



## TO THE CHAIRMAN AND MEMBERS OF THE LICENSING SUB-COMMITTEE A

You are hereby summoned to attend a meeting of the Licensing Sub-Committee A to be held on Tuesday, 26 September 2023 at 11.30 am in the Council Chamber, Civic Offices, Gloucester Square, Woking, Surrey GU21 6YL.

The agenda for the meeting is set out below.

JULIE FISHER  
Chief Executive

## AGENDA

### PART I - PRESS AND PUBLIC PRESENT

1. Minutes (Pages 3 - 6)  
To approve the minutes of the meeting of the Licensing Sub-Committee A held on 9 August 2023 as published.
2. Declarations of Interest  
To receive declarations of disclosable pecuniary and other interests from Members in respect of any item to be considered at the meeting.
3. Urgent Business  
To consider any business that the Chairman rules may be dealt with under Section 100B(4) of the Local Government Act 1972.

### Matters for Determination

4. Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill (Pages 7 - 142)  
Reporting Person – Matthew Cobb

AGENDA ENDS

Date Published - 18 September 2023

For further information regarding this agenda and arrangements for the meeting, please contact Doug Davern on 01483 743018 or email [doug.davern@woking.gov.uk](mailto:doug.davern@woking.gov.uk)



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MINUTES  
OF A MEETING OF THE  
**LICENSING SUB-COMMITTEE A**

held on 9 August 2023

Present:

Cllr R Leach (Chairman)  
Cllr S Hussain (Vice-Chair)  
Cllr J Morley

**1. ELECTION OF CHAIRMAN**

Councillor Leach was elected Chairman of the Sub-Committee for the remainder of the Municipal Year.

**2. ELECTION OF VICE-CHAIRMAN**

Councillor Hussain was elected Vice-Chairman of the Sub-Committee for the remainder of the Municipal Year.

**3. MINUTES**

RESOLVED

That the minutes of the Sub-Committee held on 14 March 2023 be approved and signed as a true and correct record.

**4. DECLARATIONS OF INTEREST**

There were no Declarations of Interest.

**5. URGENT BUSINESS**

There were no items of Urgent Business.

**6. REVIEW OF PREMISES LICENCE - PANDA RESTAURANT, 33 CHERTSEY ROAD, WOKING**

The Sub-Committee had before it a report regarding an application by the Home Office for a Review of the Premises Licence held by Panda Restaurant, 33 Chertsey Road, Woking. Caroline Laird, Immigration Enforcement Officer, and Joshua Anantham attended the meeting to represent the Home Office. Rongsen Yang, attended the meeting to represent Panda Restaurant, along with his wife to assist with any translation needed. Mr Yang was the sole director of Q&Q Hospitality Ltd which was the holder of the Premises Licence

All parties present had a copy of the Licensing Committee's agreed procedure to be followed at Licensing Sub-Committee hearings. The Chairman introduced Members of the Sub-Committee and outlined the order of speaking which would be followed at the hearing.

The Licensing Authority's representative, Matthew Cobb, advised the Sub-Committee that on 14 April 2023, following receipt of intelligence relating to illegal workers in the premises, the Home Office had carried out an inspection of Panda Restaurant. During the visit it was found that three staff members onsite had no right to be working and were served Immigration paperwork accordingly. Since 2006, all businesses had a legal requirement under the Immigration, Asylum and Nationality Act 2006 to carry out right to work checks, ensuring all staff members held a legal right to work in the UK. In January 2019, the Home Office system was improved further with the implementation of an online checking system, allowing employers to carry out a quick and simple check on a potential employee.

Mr Cobb reported that Section 4 of the Licensing Act 2003 states that, in carrying out its functions, a Licensing Authority must have regard to guidance issued by the Secretary of State under the Section 182 Guidance on Illegal Working, in which it was categorised as a serious offence alongside illegal firearms, prostitution, drug dealing and other crimes. Section 11.27 of the Guidance stated that criminal activities with a connection to a licensed premises should be treated seriously, and where reviews arise it is expected that revocation of the Premises Licence, even in the first instance, should be seriously considered. The matter was therefore before the Sub-Committee for determination.

None of the parties present had any questions for Mr Cobb.

The Chairman gave the Home Office the opportunity to address the Sub-Committee. Ms Laird advised the Sub-Committee that during the visit on 14 April 2023, following intelligence received, nine staff had been found to be working at the premises of whom three had been found to be working illegally. Mr Yang was the Designated Premises Supervisor and had admitted that the workers had been undergoing a trial shift and the required right to work checks had not been carried out. Ms Laird stated that easily available guidance on the checks was available on YouTube and that not carrying them out raised issues of tax underpayment, wages being paid below the minimum wage and unfair competition. The Home Office was considering the level of Civil Penalty Referral to be served on the business. Taking into account the premises was not upholding the licensing objective of crime and disorder, Ms Laird asked the Sub-Committee to consider revoking its Premises Licence.

Mr Cobb had no questions for the Home Office.

The representatives from Panda Restaurant had no questions for the Home Office.

Following questions by Members of the Sub-Committee, it was stated that no previous visit had been made to the venue by the Home Office; the staff duty lists had been viewed during the visit; and that the illegal workers being paid with food was an example of exploitative behaviour as would be likely to equate to less than the minimum wage.

The Chairman gave the representatives from Panda Restaurant the opportunity to address the Sub-Committee. Mr Yang outlined how the three illegal workers had come to be working in the store on the day of the visit, and that free food had been offered in return. He stated that it was very busy in the restaurant and the staff worked long hours. He admitted that he had made a mistake in allowing the illegal staff to work and had since updated the restaurant's rules in recruiting staff. He advised the sub-committee that he was trying his best to run the premises and serve local customers, with good reviews having been received, and asked for a chance to correct his mistake.

Mr Cobb and Ms Laird stated they had no questions for Panda Restaurant.

Following questions by Members of the Sub-Committee, Mr Yang stated that the illegal workers had not been staying in the staff accommodation; he had been aware of the right to work checks though had not followed them on this occasion; procedures had been put in place since to prevent further instances of illegal working; all current staff had been documented correctly; the illegal workers had been on a trial shift; the premises employed between seven and ten members of staff; and the Licensing Authority had advised him of the Home Office right to work rules when the premises licence had been granted.

The Chairman gave those present the opportunity to make closing statements.

Mr Cobb stated that it was important to take into account the severity of the case and follow the statutory guidelines, irrespective of any hardship on the business concerned. It was noted that the national guidelines stated that revocation of a premises licence should be seriously considered even in the first instance.

Ms Laird stated that illegal working was a serious issue and in this instance had been allowed by Mr Yang as the Designated Premises Supervisor, who had stated that the checks should have been carried out. She added that it was expected that revocation be considered for such offences.

Mr Yang asked the Sub-Committee for another chance and stated the law would be followed by the business in the future.

The Chairman adjourned the meeting at 3.15pm. The Sub-Committee deliberated in private, requesting that the Council's Solicitor join them for the provision of legal advice, and re-assembled at 3.45pm.

The Chairman stated that the Sub-Committee had decided to revoke the premises licence held by Panda Restaurant. The reasons for the decision were that the current operation of the premises was not promoting the licensing objective for the prevention of crime and disorder, and that revocation of the licence would be necessary in this case as a proportionate response to what had happened; the Sub-Committee was concerned that the licence holder was aware of their legal responsibilities but had deliberately chosen to ignore them; and the Sub-Committee had placed substantial weight on the Home Office evidence.

It was stated that in coming to its decision, the Sub-Committee had taken into account the Licensing Act 2003, particularly sections 52 and 182, the Council's Licensing Policy, and the written and oral evidence presented at the hearing. It was added that any party present would have the Right of Appeal to the Magistrate's Court within 21 days.

**RESOLVED**

That the Premises Licence held by Panda Restaurant be revoked.

The meeting commenced at 2.30 pm  
and ended at 3.45 pm.

Chairman: \_\_\_\_\_

Date: \_\_\_\_\_



LICENSING SUB-COMMITTEE A – 26 SEPTEMBER 2023

## **APPLICATION FOR TRANSFER OF A PREMISES LICENCE AND VARIATION OF A DPS - PREMIER WYCH HILL (LONDIS), ABERDEEN HOUSE, WYCH HILL**

### **Executive Summary**

This report considers an application to transfer a Premises Licence (PL) and vary a DPS for the above premises.

### **Recommendations**

The Committee is requested to:

**RESOLVE** That the report be considered and the application be determined accordingly.

The Committee has the authority to determine the recommendation(s) set out above.

### **Background Papers:**

None.

### **Reporting Person:**

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

### **Contact Person:**

Matthew Cobb, Senior Licensing Officer  
Ext. 3650, E Mail: Matthew.Cobb@woking.gov.uk

### **Date Published:**

18 September 2023

**Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill  
(Londis), Aberdeen House, Wych Hill**



**Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill**

**1.0 Summary of Proposal**

**Application Type:** Transfer and DPS Variation

**Site Address:** Premier Wych Hill (Londis)  
Aberdeen House  
Wych Hill  
Woking  
Surrey  
GU22 0EU

**Applicant** ARKA Licensing Consultants  
  
*on behalf of*  
  
*Mrs Sutharsine Perayeravan*

**Application Ref:** 23/00187/PREMIS

**2.0 Description of Premises**

- 2.1 The premises is small local shop located on Wych Hill.
- 2.2 The premises has been licenced since 2011.
- 2.3 Further information on the premises can be found in Section 7.0 of this report.

**3.0 Details of Proposal and Operating Schedule**

- 3.1 The application received on the 22 August 2023 was to
  - Transfer the premises licence to Mrs Sutharsine Perayeravan
  - Change the DPS to Mr Navaratnam Pathmilan
- 3.2 A copy of the Premises licence (that is being transferred) is attached as Appendix 1 (pages 17-26).
- 3.3 A copy of the transfer application is attached as Appendix 2 (pages 27 – 34) and the DPS Variation is attached as Appendix 3 (pages 35 – 40).

**4.0 Promotion of Licensing Objectives**

- 4.1 Each application will be given individual consideration on its merit. Nothing in the Licensing Policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in the Licensing Policy shall override the right of any person to make representations

## **Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill**

on an application or seek a review of a licence where provision has been made for them to do so in the Act.

4.2 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

### **5.0 Relevant Representations**

5.1 The following representations have been received in relation to the application:

#### **Responsible Authorities**

Surrey Police:

**Objection Received.**

5.2 Representations received had concerns relating to Crime and Disorder and Protection of children from harm.

5.3 The Objection is attached as Appendix 8 (pages 63 – 67).

### **6.0 Policy Considerations**

6.1 In making its decision, the Sub-Committee is obliged to have regard to National Guidance and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

6.2 The Licensing Officer considers the following policies taken from the '**Licensing Policy for Woking Borough**' should be considered for this application.

