catering                       | <input type="checkbox"/> |
| <input type="checkbox"/> Hotel/pub/guest house               | <input type="checkbox"/> Packer                                    | <input type="checkbox"/> |
| <input type="checkbox"/> Private house used as food business | <input type="checkbox"/> Moveable establishment e.g. ice cream van | <input type="checkbox"/> |
| <input type="checkbox"/> Wholesale/ Cash and Carry           | <input type="checkbox"/> Primary Producer - Livestock              | <input type="checkbox"/> |
| <input type="checkbox"/> Food Broker                         | <input type="checkbox"/> Primary Producer - Arable                 | <input type="checkbox"/> |

6. If this is a new business, the date you intend to open: Open

Signature of Food Business Operator: [REDACTED] Date: 13.12.16

Name (BLOCK CAPITALS): RAFIQ SALHA

**AFTER THIS FORM HAS BEEN SUBMITTED, FOOD BUSINESS OPERATORS MUST NOTIFY ANY SIGNIFICANT CHANGE TO THE ACTIVITIES STATED ABOVE (INCLUDING CLOSURE) TO DURHAM COUNTY COUNCIL AND SHOULD DO SO WITHIN 28 DAYS OF THE CHANGE(S) HAPPENING.**

Please return to: EHCP (Food Safety), PO Box 617, Durham, DH1 9HZ

Telephone: 03000 261016 email: [ns\\_foodsafety@durham.gov.uk](mailto:ns_foodsafety@durham.gov.uk) [www.durham.gov.uk](http://www.durham.gov.uk)

For Office Use Only (please tick):	Officer: <u>Sue Blenkinsop</u>	Date: <u>13/12/16</u>
New Application	Notification of Change	Update of Records Only <input checked="" type="checkbox"/>

McNaney

Subject:

FW: Residence Permit [REDACTED]

From: [REDACTED]@homeoffice.gsi.gov.uk  
 Sent: 05 June 2018 11:21  
 To: [REDACTED]@durham.pnn.police.uk  
 Subject: RE: Residence Permit [REDACTED]

Good morning [REDACTED]

Yeah I'm good thanks hope your ok, Sorry I didn't reply sooner I have been on leave and its my first day back today.

[REDACTED] Iraq (IRQ) male, [REDACTED] initially gave his details as [REDACTED] bom [REDACTED] when he was encountered by Durham Police on 16122017 at Best Kebab One. [REDACTED] also claimed he reports to Middlesbrough Immigration however, there was no trace on Home Office systems under [REDACTED] and as such he arrested pending Immigration to look into the case further.

Rafiq SALA, [REDACTED] arrived at the shop and provided police officers with a photocopy of a residence permit vignette for [REDACTED] who was arrested by the Police. The residence permit [REDACTED] is valid from [REDACTED] until [REDACTED] and was issued in Liverpool, permit endorsed with Limited Leave to Remain in the UK. The permit was also endorsed with the details [REDACTED], Iran (IRN) male, bom [REDACTED]

The National Document Fraud Unit were unable to state conclusively that the Residence Permit is genuine as it may well have a substituted image however, the unit who issued the original residence permit confirmed [REDACTED] is a valid residence permit however, the dates on the vignette should show valid from [REDACTED] until [REDACTED] and NOT [REDACTED] to [REDACTED]

The image on the Residence Permit is a match for [REDACTED] Iraq (IRQ) male, [REDACTED] who is recorded on Home Office systems - see below.



It isn't known if [REDACTED] is aware of the residence permit as he was transferred to a Police station at the time SALAH presented the document to officers at Best Kebab One.

If you require an official statement you would probably have to go through Evidence & Enquiry but hopefully the above may suffice.

