

## **Statutory Licensing Sub-Committee**

**27<sup>th</sup> November 2018**

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



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

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**Name and Address of Premises: Lebaneat Wrap House, First Floor,  
69 Claypath, Durham, DH1 1QT**

#### **1. Summary**

The Sub-Committee is asked to consider and determine an application to vary the premises licence for Lebaneat Wrap House to specify an individual as the Designated Premises Supervisor.

The application was received from Lebaneat (Wrap House) Limited, the premises licence holder.

A plan showing the location of the premises is attached at Appendix 1.

It is a mandatory condition under the Licensing Act 2003 that, where the supply of alcohol is one of the licensable activities, there must be a Designated Premises Supervisor. Guidance states that the Designated Premises Supervisor should normally be the individual who is in day-to-day control of the premises. This is to provide a single point of accountability within the premises should any problems arise.

#### **2. Details of the Application**

The application to vary the Designated Premises Supervisor (DPS) was received on 25<sup>th</sup> October 2018 and names Mr Ahmed Mohamed Hussein Sayed as the proposed Designated Premises Supervisor. A copy of the application is attached as Appendix 2.

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

### **3. The Representation**

On 6<sup>th</sup> November 2018 a representation was received from Durham Constabulary's Harm Reduction Unit on behalf of the Chief Officer of Police, objecting to Mr Ahmed Mohamed Hussein Sayed being named on the premises licence as the Designated Premises Supervisor.

A copy of Durham Constabulary's objection is attached at Appendix 3.

### **4. The Parties**

The Parties to the hearing will be:

- Mr Ahmed Mohamed Hussein Sayed, Director of Lebaneat (Wrap House) Limited (the applicant and proposed DPS)
- Ms Jane Gilliead, Emag Licensing Limited (agent for the applicant)
- Durham Constabulary (responsible authority)

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

The Sub-Committee's attention is drawn to parts 7.6 and 7.7 of the Council's Statement of Licensing Policy. Relevant information is attached at Appendix 4.

### **6. Section 182 Guidance and Licensing Act 2003**

The Sub-Committee's attention is drawn to parts 4.31 to 4.41 of the Guidance issued under Section 182 and sections 37 to 40 of the Licensing Act 2003. This is attached at Appendix 5.

### **7. For Decision**

The Sub-Committee is asked to determine the application to vary the premises licence to specify Mr Ahmed Mohamed Hussein Sayed as the Designated Premises Supervisor.

The Sub-Committee's options are to:

- Grant the application, or
- Reject the application, if it considers it necessary to do so for the promotion of the crime prevention objective