<b>6.0 Fundamental Principles</b>	
6.3	The Council recognises that public houses, nightclubs, restaurants, hotels, theatres, private members clubs, concert halls and cinemas all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. In considering applications, regard will be given to those differences and the differing impact these will have on the local community.
6.4	The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case. The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the

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6.6	premises and beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
<b>7.0</b>	<b>The Licensing Objectives (Prevention of Crime and Disorder)</b>
7.1	The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.
7.2	In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.
<b>10.0</b>	<b>The Licensing Objectives (Prevention of harm to children)</b>
10.1	The Council will carry out their licensing functions with a view to protecting children from harm. In addition to the specific prohibitions in the Licensing Act on the access of unaccompanied children to certain premises between certain hours, licensees will be expected to take measures to ensure the safety and welfare of children on their premises. The Council is committed to reducing the problems arising from under-age drinking and to protect children from moral, psychological or physical harm.

6.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the Licensing Objectives:

- i) Grant the application as made.
- ii) Modify the conditions of the licence, by altering, removing or adding to them.
- iii) Reject the whole or part of the application.

6.4 Should the Committee decide to override the Policy then it should be clearly evidenced and documented exactly what the 'exceptional circumstance' is that would allow the Licensing Authority to depart from the Policy.

6.5 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the Licensing Objectives.

## **7.0 Premises History**

7.1 The premises has been licenced since August 2011.

7.2 When the premises first applied for its licence, it received 31 objections from the local community who objected to the premises licence on a number of issues. This resulted in Licensing Sub-Committee on the 13th of July 2011.

7.3 A Copy of the Licensing Report from July 2011 can be found at Appendix 4 (pages 41 – 52).

7.4 The decision of the Licensing Sub-Committee was to add a further condition to the licence, namely that "A minimum of two members of staff shall be present on the premises during times when alcohol is on sale."

## **Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill**

- 7.5 In October 2011, after the licence was issued, complaints were received from the public suggesting that the premises was failing to comply with this condition.
- 7.6 A copy of the letter to the licence holder a result of these complaints is attached as Appendix 5 (page 53).
- 7.7 In August 2020 the premises was transferred to a new licence holder, who we will call Mr PL.

### **8.0 Previous Licence Surrender**

- 8.1 In July 2023 the Licensing Department received notification from the Finance Department advising us that Mr PL was not paying his invoice for his annual fee as he had sold the premises on the 24th of May 2023.
- 8.2 On the 21st of July 2023 Mr PL, having been advised of the laws regarding notification of changes to licences advised the Licensing Department that he wished to surrender the Premises Licence.
- 8.3 However it was revealed during the email conversation with Mr PL that the premises had a new person involved in the running of the business - Mrs Sutharsine Perayeravan. Mr PL was notified that by surrendering the Premises Licence it would result in difficulties for Mrs Perayeravan and the Licensing Department sought clarity as to whether he was intending to surrender or transfer the licence. Mr PL seemed unsure what he was doing.
- 8.4 Eventually on the 28th of July 2023, having been given his options, Mr PL confirmed he wanted to surrender the licence, and so it was surrendered.
- 8.5 On the 17th of August 2023, as part of a Surrey Police evening of test purchasing, the premises in question was found to be not only selling alcohol still (potentially in contravention of S136 of The Licensing Act 2003) but also failed the test purchase when alcohol was sold by Mr Navaratnam Pathmilan to a minor. Information from Surrey Police relating to this test purchase are attached as Appendix 6 (pages 55 – 56).
- 8.6 As a result of this test purchase, an email was sent to Mrs Sutharsine Perayeravan advising her that the licence was surrendered on the 28th of July and consequently all alcohol must be removed from the premises.
- 8.7 We received an email back from “ARKA Licensing” notifying us that they were “handling this matter” and would be putting in an application to transfer the licence and vary the DPS.
- 8.8 It should be noted here that a transfer can take place on a surrendered or lapsed licence where the applicant a) has the use of the premises and b) submits the transfer no later than 28 days after the date the licence was surrendered. Therefore even though it had been surrendered, they still had until the 25<sup>th</sup> of August to carry this out.

### **9.0 Premises Transfer**

- 9.1 On the 22<sup>nd</sup> of August 2023 an application to transfer the licence and a DPS Variation were received.
- 9.2 Arka Licensing were informed of the ability to transfer up to 28 days after a surrender, and were also informed that the law permits the licence to continue from the date that the transfer application was submitted. In light of the Test Purchase, they were also asked if alcohol had

## **Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill (Londis), Aberdeen House, Wych Hill**

been sold between the 28th of July (when the licence was surrendered) and the 22nd of August (when the application was submitted.)

- 9.3 ARKA responded stating “Applicant said they were not selling alcohol until the licence become effective in applicant name. It became effective again from 21st August. All staff were instructed not to sell.”
- 9.4 When reminded of the Test Purchase results, ARKA then advised us that “Staff sold alcohol on that day were suddenly wasn't feeling well, fell asleep and made a mistake.”
- 9.5 Further enquiries were made via email, but minimal further explanation was given.
- 9.6 It seemed disappointing that the applicants first response to our enquiry regarding the sale of alcohol during a time when the licence was surrendered was to lie.
- 9.7 The email conversation between the Licensing Authority and the Applicants/Agents is attached as Appendix 7 (pages 57 – 61).

### **10.0 Surrey Police**

- 10.1 On the 31st of August 2023 an objection was received from Surrey Police relating to their application, on the grounds of Crime and Disorder and Prevention of Harm to Children.
- 10.2 They also had concerns that the condition on the licence – regarding the requirement for more than one staff member to be on site – was not being complied with.
- 10.3 Lesley Sumner from Surrey Police met with Suresh Kanapathi from ARKA licensing at the premises on the 1st of August to discuss their application to transfer and the objection. During this meeting, Mr Pathmilan was again working and was (other than Suresh) the only person in the store.
- 10.4 During a visit to the Premises on the 16th of September 2023 by Licensing Officer, it was evident that Mr Pathmilan was the only person working in the shop on his own.
- 10.5 Concerns were raised by Surrey Police and an attempt to negotiate with Suresh of ARKA regarding the application took place via email in follow up to their meeting.
- 10.6 The Police emails are attached as Appendix 9 (pages 69 – 70).

### **11.0 Ensuing variation and DPS Change**

- 11.1 As a result of Police discussion and their concerns, on the 11th of September 2023 the applicant has submitted a minor variation to add further conditions and a DPS Variation.
- 11.2 This is an entirely separate application and depends on the outcome of this hearing. Should the Licensing Sub-Committee refuse this transfer application as part of this hearing, then it would mean that Mrs Perayeravan is not the licence holder and not able to carry out the variation.
- 11.3 Should the Licensing Committee grant the transfer then Mrs Perayeravan would be the licence holder and the variation – to add conditions – would go ahead.
- 11.4 To ensure clarity, the proposed conditions from the minor variation are attached as Appendix 10 (pages 71 – 72).

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- 11.5 It should be noted that the DPS variation would resolve the Police's concerns over the suitability of the DPS, and the proposed conditions would go some way towards resolving future issues regarding the failure of the test purchase, but they do not alleviate the Police concerns over the suitability of Mrs Peryarevan to hold a licence.
- 11.6 It is also questionable as to whether there is any purpose in adding further conditions when it is evident that current conditions are not being complied with.

**12.0 Licensing Authority Concerns**

- 12.1 The Licensing Authority has concerns over the suitability of Mrs Sutharsine Perayeravan to hold a premises licence, as per the concerns of Surrey Police.
- 12.2 The first issue is the surrender of the licence and the sale of alcohol.
- 12.3 If Mrs Perayeravan believed there to be a licence in place (i.e. she was unaware of the surrender) then why was her first instinct to mislead the Licensing Authority about the sale of alcohol that took place on the 17th of August?
- 12.4 This is not a good grounding of trust and responsibility if that is their first reaction to an enquiry from the Licensing Authority.
- 12.5 If Mrs Perayeravan thought the licence was still in place, and was misleading the licensing authority because she was only then aware of the surrender, then why were the Licensing Committee Hearing Conditions relating to the requirement to have two staff on site not being complied with?
- 12.6 It would be beneficial if the Sub-Committee were able to assist in establishing whether Mrs Perayeravan knew there was no licence in place and was selling alcohol illegally (which would seem to be the case as per the lie about not serving alcohol on the 17th) or whether they believed a licence to be in place, but were just ignoring the Conditions of the licence (regarding the two staff on site).
- 12.7 If the issue is that Mrs Perayeravan was simply ignoring the conditions of the licence, then there is little point issuing further conditions as they have demonstrated they cannot comply with the conditions that a previous sub-committee has already imposed.
- 12.8 The second issue is the proposed DPS, Mr Navaratnam Pathmilan. Whilst a second DPS has been put forward it is evident that Mr Pathmilan is intending to still be working there the majority of the time, and the new proposed DPS may be simply paperwork – or a 'get around' to cover the fact that they still intend Mr Pathmilan, who is potentially unsuitable, to be doing the majority of the work in the premises.
- 12.9 This seems potentially likely due to the fact that Mr Pathmilan has been on site alone every time an officer has visited the premises in the last month.
- 12.10 The Police test purchase identified that Mr Pathmilan is known as "Milan". The email that Mrs Sutharsine Perayeravans has been using is subamilan@gmail.com which comes up as the name "Subasiny Pathmilan".
- 12.11 This suggests a closer connection to the licence holder than merely an employee.

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(Londis), Aberdeen House, Wych Hill**

**13.0 Reference materials**

13.1 To assist the Licensing Committee in their decision making process, the Local Government Association Councillors Handbook to the Licensing Act has been attached as Appendix 11 (pages 73 – 121), and the Supporting Guidance, “Pool of Conditions,” has been attached as Appendix 12 (pages (123 – 142).

**14.0 Implications**

Finance and Risk

14.1 There are no significant financial implications. A nationally set application fee is charged to defray the cost of processing applications.

14.2 The risks to the Council associated with determining an application are:

- Failure to undertake its statutory responsibilities within required timescales;
- Making a decision that may be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

14.3 These risks have been dealt with in the report under section 4.0 by highlighting that the Sub-Committee is required to determine this application for a Premises Licence under the Licensing Act 2003 having due regard to the four Licensing Objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates Court and promote Community Safety in the Borough.

Equalities and Human Resources

14.4 None.

Legal

14.5 The Licensing Authority must act to promote the four Licensing Objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

14.6 The Licensing Authority must have regard to its statement of Licensing Policy and the guidance issued by the Secretary of State in carrying out its functions.

**Application for Transfer of a Premises Licence and Variation of a DPS - Premier Wych Hill  
(Londis), Aberdeen House, Wych Hill**

**15.0 Conclusions**

- 15.1 The Sub Committee is requested to consider the report, the evidence it will hear, representations made, responses to questions raised and reach a reasoned decision.
- 15.2 The decision made will not come into force until the 21 day appeal period expires or any appeal is dealt with by the Courts if so called.