Regards,

[REDACTED]

Contact: Sue Blenkinsop  
Direct Tel: [Redacted]  
email: [Redacted]  
Your ref: [Redacted]  
Our ref: IN/041314



Mr Rafiq Salha  
Best Kebab One  
1a Fore Bondgate  
Bishop Auckland  
DL14 7PF

20 December 2016

Dear Mr Rafiq Salha,

**Food hygiene inspection report and your food hygiene rating**

**Best Kebab One, 1a Fore Bondgate, Bishop Auckland, DL14 7PF**



We inspected your business premises on 13/12/2016 to check compliance with the requirements of food hygiene law and I am writing now to outline to you our findings and to tell you what your rating is under the Food Hygiene Rating Scheme.

**Inspection report**

I have enclosed a copy of your inspection report. This outlines my findings and highlights the priority actions and improvements that are needed to ensure that you are complying with the Food Safety and Hygiene (England) Regulations 2013 and associated legislation. These are listed under three areas:

- Compliance with food hygiene and safety procedures
- Compliance with structural requirements
- Confidence in management/control procedures.

If you are unclear about anything in the report, please get in touch with me – my contact details are given at the end of this letter.

**Your food hygiene rating**


This authority operates the Food Hygiene Rating Scheme. This scheme is designed to help consumers choose where to eat out or shop for food. It does this by giving them information about the hygiene standards in food outlets at the time they are inspected to check compliance with legal requirements. A good food hygiene rating will be a good

**Adult and Health Services**  
Durham County Council, Food Safety, PO Box 617, Durham DH1 9HZ  
Main Telephone 03000 261016



advertisement for your business. A leaflet explaining the scheme and an information sheet detailing how ratings are calculated is enclosed.

On the basis of the standards found at the inspection your rating has been calculated as follows:

Compliance with food hygiene and safety procedures	5
Compliance with structural requirements	10
Confidence in management/control procedures	5
Total score	20
Highest (this means poorest) individual score	10
Food hygiene rating	

A sticker and showing your rating is enclosed. You can tell your customers how good your hygiene standards are by putting the sticker up in the window or on the door. If you do not have a suitable glass surface, you could fix the sticker onto a transparent surface before fixing that onto a wall or other surface.

Please destroy the sticker showing your previous rating, as only one rating – the most recent rating - should be displayed. To continue to display a previous rating may constitute an offence under the Consumer Protection from Unfair Trading Regulations 2008.

Your rating will also be published on the Food Standards Agency's website at [www.food.gov.uk/ratings](http://www.food.gov.uk/ratings) between two and four weeks from receiving this letter.

### Safeguards

If you think that the rating is wrong or unfair – in other words it does not reflect the hygiene standards at the time of your inspection – you have 21 days in which you can appeal against this. You should appeal in writing to the Lead Officer for Food, Christine Ditchburn, but I would recommend that you please get in touch with me first so that I can help you to understand how your rating was worked out.

If you have improved hygiene standards since your inspection, or if there were unusual circumstances at the time of the inspection that might have affected your food hygiene rating, you have a 'right to reply' so that you can explain this to potential customers that look up your rating online.

If you make the improvements to hygiene standards that are highlighted in your inspection report, you can request a visit to carry out a re-inspection with a view to giving you a new and higher food hygiene rating.

More information about these safeguards is provided on the FSA's website at: <http://www.food.gov.uk/multimedia/pdfs/enforcement/fhrssafeguards.pdf>

**Where may I get further information?**

Further information about the scheme generally is available on the FSA's website at:  
[www.food.gov.uk/ratings](http://www.food.gov.uk/ratings)

**Contact details for the Food Safety Team:**

**Food Safety Manager**  
**Christine Ditchburn**  
**Durham County Council**  
**Food Safety**  
**PO Box 617**  
**Durham**  
**DH1 9HZ**

Yours sincerely,

**Sue Blenkinsop**  
**Senior Environmental Health Officer**

**Best Kebab One CCTV PRECIS 08<sup>th</sup> December 2017****20:00 hours**

2 x male youths in the premises. 1 is handed food, another sits on the static seating.