### **Background Papers:**

- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

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**Contact: Yvonne Raine**

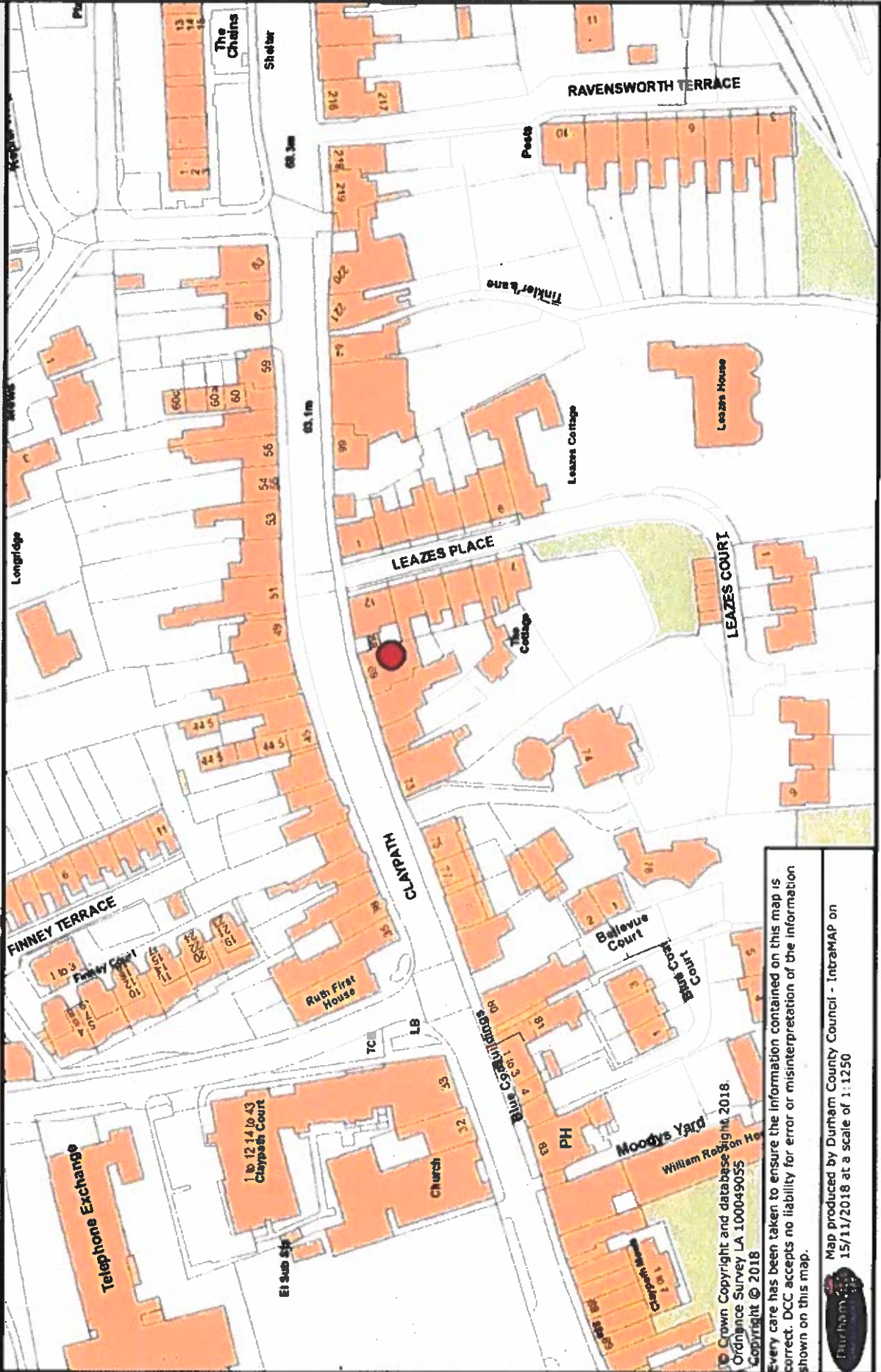
**Tel: 03000 265256**

**E-mail: [yvonne.raine@durham.gov.uk](mailto:yvonne.raine@durham.gov.uk)**

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## APPENDIX 1 – LOCATION PLAN

# Durham County Council - IntraMAP



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Ordnance Survey LA 100049055  
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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 15/11/2018 at a scale of 1:1250



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## **APPENDIX 2 – VARY DESIGNATED PREMISES SUPERVISOR APPLICATION**



**County Durham**  
**Application to vary a premises licence to specify an individual as designated premises supervisor**  
**Licensing Act 2003**

For help contact  
[licensing@durham.gov.uk](mailto:licensing@durham.gov.uk)  
Telephone: 03000 261016

\* required information

**Section 1 of 4**

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

System reference

Not Currently In Use

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

Your reference

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

Are you an agent acting on behalf of the applicant?

Yes  No

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

**Applicant Details**

\* First name

Ahmed Mohamed Hussein

\* Family name

SAYED

\* E-mail

Main telephone number

Include country code.

Other telephone number

Indicate here if the applicant would prefer not to be contacted by telephone

Is the applicant:

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

Applying as an individual

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

Continued from previous page...

**Address**

\* Building number or name   
\* Street   
District   
\* City or town   
County or administrative area   
\* Postcode   
\* Country

**Agent Details**

\* First name   
\* Family name   
\* E-mail   
Main telephone number   
Other telephone number

Include country code.

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

Are you:

- An agent that is a business or organisation, including a sole trader
- A private individual acting as an agent

A sole trader is a business owned by one person without any special legal structure.

**Agent Business**

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

Note: completing the Applicant Business section is optional in this form.

Registration number   
Business name   
VAT number    
Legal status   
Your position in the business   
Home country

If your business is registered, use its registered name.

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

The country where the headquarters of your business is located.



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**Agent Registered Address**

Address registered with Companies House.

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

**Section 2 of 4**

**PREMISES DETAILS**

I/we apply to vary a premises licence to specify the individual named in this application as the premises supervisor under section 37 of the Licensing Act 2003.

\* Premises licence number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address     OS map reference     Description

**Address**

* Building number or name	<input type="text" value="Lebaneat Wrap House Ltd"/>
* Street	<input type="text" value="First Floor"/>
District	<input type="text" value="69 Claypath"/>
* City or town	<input type="text" value="Durham"/>
County or administrative area	<input type="text"/>
Postcode	<input type="text" value="DH1 1QT"/>
* Country	<input type="text" value="United Kingdom"/>

**Contact Details**

E-mail	<input type="text"/>
Telephone number	<input type="text"/>
Other telephone number	<input type="text"/>

Describe the premises. For example, what type of premises it is

<input type="text" value="Restaurant"/>
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Section 3 of 4

**SUPERVISOR**

**Full Name Of Proposed Designated Premises Supervisor**

\* First name

\* Family name

\* Nationality

\* Place of birth

\* Date of birth  /  /   
dd mm yyyy

Personal licence number of proposed designated premises supervisor

Issuing authority of that licence

**Full Name Of Existing Designated Premises Supervisor**

First name

Family name

\* Would you like this application to have immediate effect under section 38 of the Licensing Act 2003?