REPORT ENDS





**Woking Borough Council**  
Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL

**Premises licence number**

20/00122/PREMIS

**Part 1 – Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description, (including Post Town and Post Code)**

**Londis**

Aberdeen House, Wych Hill, Woking, Surrey, GU22 0EU,

**Telephone number**

**The date the licence takes effect**

17 August 2020

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities**

Sale of alcohol	Week Days	07:00 - 21:00
Sale of alcohol	Weekends	07:00 - 21:00

**The opening hours of the premises**

Not applicable

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

Off the premises

**Part 2**

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

Mr P [REDACTED] L [REDACTED]

E-mail [REDACTED]

Mobile phone number [REDACTED]

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

Not applicable

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Mr P [REDACTED] L [REDACTED]  
[REDACTED]  
Mobile phone number [REDACTED]

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

Personal Licence [REDACTED]  
Licensing Authority [REDACTED]

1 September 2020

**Date Licence Issued**



**Senior Licensing Officer**

## **Annex 1 – Mandatory conditions**

- 1) No supply of alcohol may be made under the premises licence
  - (1) At a time when there is no Designated Premises Supervisor in respect of the premises licence, or
  - (2) At a time when the Designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
- 2) Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

## **Annex 2 – Conditions consistent with the operating schedule**

### ***General – all four licensing objectives***

- To ensure that all staff informed and trained regarding the licensing laws, e.g. who to serve and not to serve alcohol.
- Make sure that alcohol is not consumed within and around of the premises.
- Any Policeman on uniform should not be served. Anybody deem to be drunk and known prostitutes should not be served.
- Any suspicion of under age, ask for proof of age.
- Only accept valid proof of age i.e. PASS- accredited cards, passport or photo driving licence.
- Sale of alcohol only to 18 years and above.

### ***The prevention of crime and disorder***

- Install CCTV.
- Remote Access.
- Camera installed at the front to view people in and out.
- I will be installing camera outside the store plus another six within the store.
- Call the Police where trouble is envisaged.
- Call Police when there is trouble in the area and around the shop.
- Fill out customer refusal log book when the sale of alcohol is refused.
- Be proactive in preventing the sale of alcohol to under age.

### ***Public safety***

- Make sure that alcohol location is visible to the eye.
- Be vigilant and be aware of any trouble maker.
- Display proof of age material and proxy purchase warnings prominently.
- Monitor premises.
- Ensure that alcohol is not consumed inside and around the premises/store.

### ***The prevention of public nuisance***

- Call the Police as soon as you suspect any trouble.
- Keep copy of recorded incidence for example CCTV recordings.
- Keep CCTV recordings for 30 days.
- Recordings to be kept on a hard drive.
- Recordings (copy of) shall be made available if required by authorised officer.

***The protection of children from harm***

- Ask for ID where you suspect that the person is under age.
- Challenge 25 to be in force.
- Where a staff suspect a purchase of alcohol to children, that sale will be refused and recorded.
- Call supervisor to supervise the sale of alcohol if staff is under 18.
- Fill out refusals sheet.

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

- A minimum of two members of staff shall be present on the premises during times when alcohol is on sale.





**Woking Borough Council**

*Civic Offices, Gloucester Square, Woking, Surrey, GU21 6YL*

**Premises licence number**

20/00122/PREMIS

**Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description, (including Post Town and Post Code)**

**Londis**

Aberdeen House, Wych Hill, Woking, Surrey, GU22 0EU,

**Telephone number**

**The date the licence takes effect**

17 August 2020

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities**

Sale of alcohol	Week Days	07:00 - 21:00
Sale of alcohol	Weekends	07:00 - 21:00

**The opening hours of the premises**

Not applicable

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

Off the premises

**Name, (registered) address of holder of premises licence**

[REDACTED],

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

Not applicable



Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

[REDACTED]

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

1 September 2020

**Date Licence Issued**



**Senior Licensing Officer**



# PREMISES LICENCE TRANSFER APPLICATION FORM

Application to transfer premises licence to be granted  
under The Licensing Act 2003

## PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I/We.....SUTHARSINE PERAYERAVAN.....

..... [insert name of applicant(s)] **apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below**

Premises licence number

20/00122/PREMIS

### Part 1 – Premises Details

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

LONDIS  
ABERDEEN HOUSE  
WYCH HILL

Post Town WOKING

Post Code GU22 0EU

Telephone number of premises (if any)

Please give a brief description of the premises

LOCAL CONVENIENCE STORE

Name of current premises licence holder

PE [REDACTED] [REDACTED]

## Part 2 - Applicant details

In what capacity are you applying for the premises licence to be transferred to you?

Please tick ✓ Yes

- a) An individual or individuals\*  please complete section (A)
- b) a person other than an individual\*
- i. as a limited company  please complete section (B)
- ii. as a partnership  please complete section (B)
- iii. as an unincorporated association or  please complete section (B)
- iv. other (for example a statutory corporation)  please complete section (B)
- c) a recognised club  please complete section (B)
- d) a charity  please complete section (B)
- e) the proprietor of an educational establishment  please complete section (B)
- f) a health service body  please complete section (B)
- g) An individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales  please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in an independent hospital in England  please complete section (B)
- h) the chief officer of police of a police force in England and Wales  please complete section (B)

\* If you are applying as a person described in (a) or (b) please confirm:

Please tick ✓ Yes

- I am carrying on or proposing to carry on a business which involves the use of the premises for licensable activities; or
- I am making the application pursuant to a
- o Statutory function or
- o A function discharged by virtue of Her Majesty's prerogative

### (A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname

First names

PERAYERAVAN

SUTHARSINE

Date of Birth

██████████

I am 18 years old or over  (Please tick yes)

Nationality

██████████

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

Current postal address if different from premises address

██████████  
██████████

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

**SECOND INDIVIDUAL APPLICANT (if applicable)**

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

Surname

First names

Date of Birth

I am 18 years old or over  (Please tick yes)

Nationality

Where applicable (if demonstrating a right to work via the Home Office online right to work checking service), the 9-digit 'share code' provided to the applicant by that service (please see note 2 for information)

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

**(B) OTHER APPLICANTS**

Please provide name and registered address of applicant in full. Where appropriate please give any registered number. In case of a partnership or other joint venture (other than a body corporate), please give the name and address of each party concerned.

Name

Address

Registered number (where applicable)

Description of applicant (for example, partnership, company, unincorporated association etc.)

Telephone number (if any)

E-mail address (optional)

**Part 3**

Are you the holder of the premises licence under an interim authority notice?

Do you wish the transfer to have immediate effect

If not when would you like the transfer to take effect?

Day

Month

Year

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

Please tick  **Yes**

I have enclosed the consent form signed by the existing premises licence holder

If you have not enclosed the consent form referred to above please give the reasons why not. What steps have you taken to try and obtain the consent?

THE PREMISES LICENCE HAS NOW BEEN SURRENDERED. THIS IS TO TRANSFER THE SURRENDERED LICENCE

Please tick  **Yes**

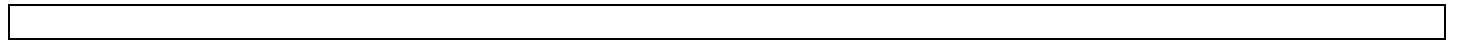
If this application is granted I would be in a position to use the premises during the application period for the licensable activity or activities authorised by the licence (see section 43 of the Licensing Act 2003)

Please tick  **Yes**

I have enclosed the premises licence

If you have not enclosed the premises licence referred to above please give the reasons why not.

THE PREMISES LICENCE HAS BEEN SURENDERED





**Checklist**

Please tick ✓ Yes

- I have made or enclosed payment of the fee ✓
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed ✓
- I have enclosed the premises licence or relevant part of it or explanation ✓
- I have sent a copy of this application to the chief officer of police today ✓
- I have sent a copy of this form to Home Office Immigration Enforcement today ✓
- Applicable to all individual applicants, including those in a partnership which is not a limited liability partnership, but not companies or limited liability partnerships] I have included documents, or my Home Office online right to work checking service share code, to demonstrate my entitlement to work in the United Kingdom (please read note 2) ✓

**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.**

**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.**

I understand I am not entitled to be issued with a licence if I do not have the entitlement to live and work in the UK (or if I am subject to a condition preventing me from doing work relating to the carrying on of a licensable activity) and that my licence will become invalid if I cease to be entitled to live and work in the UK (please read guidance note 2)

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

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

Signature .....NIRA SURESH.....

Date .....21/08/2023.....

Capacity .....LICENSING AGENT.....

**For joint applications signature of 2<sup>nd</sup> applicant or 2<sup>nd</sup> applicant’s solicitor or other authorised agent.** (Please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature .....

Date .....

Capacity .....

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

ARKA LICENSING CONSULTANTS  
TRIDENT BUSINESS CENTRE  
89 BICKERSTETH ROAD  
LONDON

**Post town** LONDON

**Post code** SW17 9SH

**Telephone number** 07803 903 897

**If you would prefer us to correspond with you by e-mail your e-mail address (optional)**  
CONTACT@ARKALICENSING.CO.UK

## **Application to vary a premises licence to specify an individual as designated premises supervisor under the Licensing Act 2003**

**Before completing this form please read the guidance notes at the end of the form.**

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

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

**I / we SUTHARSINE PERAYERAVAN**  
***(full name(s) of premises licence holder)***

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

**Premises licence number**

20/00122/PREMIS

**Part 1 – Premises details**

**Postal address of premises or, if none, Ordnance Survey map reference or description**  
**LONDIS, ABERDEEN HOUSE, WYCH HILL, WOKING, GU22 0EU**

Post town	Post code (if known)
<b>WOKING</b>	GU22 0EU

Telephone number (if any)

**[REDACTED]**

**Description of premises (please read guidance note 1)**

**LOCAL CONVENIENCE STORE**

**Part 2- Proposed supervisor details**

Full name of proposed designated premises supervisor

**NAVARATNAM PATHMILAN**

Nationality

**BRITISH**

Place of birth

**SRI LANKA**

Date of birth

**[REDACTED]**

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

**SPELTHORNE BOROUGH COUNCIL**

Full name of existing designated premises supervisor (if any)

**Please tick yes**

**I would like this application to have immediate effect under**

**section 38 of the Licensing Act 2003** (please read guidance note 2)

**I have enclosed the premises licence or relevant part of it**

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

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

**THE LICENCE WAS SURRENDERED**

**Please tick yes**

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

**It is an offence, under Section 158 of the Licensing Act 2003, to knowingly or recklessly make a false statement in or in connection with this application. Those who make a false statement may be liable on summary conviction to a fine of any amount.**

**It is an offence under section 24B of the Immigration Act 1971 for a person to work when they know, or have reasonable cause to believe, that they are disqualified from doing so by reason of their immigration status.**

**Those who employ an adult without a valid leave to enter or remain in the UK or an adult who is subject to conditions which would prevent that person from taking up employment will be liable to a civil penalty under Section 15 of the Immigration, Asylum and Nationality Act 2006 and, pursuant to section 21 of the same act, will be committing an offence where they do so in the knowledge, or with reasonable cause to believe, that the employee is disqualified by virtue of their immigration status.**

**Part 3 – Signatures** (please read guidance note 5)

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

Signature    NIRA SURESH  
.....

Date            21/08/2023  
.....

**Capacity      LICENSING AGENT**  
.....

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

Signature  
.....