**20:04 hours**

3 x male youths enter premises. 1 appears to place and order. 2<sup>nd</sup> youth from earlier is handed food. All 5 youths sit on static seating.

**20:07 hours**

2 further male youths enter premises, 1 appears to order food. 2 begin 'play fighting'.

**20:12 hours**

4 youths leave the premises, 3 remain.

**20:14 hours**

3 female youths and 1 male youth enter premises. 1 female appears to place an order.

**20:15 hours**

6 youths enter, totalling 12 in the premises. Seconds later 2 female youths enter, one appears early teens.

**20:16 hours**

3 female youths enter followed by 2 male youths totalling 19 youths.

**20:17 hours**

10 youths enter totalling 29 youths. Over the next 30 minutes, several youths come and go from the premises averaging 20 youths in the premises whilst the remaining congregate outside on the pavement and in the road. The majority congregate on the fixed seating and at the mirrors. No staff appear to have interacted with them other than to hand over food orders.

**20:41 hours**

Two male youths engage in rough play, male member of staff gesticulates from behind the counter for them to leave.

**20:44 hours**

Two male youths engage in 'rough play' for a moment before one leaves.

**20:47 hours**

All but two youths leave the store on their own accord.

**20:49 hours**

Approximately 10 youths enter the premises over the following 5 minutes.

**20:58 hours**

26 youths in the premises in total.



**21:01 hours**

..... appears on screen and ushers youths out of the premises who leave without apparent issue.

**21:05 hours**

Over the next few minutes handfuls of youths enter and leave the premises. A group of girls leave once receiving their food order.

**21:09 hours**

9 youths remain in the premises using the fixed seating.

**21:10 hours**

2 male youths engage in play fighting and appear to be spoken to by a member of staff ..... over the counter..... appears and ushers them from the premises without apparent issue. One youth in orange appears to be causing some issue by returning to the premises continually.

**21:18 hours**

All youths leave the premises.

## **APPENDIX 4 – REPRESENTATION**

Mark Quinn  
Quality & Performance Coordinator  
Local Safeguarding Children Board  
Transformation and Partnerships  
Durham County Council  
County Hall  
Durham  
DH1 5UL

Ref SB/2018/117

Date: 29 August 2018

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

To whom it may concern

**Re:**

**Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham DL14 7PF**

**Premises Licence WV/PRE0240/05**

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

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

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

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

- Best Kebab One, 1a Fore Bondgate, Bishop Auckland, Co Durham DL14 7P

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

- Reports of young and underage persons drinking alcohol and engaging in anti-social behaviour.
- Reports of dangerous health and safety conditions relating to the supply of gas to the premises where young people are reported to congregate.
- Reports that predominantly female young people are drawn to the premises that is also being investigated in relation to employees using false identities and having no right to work in the UK.

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

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

Yours sincerely

Mark Quinn  
Quality and Performance Coordinator  
Local Safeguarding Children Board

**APPENDIX 5 -  
STATEMENT OF LICENSING POLICY**

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

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

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

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

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

## **9.0 Prevention of Public Nuisance**

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

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

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

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

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

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

9.6 The extent to which the above matters will need to be addressed will be dependent on the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, operational procedures and the needs of the local community.

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

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

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

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

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

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

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

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

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

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

10.6 The Licensing Authority, Durham Constabulary Alcohol Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This

guide is highly recommended by the Licensing Authority and should be adhered to by licence holders and event organisers.

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

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

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

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

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

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

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

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

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

## 22.0 Reviews

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

**APPENDIX 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.

## Public safety

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

## Ensuring safe departure of those using the premises

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

## Maintenance and repair

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

## Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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



those premises should be.

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

## Public nuisance

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

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

## Protection of children from harm

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;

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

- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

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

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

each of the enforcement arms should be aware of the warnings each of them has given.

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

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

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

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be



positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

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

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the

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

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

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

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **Review of a premises licence following closure order or illegal working compliance order**

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

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