- Yes  No

The premises licence holder can continue the supply of alcohol if, for example, the existing premises supervisor is suddenly indisposed or unable to work.

I will notify the existing premises supervisor (if any) of this application

It is sufficient for the licensee to inform the existing premises supervisor in writing, without sharing the specific details of the application.

\* Will the premises licence or relevant part of it be submitted with this application?

- Yes  No

\* Reasons why the premises licence or relevant part of it will not be submitted with this application

NOT IN POSSESSION

Continued from previous page...

How will the consent form of the proposed designated premises supervisor be supplied to the authority?

- Electronically, by the proposed designated premises supervisor
- As an attachment to this variation

Reference number for consent form (if known)

If the consent form is already submitted, ask the proposed designated premises supervisor for its 'system reference' or 'your reference'

**Section 4 of 4**

**PAYMENT DETAILS**

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

This formality requires a fixed fee of £23

**DECLARATION**

I/WE UNDERSTAND THAT 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. [APPLICABLE TO INDIVIDUAL APPLICANTS ONLY, INCLUDING THOSE IN A PARTNERSHIP WHICH IS NOT A LIMITED LIABILITY PARTNERSHIP, BUT NOT COMPANIES OR LIMITED LIABILITY PARTNERSHIPS] IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Ticking this box indicates you have read and understood the above declaration

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

\* Full name

\* Capacity

\* Date  /  /   
dd mm yyyy

Full name

Capacity

\* Date  /  /   
dd mm yyyy

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## **APPENDIX 3 – REPRESENTATION FROM DURHAM CONSTABULARY**

## **Yvonne Raine**

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**From:** Caroline Dickenson <  
**Sent:** 06 November 2018 15:59  
**To:** Carol Graham - Licensing Assistant (N'hoods); Yvonne Raine  
**Cc:** Alcohol Harm Reduction Unit  
**Subject:** Objection to Change of plh and dps at lebaneat Wrap House

Good Afternoon,

Durham Constabulary wish to object to Mr Ahmed Mohamed Hussein SAYED being in place as the DPS and PLH at Lebaneat Wrap House on the grounds that we believe this appointment would undermine the objective of the prevention of Crime and Disorder.

In lodging this objection I am mindful the Licensing Act tells us this should only be done in exceptional circumstances.

On 2nd August 2018 a joint visit by police and immigration enforcement was carried out at Lebaneat Wrap House, 69 Claypath, Durham, on this occasion two people were found to be at work within the premises (Wrap House) who did not have the right to work within the United Kingdom, this matter is now subject to investigation by immigration. During the recent licencing hearing on 18th September 2018 when there was an application to change the DPS and PLH for the Wrap House to Mr SAYED's wife, Mr SAYED stated that all the staff employed at the premises were through SAYED Training limited which Mr SAYED confirmed was his company. This shows that Mr SAYED has not carried out the entitlement to work in the UK as per the Sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006. Mr SAYED also confirmed they had not been selling alcohol or carrying out any licensable activities at the premises for the past two years, however during visits conducted by Durham Constabulary there was a fully stocked bar, alcohol was in full view and people being served alcohol which they were consuming at The Wrap House.

Another premises Lebaneat at 47 North Bailey, Durham was also visited on 2nd August 2018 by police and immigration enforcement as this premises is associated with Lebaneat Wrap house and the applicant Mr SAYED. The current PLH of this premises is Mr SAYED and within this premises there was a further two people working at the premises who did not have the right to work within the united kingdom, this matter is also subject to an ongoing investigation by immigration. As the PLH of this company I would expect Mr SAYED to have had better management of the employees and to have a full understanding of their right to work, or lack of.

The revised guidance issued under section 182 of the Licensing Act 2003 (issued April 2018) states at section 11.27

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for employing a person who is disqualified from that work by reason of their immigration status in the UK;

It is Durham Constabulary's position that it is a very serious matter to employ workers who do not have the right to work in the UK and as such would qualify as "extreme circumstances."

**Thankyou**

**Caroline Dickenson  
SGT 484 Dickenson  
Licencing Unit  
Durham police**

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## **APPENDIX 4 – LICENSING POLICY**

## **STATEMENT OF LICENSING POLICY**

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.



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**APPENDIX 5 – SECTION 182 GUIDANCE  
& LICENSING ACT 2003**

## **Specification of new designated premises supervisors**

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

## **Police objections to new designated premises supervisors**

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

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

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

## LICENSING ACT 2003

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

#### 37 Application to vary licence to specify individual as premises supervisor

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

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

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

### **38 Circumstances in which section 37 application given interim effect**

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

### **39 Determination of section 37 application**

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

#### **40 Duty of applicant following determination under section 39**

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