Date  
.....

**Capacity**  
.....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 8) ARKA LICENSING CONSULTANTS TRIDENT BUSINESS CENTRE 89 BCIKERSTETH RD	
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<b>Post town</b> LONDON	<b>Post Code</b> SW17 9SH
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<b>Telephone number (if any)</b> 07803 903 897
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<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b> CONTACT@ARKALCENSING.CO.UK
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LICENSING SUB-COMMITTEE B - 13 JULY 2011

**APPLICATION FOR A PREMISES LICENCE - LONDIS, ABERDEEN HOUSE, WYCH HILL,  
WOKING, GU22 0EU**

**Executive Summary**

This report considers an application for a Premises Licence (PL) for the above premises which varies its existing conditions.

**Recommendations**

The Committee is requested to:

**RESOLVE that** the report be considered and the application be determined accordingly.

**The Sub-Committee has the authority to determine the above recommendation.**

**Background Papers:**

Application form  
Operating Schedule  
Representations from Statutory Bodies and Interested Parties  
Sustainability Impact Assessment  
Equalities Impact Assessment

**Reporting Person:**

Russell Ellis, Licensing Manager  
Ext. 3732, E Mail: Russell.Ellis@woking.gov.uk

**Contact Person:**

Sam Marshall, Licensing Officer  
Ext. 3650, E Mail: Sam.Marshall@woking.gov.uk

Russell Ellis, Licensing Manager  
Ext. 3732, E Mail: Russell.Ellis@woking.gov.uk

**Date Published:**

6 July 2011

## 1.0 Summary of Proposal

**Application Type:** New Premises Licence  
**Variation:** No  
**Site Address:** Aberdeen House, Wych Hill, Woking, Surrey, GU22 0EU  
**Applicant** Mr Emmaunel Okorie  
**Application Ref:** 11/00134/PREMIS

## 2.0 Details of Proposal and Operating Schedule

2.1 This is an application to permit the premises to sell alcohol between the following times;

Sale of alcohol	Week Days	07:00 – 21:00
Sale of alcohol	Weekends	07:00 – 21:00

2.2 A copy of the application received from the applicant is attached as Appendix 1.

## 3.0 Promotion of Licensing Objectives

3.1 The Sub-Committee is obliged to determine this application with a view to promoting the licensing objectives which are:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance;
- The protection of children from harm.

3.2 The operating schedule submitted in the application form, which is attached in Appendix 1, shows that the licensing objectives will be met as follows:

### a) General – all four licensing objectives (b, c, d, e)

- 3.3 To ensure that all staff informed and trained regarding the licensing laws, e.g. who to serve and not to serve alcohol.
- 3.4 Make sure that alcohol is not consumed within and around of the premises.
- 3.5 Any Policeman on uniform should not be served. Anybody deem to be drunk and known prostitutes should not be served.
- 3.6 Any suspicion of under age, ask for proof of age.
- 3.7 Only accept valid proof of age i.e. PASS- accredited cards, passport or photo driving licence.
- 3.8 Sale of alcohol only to 18 years and above.

**b) The prevention of crime and disorder**

- 3.9 Install CCTV.
- 3.10 Remote Access.
- 3.11 Camera installed at the front to view people in and out.
- 3.12 I will be installing camera outside the store plus another six within the store.
- 3.13 Call the Police where trouble is envisaged.
- 3.14 Call Police when there is trouble in the area and around the shop.
- 3.15 Fill out customer refusal log book when the sale of alcohol is refused.
- 3.16 Be proactive in preventing the sale of alcohol to under age.

**c) Public Safety**

- 3.17 Make sure that alcohol location is visible to the eye.
- 3.18 Be vigilant and be aware of any trouble maker.
- 3.19 Display proof of age material and proxy purchase warnings prominently.
- 3.20 Monitor premises.
- 3.21 Ensure that alcohol is not consumed inside and around the premises/store.

**d) The prevention of public nuisance**

- 3.22 Call the Police as soon as you suspect any trouble.
- 3.23 Keep copy of recorded incidence for example CCTV recordings.
- 3.24 Keep CCTV recordings for 30 days.
- 3.25 Recordings to be kept on a hard drive.
- 3.26 Recordings (copy of) shall be made available if required by authorised officer.

**e) The protection of children from harm**

- 3.27 Ask for ID where you suspect that the person is under age.
- 3.28 If 18 - challenge 21/25 invoke.
- 3.29 Where a staff suspect a purchase of alcohol to children, that sale will be refused and

recorded.

3.30 Call supervisor to supervise the sale of alcohol if staff is under 18.

3.31 Fill out refusals sheet.

#### 4.0 Relevant Representations

4.1 The following representations have been received in relation to the application:

##### Responsible Authorities

Surrey Police: No objections have been received.  
Surrey Fire and Rescue Service: No objections have been received.  
Environmental Health (WBC): No objections have been received.  
Planning Authority (WBC): No objections have been received.  
Social Services (SCC): No objections have been received.  
Trading Standards: No objections have been received.

##### Interested Parties

Members of Public: 31 objections received (summary below).  
Other Persons: No objections have been received.

Due to the large number of letters received with regard to this application, the Chairman of the Licensing Committee requested that a summary of the objections be made rather than produce large print outs. Objectors should note, however, that the Committee and applicant have seen the letters electronically.

Not all letters received would have been “relevant” under the Licensing Act 2003. However, it was agreed that rejecting a resident’s letter would simply result in the objection being re-written in a format that would meet the criteria. Therefore all respondents were contacted with the letter attached as appendix 2 and later informed of the Committee date and time.

Store not needed	25 comments
No parking capacity for a store	24 comments
Increased traffic nuisance	7 comments
Increase in crime already in the area	7 comments
Alcohol related nuisance issues	6 comments
Increased litter	5 comments

Deliveries and waste containers eyesore 1 comment

Specifically mentioning the licensing objectives

Potential increase in Crime and Disorder 4 comments

Potential increase in Public Nuisance 3 comments

Risk to Public Safety 2 comments

Impact on Child Protection 1 comment

## 5.0 Policy Considerations

5.1 In making its decision, the Sub-Committee is obliged to have regard to national Guidance and the Council's own Licensing Policy. The Sub-Committee must also have regard to all of the representations made and the evidence it hears.

5.2 The Licensing Officer considered the following policies taken from the '*Licensing Policy for Woking Borough*' should be considered for this application.

### From Woking Borough Council Licensing Policy 2011-2014

**6.5** The Council can only attach conditions to licences where necessary to ensure the licensing objectives are served and may include conditions drawn from the Pool of Conditions relating to the licensing objectives contained in the guidance issued under the Act. When considering conditions, the Council will focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned and those matters which are within the control of the applicant on the premises and in the vicinity of those premises. Whether or not incidents can be regarded as in the vicinity of licensed premises is a question of fact and will depend upon the particular circumstances of the case.

**6.6** The Council acknowledges that licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the individual,

## 7.0 The licensing objectives

### Prevention of crime and disorder

**7.1** The Council will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises as they seek to enter or leave.

**7.2** In addition to the requirement for the Council to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect of the exercise of those functions on, and to do all it reasonably can to prevent, crime and disorder in the Borough.

**7.3** The Council will expect applicants to include in their operating schedules the

steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises and according to the type of licensable activities that are to be carried on.

In particular, the Council will expect applicants to address the following matters.

- Physical security features e.g. use of toughened drinking glasses.
- Procedures for the risk assessment of alcohol promotions, such as 'happy hours' (please see 7.5).
- The use of licensed door supervisors.
- Amount of seating to be provided to reduce high volume vertical drinking.
- Training given to staff in crime prevention measures.
- Measures agreed with the police to reduce crime and disorder.

Participation in the Woking Pubwatch Scheme will be expected of licence applicants for all bar, pub and nightclub premises in the Borough.

**7.4** Premises offering alcohol and late night music and dancing will also be expected to address the following.

- Search procedures.
- Measures to prevent the use or supply of illegal drugs (applicants will be expected to explain how they intend to comply with the safer clubbing checklist, see Appendix 2, page 26).
- Provision of CCTV video cameras and audio recording equipment (including details of the position, siting and maintenance of each camera, the period of time for which recordings are to be retained and measures for ensuring their continued operation during opening hours).
- Subscription to and participation in the use of an inter-premises radio network linked to the police during opening hours will be expected of licence applicants for bar, pub and nightclub premises in Woking Town Centre (please see definition in 7.7) should one be in operation.

**7.5** The Council wishes to discourage the operation of alcohol promotions such as 'happy hours', which may encourage patrons to consume a large amount of alcohol in a short space of time. Such schemes can lead to binge drinking and increase the potential for crime and disorder.

**7.6** The Council recognises that licence conditions should not replicate offences that are set out in the Licensing Act or other legislation. With this in mind, the Council will, when considering an application for a premises licence upon the receipt of relevant representations, consider attaching conditions to licences and certificates to deter and prevent crime and disorder both inside and in the immediate vicinity of the premises.

These may include conditions drawn from the Pool of Conditions relating to the prevention of crime and disorder. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities that take place there.

## **8.0 The licensing objectives**

### **Public safety**

**8.1** The Council will carry out its licensing functions with a view to promoting public safety

and will seek to ensure that licensees take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.

**8.2** The Council will expect the applicants to include in their operating schedules the steps they propose to take to promote public safety and applicants are advised to seek advice from Council licensing officers and Surrey Fire and Rescue Service. In particular, the Council will expect applicants to address the following matters in their operating schedules:

- suggested capacities (including staff and performers)
- use of equipment
- levels of door supervision
- measures to prevent the supply and use of illegal drugs (applicants will be expected to explain how they intend to comply with the safer clubbing checklist, see Appendix 2, page 26)
- free availability of water
- physical safety features e.g. use of toughened glass
- fire evacuation procedures.

**8.3** It is best practice for applicants to show that they have undertaken full risk assessments of the premises, including fire risk assessments.

**8.4** The Council will consider attaching conditions to licences and certificates to promote

public safety. These may include conditions drawn from the Pool of Conditions relating to public safety (including fire safety) and theatres, cinemas, concert halls and

similar places (the promotion of public safety). Any such conditions will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.

## **9.0 The licensing objectives**

### **Prevention of nuisance**

**9.1** The Council will carry out its licensing functions with a view to promoting the prevention of public nuisance and will seek to ensure that licensees take measures to minimise the impact of licensable activities at their premises on people living, working or sleeping in the vicinity. The prevention of public nuisance can include low-level nuisance affecting a few people living locally, as well as major disturbance affecting the whole community.

**9.2** The Council's concerns mainly relate to noise nuisance, light pollution and noxious smells. Applicants are expected to include in their operating schedules the steps they propose to take to address these issues and prevent public nuisance.

In particular, the Council will expect applicants to address the following matters in their operating schedules:

- installation of a sound limiting device
- soundproofing measures e.g. from keeping doors and windows closed to double door entry/exit systems. Where the premises are to include open areas e.g. pub gardens, the applicant will be expected to specify how they intend to minimise nuisance from such areas
- measures to be taken to prevent/minimise nuisance caused by the delivery

and disposal of bottles measures/procedures for controlling the behaviour of patrons measures for the winding down of alcohol sales in queues

- measures to be taken to prevent/minimise nuisance caused by the dispersal of patrons from the premises e.g.:

the erection of prominent notices requesting customers to leave in a quiet manner

loudspeaker announcements

reduction in volume and tempo of the music towards the end of the evening

giving away free lollipops to customers as they leave to discourage loud behaviour

procedures for the collection of litter in the vicinity of the premises

procedures to bar customers who regularly leave the premises in a noisy manner

means of accessing local licensed taxi services

Applicants are advised to seek advice from the Council's licensing officers before preparing their operating schedules.

**9.3** It is now illegal to smoke in an enclosed public place. Whilst smoking is not a regulated activity under the Act, the volume of patrons smoking outside premises will increase greatly. Provisions for the collection of litter have already been mentioned, but premises should take particular steps to combat litter from smoking, as it will be easier to attribute this to a particular premise and is more likely to generate complaints. Persistent complaints can lead to a call for a licence review, on the grounds of public nuisance from a responsible authority.

**9.4** The Council will take an objective view as to the potential for nuisance and will seek to attach appropriate and proportionate conditions to premises licences and club premises certificates where necessary in order to prevent it. These may include conditions drawn from the Pool of Conditions relating to the prevention of public nuisance. Any such conditions imposed will be tailored to the style and characteristics of the premises and the type of activities expected to take place there.

## **10.0 The licensing objectives**

### **Prevention of harm to children**

**10.1** The Council will carry out their licensing functions with a view to protecting children

from harm. In addition to the specific prohibitions in the Licensing Act on the access of unaccompanied children to certain premises between certain hours, licensees will be expected to take measures to ensure the safety and welfare of children on their premises. The Council is committed to reducing the problems arising from under-age drinking and to protect children from moral, psychological or physical harm.

**10.2** The Council will expect applicants to include in their operating schedules the steps they propose to take to prevent harm to children. In particular, the Council will expect applicants to address the following matters within their operating schedules.

- Where alcohol is to be sold, applicants must include details of the measures they propose to prevent the supply of alcohol to children. It is expected that:

(a) in addition to requiring passports or photo driving licences, a proof of age scheme approved and accredited by the Proof of Age Standards Scheme (PASS) e.g. Citizen Card, Connexions Card, Portman Card will



be in operation

(b) staff will receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers and checking identification), such training to be properly documented and records made available for inspection

(c) registers of refused sales will be maintained and made available for inspection.

(d) a policy of requesting suitable photographic identification from those appearing to be below or close an age limit **above** the legal age for alcohol sale/purchase , for example, Think 21, Challenge 25.

- Applicants must indicate whether they are signatories to the Portman Group Code of Practice (see 10.6.6).
- Where children are expected to attend regulated entertainment, the measures proposed to ensure their safety.

**10.3** The Surrey Child Protection Unit will be consulted on applications for premises licences and club premises certificates.

**10.4** Applicants needing advice on how to avoid age-restricted sales may contact Surrey Trading Standards.

**10.5** The Council will consider attaching conditions to licences and certificates to prevent harm to children, and these may include items drawn from the Pool of Conditions relating to the protection of children from harm. Conditions may also be attached to prevent the positioning of cigarette machines to which children may have access.

**10.6** Child access to licensed premises

**10.6.1** The Council will consider the individual merits of each application before deciding whether it is necessary to limit the access of children to any given premises.

The following are examples of premises that will raise particular concern.

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking.
- Where there is a known association with drug taking or dealing.
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines).
- Where entertainment or services of an adult or sexual nature are commonly provided. The Council will not normally grant permission for entertainment of an adult or sexual nature in premises near schools, churches, youth clubs or other premises where children are likely to attend.

**10.6.2** The Council may consider that additional steps for limiting the access of children to licensed premises are necessary in order to prevent harm. These steps (which may be adopted in combination) include:

- limitations on the hours when children may be present
- limitations on the presence of children under certain ages when particular specified activities are taking place
- limitations on the parts of premises to which children might be given access
- age limitations (below 18)
- 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)
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

**10.6.3** Conditions will not be attached to licences or certificates requiring that children be admitted to any premises. Where no licensing restriction is necessary, this will be left to the discretion of the individual licensee, club or person who has been given a temporary event notice. Applicants for premises licences and club premises certificates may volunteer prohibitions and restrictions in their operating schedules if their risk assessments have determined that the presence of children is undesirable or inappropriate. If the Council receives no relevant representations, these volunteered prohibitions and restrictions will become conditions attaching to the licence or certificate.

**10.6.4** It is illegal to smoke in an enclosed public place. Whilst smoking is not a regulated activity under the Act, the volume of patrons smoking outside premises will increase greatly. This could lead to children being left unaccompanied and therefore a premise would be operating illegally. Operators must ensure steps are in place to combat this issue and that children remain under the necessary supervision of the accompanying adult at all times. Unaccompanied children on a premise licensed for the sale of alcohol would be in breach of licensing conditions.

**10.6.5** The Council supports PASS, which aims to approve and accredit proof of age schemes to assist in preventing underage access to unsuitable premises and the purchasing of alcohol. This scheme, introduced by the British Retail Consortium and audited by the Trading Standards Institute, identifies reliable and secure proof of age schemes with the same hologram mark in order that retailers can easily distinguish accredited cards from forgeries or cards under unreliable schemes.

**10.6.6** The Council supports the aims of the Portman Group and commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks to all applicants.

## **11.0 Licensing hours**

**11.1** The Council recognises that flexible licensing hours for the sale of alcohol can assist in ensuring that large concentrations of people do not leave premises at the same time and can reduce the friction at late night fast food outlets, taxi ranks, minicab offices and other sources of transport that can lead to disorder and other peaks of nuisance and anti-social behaviour.

**11.2** Fixed trading hours within designated areas (also known as 'zoning') will not be set, as this could lead to significant movements of people across boundaries at particular times seeking premises opening later, resulting in concentrations of disturbance and noise.

**11.3** The Council may consider imposing stricter conditions in respect of noise control where premises are situated in areas that have denser residential accommodation. However, regard will be given to the individual merits of any application.

**11.4** The Council will only consider restricting the hours shops, stores and supermarkets can sell alcohol for consumption off the premises where there are good reasons to do so. For example, following police representations that a premise is known to be the focus of disorder and disturbance, due to youths or street drinkers gathering there and engaging in nuisance and anti-social behaviour.

**11.5** Applications for premises offering late night take away food and drink will be considered on their individual merits. However, the impact upon the licensing objectives of people gathering at such premises after other licensed premises have closed can be considerable, and in determining licensing hours, regard will therefore be given to the density and closing times of other licensed premises in the vicinity.

5.3 The Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- i) Grant the application as made.
- ii) Modify the conditions of the licence, by altering, removing or adding to them.
- iii) Reject the whole or part of the application.

5.4 The Sub-Committee is asked to note that it may not modify the conditions or reject the whole or part of the application merely because it considers it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

5.5 The "Pool of Conditions" is provided as appendix 3.

## **6.0 Implications**

### Financial

6.1 There are no significant financial implications. A nationally set application fee is charged to defray the cost of processing applications.

### Human Resource/Training and Development

6.2 None.

### Risk Management

6.3 The risks to the Council associated with determining an application are:

- Failure to undertake our statutory responsibilities within required timescales;

- Making a decision that could be challenged by the applicant via an appeal to the Magistrates Court with the possible consequence of costs being awarded against the Council; and
- Making a decision that compromises Community Safety.

6.4 These risks have been dealt with in the report under section 4.0 by highlighting that the Sub-Committee is required to determine this application for a premises licences under the Licensing Act 2003 having due regard to the four licensing objectives, national guidance, the local licensing policy, relevant representations and evidence presented at the hearings. Determining applications in this way will reduce the risk of the decisions of the Council being open to challenge via appeal to the Magistrates court and promote Community Safety in the Borough.

#### Sustainability

6.5 The four licensing objectives addressed in the Council's licensing policy, which the Sub-Committee is obliged to have regard to in making its decision, are in line with the Council's sustainability aims.

### **7.0 Conclusions**

7.1 The Committee is asked to consider the variation application, contents of this report and its appendices, the evidence and representations presented, answers to questions posed and deliver its decision with reasons.

REPORT ENDS

ISYS REF:REPORT-13/07/11-Application for a Premises Licence – Londis, Aberdeen House, Wych Hill, Woking



Civic Offices  
Gloucester Square  
Woking  
Surrey GU21 6YL

**Telephone** (01483) 755855  
**Facsimile** (01483) 768746  
**DX** 2931 WOKING

**Email** [wokbc@woking.gov.uk](mailto:wokbc@woking.gov.uk)  
**Website** [www.woking.gov.uk](http://www.woking.gov.uk)

Our ref: 11/00134/PREMIS

31 October 2011

Dear 

**LICENSING ACT 2003 -- PREMISES LICENCE: NEW  
LONDIS  
ABERDEEN HOUSE, WYCH HILL, WOKING, SURREY, GU22 0EU**

We have received a complaint from a member of the public who believes you are not complying with the terms of issue of your licence for the above premises.

Their concern appears to be the condition requiring two persons to be on the premises during hours of operation. The complaint is obviously not substantiated at this stage and the condition only requires two persons present; not necessarily both in the shop area. However, the complaint does require us to inform you so, if only one person is present at times, you have the opportunity to rectify this for the future.

I will also write to the complainant to clarify this particular condition so that they understand that two persons are not necessarily required on the shop floor.

Many thanks.

Yours sincerely

Russell Ellis  
Licensing Manager

OBJAPP

For further information please contact Russell Ellis on 01483 743436 (Direct Line)  
or Email [russell.ellis@woking.gov.uk](mailto:russell.ellis@woking.gov.uk)



**From:** Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Sent:** 21 August 2023  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Subject:** Test Purchase - 17 August 2023

**Hi Matt**

Please see the below results of the Test Purchase on Thursday 17 August 2023.

13 premises were tested for selling alcohol to under age persons. They all passed, except the one indicated below.

**Premier, Wych Hill GU22 0EU - Fail**

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division  
Surrey Police  
Tel: 01483 638215 or 07720 050521  
Surrey Police, PO Box 101, Guildford, GU1 9PE

**From:** Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Sent:** 22 August 2023  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Subject:** RE: Test Purchase - 17 August 2023

**Hi Matt**

The Test Purchase took place at approximately 1645 hours on Thursday 17 August 2023.

Premises – Premier, Aberdeen House, Wych Hill, Hook Heath, Woking, Surrey, GU22 0EU.

Person who made the sale:

Name – Navaratnam Pathmilan (known as Milan), 21 Caverhill House, 180 Woodcote Road, Walington, SM6 0PE, DOB 27/08/1976

Sale – Small individual can of Bacardi Rum and Cola and a packet of Wotsits were bought by an underage person and witnessed by a police officer in plain clothes.

If I can be of any further assistance, please do not hesitate contacting me.

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division  
Surrey Police  
Tel: 01483 638215 or 07720 050521  
Surrey Police, PO Box 101, Guildford, GU1 9PE

**From:** Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>

**Sent:** 30 August 2023 11:56

**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>

**Subject:** RE: Test Purchase - 17 August 2023

**Importance:** High

The consent form to transfer the DPS was signed by Mr Navaratnam Pathmilan on 17 August 2023. The date the Test Purchase was completed. Mr Navaratnam Pathmilan was the person who sold the alcohol on this date. When I spoke to him after the Test Purchase was completed and a sale was made by him, he was not asleep and did not appear unwell.

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division  
Surrey Police  
Tel: 01483 638215 or 07720 050521  
Surrey Police, PO Box 101, Guildford, GU1 9PE  
<http://www.surrey.police.uk/>



**From:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Date:** Mon, Aug 21, 2023  
**Subject:** Important information about the surrendered licence for Londis/Premier Shop on Wych Hill  
**To:** subamilan@gmail.com <subamilan@gmail.com>  
**Cc:** Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>, Derrick Laing <Derrick.Laing@woking.gov.uk>

Good morning Mrs Sutharsine Perayeravan

I have been advised that you are the new manager/owner of "Londis" (aka 'Premier') located at Aberdeen House, Wych Hill, Woking, GU22 0EU

The licence holder – Mr P [REDACTED] L [REDACTED] – has surrendered the licence with effect from the 28<sup>th</sup> of July 2023. This means that there is no alcohol licence in place and as such you cannot legally sell alcohol from this site.

If there is alcohol on site you must remove it immediately as having alcohol on display potentially for sale is an offence in itself, which can result, on prosecution, in a fine in excess of £20,000, a jail sentence not exceeding six months – or both.

Please can you reply to this email to confirm that there is no alcohol on site.

Note that I have cc'd in Surrey Police Licensing Officers. Either ourselves or Surrey Police may be visiting the premises in the near future to ensure that the licensing laws are being complied with. If alcohol is discovered on display or for sale it may result in prosecution.

If you have any questions please don't hesitate to contact us.

Kind regards

**Matthew Cobb | Senior Licensing Officer | Environmental Health**

**From:** ARKA LICENSING <contact@arkalicensing.co.uk>  
**Sent:** 21 August 2023 12:14  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Cc:** Lesley.Sumner1@surrey.police.uk  
**Subject:** Re: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good afternoon,

We are handing this matter putting an application to transfer, vary DPS

Regards  
Suresh  
07803 903 897

-----

Consultant  
Arka Licensing

-----  
Tel: (0203) 405 1886  
Mob: 07714 495 287  
E-mail: contact@arkalicensing.co.uk

**From:** Matthew Cobb  
**Sent:** 22 August 2023 09:48  
**To:** ARKA LICENSING <contact@arkalicensing.co.uk>  
**Cc:** subamilan@gmail.com; Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Subject:** RE: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good morning Suresh

Thank you for your email. As I am sure you are aware, there is a 28 day period following the surrender/lapse of a licence in which it can be transferred (S.50). This is just within the 28 day timeframe, so the application has been received and is in progress.

Under Section 50(5) of the Licensing Act 2003, the premises licence is reinstated from the time the application is received by the relevant licensing authority – which would be the 21<sup>st</sup>. This means that the premises may resume licensable activities with effect from the 21<sup>st</sup> and may continue on the assumption that the application is not rejected or withdrawn.

**Are you able to advise or confirm if the premises continued licensable activities whilst there was no licence in place between the date of surrender (28<sup>th</sup> of July 2023) and the date the transfer application took place (21<sup>st</sup> of August 2023) ?**

Kind regards

*Matthew Cobb | Senior Licensing Officer | Environmental Health*

**From:** Matthew Cobb  
**Sent:** 24 August 2023 12:20  
**To:** ARKA LICENSING <contact@arkalicensing.co.uk>  
**Subject:** RE: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

We are still awaiting an answer to our email of the 22<sup>nd</sup> of August.

**Are you able to advise or confirm if the premises continued licensable activities whilst there was no licence in place between the date of surrender (28<sup>th</sup> of July 2023) and the date the transfer application took place (21<sup>st</sup> of August 2023) ?**

Kind regards

*Matthew Cobb | Senior Licensing Officer | Environmental Health*

**From:** ARKA LICENSING <contact@arkalicensing.co.uk>  
**Sent:** 24 August 2023 14:03  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Subject:** Re: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good afternoon Matthew,

Applicant said they were not selling alcohol until the licence become effective in applicant name. It became effective again from 21<sup>st</sup> August. All staff were instructed not to sell.

Regards  
Suresh

**From:** Matthew Cobb  
**Sent:** 24 August 2023 14:15  
**To:** ARKA LICENSING <contact@arkalicensing.co.uk>  
**Cc:** subamilan@gmail.com; Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Subject:** RE: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good afternoon Suresh,

That is interesting that the applicant (Mrs Sutharsine Perayeravan) has stated they are not selling alcohol until the 21<sup>st</sup> of August.

Perhaps you or Mrs Perayeravana can explain how or why the premises failed a test purchased by Surrey Police on the 17<sup>th</sup> of August 2023. This suggests that not only did they sell alcohol at a time when there was no licence in place, but have sold alcohol to a child – and lied to you/us about this sale of alcohol.

This is not getting off to a good start for someone who is expected to be a responsible alcohol retailer, nor does it give us much faith in the operating of the business, and bearing in mind that this transfer is still in consultation (with Surrey Police, who are CC'd into this email) its not exactly brilliant behaviour to break the law and lie about it.

Regards

*Matthew Cobb | Senior Licensing Officer | Environmental Health*

**From:** Subasiny Pathmilan <subamilan@gmail.com>  
**Sent:** 24 August 2023 14:51  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Cc:** ARKA LICENSING <contact@arkalicensing.co.uk>; Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Subject:** Re: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good afternoon Matthew,

Thank you for your response,

Staff sold alcohol on that day were suddenly wasn't feeling well,fell a sleep and made a mistake.We apologise to you,please.

We are putting everything in place to make sure it doesn't happen again.We bought this business newly as a family income, to support our family , only two months, We very much worried now, bad things happen.

Please forgive us this time,we are now taking all steps to ensure we promote the license objectives.

Please give us the opportunity to demonstrate from now on that we adhere to the law.

Regards

Sutharsine

**From:** Matthew Cobb

**Sent:** 24 August 2023 16:07

**To:** Subasiny Pathmilan <subamilan@gmail.com>

**Cc:** ARKA LICENSING <contact@arkalicensing.co.uk>; Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>

**Subject:** RE: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good afternoon

1. If you know you sold alcohol on the 17<sup>th</sup>, why did you tell Suresh at ARKA licensing (who I presume was passing on our question) that you had not sold any alcohol till the 21<sup>st</sup>?
2. I am not sure I understand how the staff being unwell and falling asleep is relevant to the sale of alcohol to a minor? Please can you provide further information on this and any relevant doctors or medial information if possible.
3. You state in your email you are taking "all steps." Please outline what steps you are taking to promote the licensing objectives and prevent such an offence taking place again?

Kind regards

*Matthew Cobb | Senior Licensing Officer | Environmental Health*

**From:** Subasiny Pathmilan <subamilan@gmail.com>

**Sent:** 25 August 2023 13:06

**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>

**Cc:** ARKA LICENSING <contact@arkalicensing.co.uk>; Sumner, Lesley 17277

<Lesley.Sumner1@surrey.police.uk>

**Subject:** Re: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

Good Afternoon

1. If you know you sold alcohol on the 17th, Why did you not tell Suresh at ARXA licensing (who I presume was passing on our question) that you had not sold any alcohol till the 21st?  
We told Mr Suresh that there was Test Purchase Failure/staff made a huge mistake due to he was resting/sleeping. He shouldn't have sold alcohol from 28th to 21st - no license.

2. I am not sure I understand how the staff being unwell and falling asleep is relevant to the sale of alcohol to a minor? Please can you provide further information on this and any relevant doctors or medical information if possible.

Staff told me that he fell asleep, not feeling well, he waken up when a customer came he was serving. Now we told all staff to close the shop/inform me if any one feel not well or need to rest. The store has no customers 1-2 Hours some time more.

3. You state in your email you are taking " all steps." Please outline what steps you are taking to promote the licensing objectives and prevent such an offence taking place again?

To protect the children from Harm:

1. All staff are trained before they start work on challenge 25 policy and other licensing matters
2. Staff are given refresher training every 6 months
3. Challenge 25 scheme implemented and reminder notices are put up
4. Refusal logbook maintained
5. Incident Logbook maintained

I promise I will take every step to promote the licensing objectives. This weekend I will spend extra time reinforcing the procedures. The stores is run down shop, alcohol is very minimal. We hope to improve the business slowly.





Western Licensing Unit,  
P O Box 101,  
Guildford,  
Surrey,  
GU1 9PE,

**Licensing Act 2003  
Representation in respect of a  
Premises Licence Application or Variation or a  
Club Premises Certificate Application or Variation.  
Person or Temporary Event Notice.**

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance note at the end of the form. If you are completing this form by hand please print. Please ensure your answers are inside the boxes and written in black ink. You may use additional sheets if necessary. You may wish to keep a copy of the completed form for use by you at any hearing held by the Council or the Magistrates Court as a result of this representation.

**I, the undersigned, hereby make representations against the following application.**

**Details of premises, club or Person whose application you wish to make representations against.**

<b>Name of Premises, Club or Person</b> <b>Objection to the Application to Transfer the Premises Licence and Vary the DPS</b> Premises – Premier/Londis Mrs Sutharsine Perayeravan proposed Premises Licence Holder (PLH) Mr Navaratnam Pathmilan proposed Designated Premises Supervisor (DPS)	
<b>Address of Premises, Club or Person</b> Aberdeen House, Wych Hill, Hook Heath,	
<b>Post town</b> Woking, Surrey	<b>Post code (if known)</b> GU22 0EU

**Type of application**

	Please tick ✓
Premises Licence application	<input type="checkbox"/>
Variation to a Premises Licence	X
Club Premises Certificate application	<input type="checkbox"/>
Variation of a Club Premises Certificate	<input type="checkbox"/>
Temporary Event Notice	<input type="checkbox"/>
DPS Application	X

## Representor's Details

I am, Inspector 2934 Bert Dean,

Please tick one only ✓

1) A person who is not a responsible authority (please complete section (A) below)	
2) A responsible authority (please complete section (B) below)	X

If you do not fall into one of the above categories you may not be entitled to make representations.

### Section A - DETAILS OF INDIVIDUAL REPRESENTOR (fill in as applicable)

Surname or Family Name N/A
Forenames N/A
Address of where you live (you can give an alternative address for correspondence later in this form) N/A
Daytime Telephone N/A
E-mail address (optional) N/A

### Section B - DETAILS OF RESPONSIBLE AUTHORITY

Name of contact person completing this form Lesley Sumner
Name of Authority    Surrey Police
Address of Authority P.O. BOX 101 Guildford Surrey GU1 9PE
Telephone number of contact person  01483 637413 07720 044961
E-mail address of contact person (optional) bert.dean@surrey.police.uk



**Please state the ground(s) for the representation and how it relates to one of the licensing objectives. Please use additional blank sheets if necessary.**

The Police are objecting to the Applicant (Mrs Sutharsine Perayeravan) and the proposed DPS (Mr Navaratnam Pathmilan) as both of them have already demonstrated that they are not responsible people who will uphold the licensing law and be responsible alcohol retailers. It is believed that they will therefore continue to undermine the licensing objectives, notably the prevention of crime and disorder objective and the protection of children from harm.

The conduct, as outlined below, by both the Applicant and the proposed DPS raises significant doubt that the licensing law and, in particular, the Licensing Objectives and the Licensing Activities may not be upheld.

The licence holder – Mr Pragash Loganathan surrendered the Premises Licence with effect from the 28/07/2023.

The premises continued licensable activities whilst there was no licence in place between the date of surrender (28/07/2023) and the date the transfer application took place (21/08/2023).

The Police were not aware that the licence had been surrendered when the Test Purchase was conducted on 17/08/2023.

During the Test Purchase, which was also during the consultation period, notably it was the proposed DPS, Mr Navaratnam Pathmilan who sold a small individual can of Bacardi Rum to a minor, which was witnessed by a plain clothes Police officer.

The Licensing Enforcement Officer and a uniformed Police officer and the plain clothes officer who witnessed the sale spoke to Mr Navaratnam Pathmilan immediately after the sale had taken place. He appeared well and not sleepy as the Applicant for the transfer suggests in her email dated 24/08/2023, which is outlined further below. Initially Mr Navaratnam Pathmilan denied making the sale, then he apologised and agreed that he did make the sale. Whilst in the premises it was noted that there was alcohol for sale on the shelves.

The Consent Form for a DPS Variation was signed by Mr Navaratnam Pathmilan on 17/08/2023, the same date as the Test Purchase, which may suggest that the Test Purchase may have prompted this administrative activity.

The Applicant stated to Arka Licensing Consultants (email dated 24/08/2023 from Arka Licensing to the Licensing Authority) that they were not selling alcohol until the 21/08/2023. Clearly that was not the case, a sale took place during the Test Purchase on 17/08/2023. there was alcohol for sale on the shop shelves on this date.

In email correspondence dated 24/08/2023 with Arka Licensing Consultants, the Licensing Authority and Surrey Police Licensing Enforcement Officer, the Applicant states:

'Staff sold alcohol on that day were suddenly wasn't feeling well, fell asleep and made a mistake. We apologise to you, please.

We are putting everything in place to make sure it doesn't happen again. We bought this business newly as a family income, to support our family, only two months. We very much worried now, bad things happen.

Please forgive us this time, we are now taking all steps to ensure we promote the license objectives.

Please give us the opportunity to demonstrate from now on that we adhere to the law'.

In this email correspondence, the Applicant does not appear to appreciate that being unwell and falling asleep is not relevant to the sale of alcohol to a minor.

An explanation by the Applicant of 'we are now taking all steps' requires further explanation to clarify what this means.

The applicant appears to have been rather economical with the truth when corresponding with Arka Licensing Consultants, the Licensing Authority and Surrey Police Licensing Enforcement Officer.

There appears to be confusion as to whether the premises are called "Premier" or "Londis". The Applicant states 'Londis' on her application but outside of the shop and on Google maps it states 'Premier'.

**This representation relates to the following licensing objectives(s)**

**Please tick one or more boxes ✓**

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

**If your representation does not relate to one of the above objectives your representation will be invalid.**

**Please tick ✓**

- |   |   |
|---|---|
| • I understand that this representation may result in a hearing before a Licensing Sub-Committee and if the decision of that Sub-Committee is appealed against, a hearing in the Magistrate's Court.  | X |
| • I understand that this representation will become a public document and will be included in the agenda for any Licensing Sub-Committee hearing that may be held as a result of this representation. | X |

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO KNOWINGLY OR RECKLESSLY MAKE A FALSE STATEMENT IN CONNECTION WITH THIS REPRESENTATION. THIS IS PUNISHABLE, ON CONVICTION, BY A FINE OF UP TO £5,000.**

This representation must be signed by:

~~a person making a representation or~~

a person authorised to do so by a Responsible Authority.



Signed

Date **31st August 2023**

**Address for correspondence**

Contact address for correspondence if different from that given in Sections A, B, or C above.

**As above**

Post town

Post code

Daytime Telephone number (if any)

**07720 044961 or 01483 637413**

e-mail address (optional)

**bert.dean@surrey.police.uk**

All representations must be made by sending this form to the Licensing Authority to arrive there during the period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the Licensing Authority by the applicant. In the case of representations following a closure order this period is 7 days after the day on which the Licensing Authority received the notice under section 165(4) of the Act.

**Representations received outside these time limits will be deemed to be invalid.**



**From:** Sumner, Lesley 17277 <Lesley.Sumner1@surrey.police.uk>  
**Sent:** 04 September 2023 15:57  
**To:** Matthew Cobb <Matthew.Cobb@woking.gov.uk>  
**Subject:** FW: Premier, Wych Hill, GU22 0EU - 23/00187/PREMIS - previous number 20/00122/premis

Thank you Matt

I will forward your email to the Police decision-maker.

This makes an interesting read.

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

- A minimum of two members of staff shall be present on the premises during times when alcohol is on sale.

This wasn't adhered to on the Test Purchase day, or indeed, when I met the consultant on Friday.

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division  
Surrey Police

**From:** Sumner, Lesley 17277  
**Sent:** 04 September 2023 14:50  
**To:** ARKA LICENSING <[contact@arkalicensing.co.uk](mailto:contact@arkalicensing.co.uk)>  
**Subject:** FW: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill  
**Importance:** High

**Dear Suresh**

Please see the attachment update.

The Police wish to raise concerns regarding the proposed DPS who was the person who admitted to ignoring the till verification reminder on the day of the Test Purchase and claims the reason he failed the Test Purchase on 17 August 2023 was because he was feeling ill and sleepy.

There is a reasonable concern that this person will still be employed and working alone at the premises. In view of the above he is not considered to be a competent person for the Designated Premises Supervisor (DPS) to designate his/her responsibilities to.

The Police welcome your suggestion of the appointment of another DPS whose details have yet to be supplied and would prefer that person to be regularly and not remotely at the premises.

Another concern about this member of staff is his command and understanding of the English language. I am trust you will agree that you witnessed when we met at the premises

on Friday 1 September 2023 that this person does have language challenges that are concerning to the police in that he will be working alone in the premises and may not be able to ask and challenge customers.

The police recognise that it is the Premises Licence Holder's (PLH) first business. The police would prefer the PLH to complete a Premises Licence Holder's course and a DPS course and to advise the police when they have been booked onto this course and when the courses are completed.

Please can you supply a copy of the age verification policy.

Please can you confirm that the Area Manager has been advised of the Test Purchase failure and the Police Representation Form. Are you able to provide the Area Manager's details for future reference please?

I look forward to receiving your reply.

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division

**From:** Sumner, Lesley 17277 <[Lesley.Sumner1@surrey.police.uk](mailto:Lesley.Sumner1@surrey.police.uk)>  
**Sent:** 04 September 2023 15:12  
**To:** ARKA LICENSING <[contact@arkalicensing.co.uk](mailto:contact@arkalicensing.co.uk)>  
**Subject:** FW: Important information about the surrendered licence for Londis/Premier Shop on Wych Hill

**Dear Suresh**

Another suggestion to update the conditions regarding CCTV is similar to - "a full digital CCTV system, preferably in HD, with the capability of uploading footage, on request by the police or a relevant authority, to an external cloud based digital evidence management system".

I look forward to receiving your update.

Lesley Sumner 17277  
Licensing Enforcement Officer Western Division

UPDATING THE CONDITIONS ON THE LICENCE AS AGREED WITH POLICE LICENSING FOLLOWING BREACHES WITH CURRENT LICENCE, AS BELOW:

### **Prevention of Crime and Disorder**

1. A full digital CCTV system, preferably in HD, with the capability of uploading footage, on request by the police or arelevant authority, to an external cloud based digital evidence management system.
2. A clear head and shoulders image of the 'challenged' person and ID offered by the 'challenged' person to be recorded by the point of sale CCTV, all staff to be trained in the procedure and the CCTV regularly monitored to ensure compliance.
3. All CCTV recordings made shall be retained for not less than 31 days and be made available to a police or an authorised officer of any responsible authority within one hour upon request. In accordance with current data protection legislation.
4. A member of staff capable of operating the CCTV system and downloading images shall be at the premises at all times that the premises are open to the public.
5. The CCTV system shall display on any recording, the correct date and time of the recording.
6. An incident book shall be kept and maintained at the premises, which shall be made available to a police officer or an authorised officer upon request.
7. The incident book shall be used to record the date and time of any incident, the name of the staff member and a brief description of the customer concerned. All incidences of the following shall be recorded in the incident book within 24 hours and retained for a minimum of 12 months:
  - Refusal of sale of alcohol to any person who is under 18 years of age, or who appears to be under 25 years of age and fails to produce a proof of age identity
  - Refusal of sale of alcohol to any person who is, or appears to be drunk
  - Incidents of violence by any person against another
  - any other criminal incidents
9. Management shall regularly check the incident book to ensure all staff are using it.

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

10. A “Challenge 25” scheme that ensures any person attempting to purchase alcohol who appears to be under the age of 25 shall provide documented proof that he or she is over 18 years of age shall operate at the premises.

11. Proof of age shall only comprise a passport, a photo card driving licence, an industry approved proof of age identity card or a Ministry of Defence identity card.

12. All reasonable steps shall be taken to verify that any identification documents produced by persons attempting to purchase alcohol are genuine and relate to the person producing them.

13. A prominent notice shall be displayed at all points of entry, where the alcohol is displayed and at all sales points advising customers that the premises operates a “Challenge 25” proof of age scheme.

14. All staff responsible for selling alcohol shall receive regular training in the main offences under the Licensing Act 2003 including underage sales, sale of alcohol to drunks, and breaching the conditions of the Premises Licence. This training shall include providing each staff member with the conditions of the Premises Licence. Retraining shall take place on a regular basis at least every 6 months.

15. A record of all staff training in the ‘Challenge 25 policy, including the dates that each member of staff is trained and retrained for no less than 12 months, shall be maintained and made available within one hour on request by a Police Officer or an authorised officer of the Licensing Authority.



# Licensing Act 2003

Councillor's handbook  
(England and Wales)

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# Foreword

Licensing makes a fundamental contribution to how our communities develop, live, work and relax. With the right tools, councils can use licensing to significantly improve the chances of businesses and residents moving to an area, whether in the heart of London or in a more rural district.

In 2018<sup>1</sup> there were 212,800 premises licences in England and Wales. There is a broad spectrum of licenced premises, including off-licences, supermarkets and cafes as well as the pubs, bars and clubs that typically make up the night time economy. Research estimates that the alcohol industry contributes £46 billion a year to national income and is responsible for around 2.5 per cent of all UK employment.<sup>2</sup> At a local level, a vibrant and mixed night time economy can encourage tourism, boost the local economy and contribute to shaping places where people want to live.

But, at the same time licenced premises in the night time economy, in particular, can create challenges as well as bringing benefits and the Local Government Association (LGA) has argued that councils need the right tools to manage these challenges locally. The pressures placed on police and health services as a result of intoxication and harmful alcohol consumption are well-known. Whilst reported instances of alcohol-related crime and disorder have been decreasing in recent years, alcohol remains a factor in 40 per cent<sup>3</sup> of violent incidents.

The total cost to society of alcohol-related crime is estimated at £11 billion.

In 2016 the Government published the Modern Crime Prevention Strategy which, amongst other things, set out a vision for how the Government planned to address alcohol-related crime and disorder in the night time economy and, in particular, promotes the role that partnership working can play in addressing issues.

We are pleased that since the strategy was published we have seen some further steps towards encouraging more localised approaches in licensing, for example new powers under the Policing and Crime Act 2017 mark a positive step in terms of giving licensing authorities the power to make assessments at a local level about what interventions could be helpful.

However, there is still more that can be done locally to strengthen approaches to licensing and we hope this handbook will act as a helpful tool for licensing authorities in carrying out their functions under the Licensing Act.



**Councillor Simon Blackburn**  
Chair of Safer Stronger Communities Board

1 [www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2018](http://www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2018)

2 Institute of Alcohol Studies (2017) 'Splitting the Bill: Alcohol's Impact on the Economy'

3 Office for National Statistics (2017) 'Focus on Violent Crime and Sexual Offences, 2015/16'

# The Licensing Act: An overview

## Context

The Licensing Act 2003 (the Act) replaced earlier controls of alcohol and introduced a more permissive, flexible regime. The Act consolidated a diverse system of licences that had been separately issued for late-night refreshment and regulated entertainment. Before the Act, alcohol licences had been issued in Magistrates' courts through what was largely an administrative procedure, and licensees had to formally attend to get their licences renewed every three years.

The intention of the Act was to liberalise a previously rigid licensing system. The Act gave licensing authorities (district, unitary and metropolitan borough councils) new powers over licensed premises, as well as giving local people more of a say in licensing decisions. A fundamental, and at the time controversial, part of the new Act was the potential to extend licensing hours beyond the previous 'permitted hours', in the hope that this would bring about more of a 'cafe culture' in line with other European countries.

The Act was widely welcomed by local authorities, licensees and the police and in many respects, the Licensing Act remains a positive model for a licensing system. It has a clear set of objectives, it allows local decision-making, it has a clear appeals process and there are opportunities for everyone affected by the licence to make comments on it.

## Recent trends

Since the Act came into force there has been some notable trends in terms of the way people consume alcohol, with consumption patterns showing a steady decline. In 2007, around 17 per cent of adults in England reported drinking alcohol on five or more days in the last week, which had fallen to 10 per cent by 2017.<sup>4</sup> This has been driven by a fall in consumption among those aged under 45.

Alcohol-related crime has also decreased over this period, with the number of violent incidents involving alcohol falling by over half from approximately 999,000 in 2006/07 to 464,000 in 2016/17. While there has been a fall in the number of 'alcohol-related' violent crimes, latest statistics from 2016 show that in over half (53 per cent) of all violent incidents, the victim believed the perpetrator to be under the influence of alcohol.

Health harms related to alcohol remain high. The number of alcohol-related hospital admissions has increased from around 287,000 in 2006/07 to 337,000 in 2016/17<sup>5</sup> as have the incidences of certain alcohol-related health conditions. While alcohol consumption has fallen in recent years, clearly the harms associated with alcohol misuse remain high.

As well as changes in the level of consumption, there has also been a shift in where alcohol is being consumed with more than two thirds of all alcohol now sold through the off-trade for example in supermarkets or off-licences rather than through the on-trade in places like pubs or bars.

<sup>4</sup> Office for National Statistics (ONS) (2017) Adult drinking habits in England

<sup>5</sup> Office for National Statistics (ONS) (2017) Adult drinking habits in Great Britain

# The Licensing Act 2003

## Objectives of the Act

The objective of the Licensing Act 2003 (the Act) is to provide a clear, transparent framework for making decisions about applications by individuals or businesses wishing to sell or supply alcohol, or provide certain types of regulated entertainment and late night refreshment.

The Act is administered by licensing authorities which are district, unitary and metropolitan borough councils. Under the Act, the licensing authority's responsibilities are delegated to the authority's licensing (or regulatory) committee. The licensing committee is responsible for considering and proposing the authority's statement of licensing policy, and for taking decisions on specific licence applications or issues.

There are four licensing objectives which underpin the Act and which need to be taken into account and promoted throughout the licensing process. Each of these objectives is of equal weight.

### The licensing objectives are:

- the prevention of crime and disorder<sup>6</sup>
- public safety
- the prevention of public nuisance and
- the protection of children from harm.

Licensing authorities must issue a licence, providing it is consistent with the licensing objectives and there have been no comments on the application or objections to it, which are known as representations. As noted earlier, the Act enables scrutiny of applications both by experts, local residents and businesses who all have the opportunity to comment on an application.

There are some organisations, known as responsible authorities (RAs), which need to be notified of every application for a new premises licence, or variation of an existing licence. RAs can make representations to the council about applications where they feel there will be a negative impact on the promotion of the licensing objectives if the application were to be approved. RAs include the police, fire authority, trading standards, health and safety and environmental health.

Anyone who may be affected by an application for a new licence or variation to an existing licence can make a representation. However, in order for a representation to be deemed 'relevant' it needs to relate to the likely effect of the application on the promotion of the licensing objectives.

## What activities are licensed?

There are a number of different activities that were brought together under the Act which are referred to in legislation as 'licensable activities'.

### Licensable activities are:

- the sale of alcohol by retail
- the supply of alcohol in qualifying members' clubs
- the provision of regulated entertainment
- the provision of hot food and hot drink ('late night refreshment') to the public between 11.00 pm and 5.00 am.

The distinction between the sale and supply of alcohol is made in recognition of the fact that at a member's club there is technically no sale taking place as members of the club already own the assets of the club, including the alcohol.

<sup>6</sup> It is worth noting that the first objective can be read as two separate duties, ie a duty to prevent crime or a duty to prevent disorder (R. (on the application of Blackpool Council) v Howitt [2008] EWHC 3300 (Admin); (2009) 173 J.P. 101)

Regulated entertainment is arguably a less well known part of councils' licensing responsibilities. To count as regulated entertainment, the activity must be provided in front of an audience for the purpose of entertaining them and must fit into one of the following categories:

- it is provided for members of the public (anybody can buy a ticket or come to the event)
- it is exclusively for members of a (private) qualifying club and their guests
- it is arranged by someone who is trying to make a profit.

There are certain forms of entertainment that are always regulated, for example entertainment provided to over 500 people (or over 1000 people for indoors sporting events), entertainment provided between 11.00 pm and 5.00 am and boxing and wrestling.

### Regulated entertainment is defined as (subject to exemptions):

- live amplified and unamplified music
- recorded music
- exhibition of film
- performances of plays
- indoor sports
- boxing and wrestling.

There are however a number of activities that are exempt under the Act from needing a licence, such as the sale of alcohol in an aircraft. Reforms since the Act originally came into force in 2005 mean that a number of activities no longer need to be licensed in particular circumstances, for example the performance of live music to a limited audience. A list of exemptions can be found in the Section 182 Guidance.<sup>7</sup>

### Types of licence and permission

Carrying out licensable activities requires a licence or other type of permission. The four types of 'authorisation' under the Act are summarised below, and are explored in more detail later on.

<b>Premises licence</b>	A premises licence allows licensable activities to be provided 'at any place' either indefinitely or for a fixed duration.
<b>Personal licence</b>	Each sale must be authorised by a personal licence holder. A personal licence is needed by an individual to act as a Designated Premises Supervisor where there is a premises licence to sell or authorise the sale of alcohol.
<b>Temporary event notice</b>	Allows licensable activities to be provided by any person at any place for up to seven days at a time on no more than 21 days a year, for no more than 499 people at a time.
<b>Club premises certificate</b>	Qualifying members' clubs (eg the Royal British Legion, working men's clubs and sports clubs) planning to sell or supply alcohol may need to apply for a club premises certificate.

<sup>7</sup> Home Office (2018) 'Revised guidance issued under Section 182 of Licensing Act 2003' [www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003b](http://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003b)

## Strengths and weaknesses of the current system

In many respects, the Licensing Act is a positive model for a licensing system. It has a clear set of objectives, it allows local decision-making, it has a clear appeals process and there are opportunities for everyone affected by a licence to make comments on it.

Used creatively, licensing can be a tool to shape the places that communities live, work and socialise in and can help manage our concerns.

However, the LGA has raised concerns about some weaknesses in the Act. Firstly, that the implementation of the Act has been consistently undermined by a lack of resourcing due to the centrally-set fee system. Secondly that the Act's objectives have not been updated to reflect the return of public health responsibilities to local government.

Licensing fees, which are set nationally have remained unchanged since 2005. The LGA has consistently argued that these fees underestimate the costs councils incur in overseeing the Act, and should be set locally. There have been various reviews and consultations around the localisation of fees over the last 10 years, and in 2015, the Government asked the LGA to work with it to develop an evidence base on the costs to councils of overseeing the Act.

The LGA's view is that locally set fees would re-dress the imbalance in fee incomes and whilst locally set fees might increase fees in some places, in others there may be decreases. Local fees could also benefit businesses, for example if there was a reduced annual fee.

Government has indicated that fees may be re-considered at some point in the future.<sup>8</sup>

### LGA/CIPFA survey into licensing fees

- The LGA worked with CIPFA to undertake the 2015 survey. The survey indicated that some councils are in surplus from the Act, but others are losing a lot and overall local government is in deficit by around £10-12 million per year.
- A small majority (52 per cent) of councils reported running a deficit, however analysis shows that the sum of net deficit is greater than that of the net surplus making the overall picture that of a deficit. For those that responded to the survey, there is an average surplus/deficit of -£29,520 for each local authority.
- There was extensive variation across councils. The largest deficit of -£1.358 million was in a London borough, whilst the largest surplus of £265,000 was in an English unitary authority. Different council types also has an impact on whether an authority is in deficit/surplus with London boroughs, metropolitan districts and district councils operating a deficit whilst unitary authorities (English and Welsh) are running a surplus.
- There was also extensive variation in results for different fee categories. While councils experienced losses in some categories, conversely in others they operate at a surplus with annual fees for premises licences generating the largest surplus of £5.9 million. Temporary event notices (TENs) showed the biggest shortfall at -£3.2 million. This reflects feedback from councils that the process is extremely resource intensive, and not being used for what it was intended. Councils report that they are managing the shortfall by cutting back on enforcement activity.

<sup>8</sup> [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/657231/CCS207\\_CCS1017254842-1\\_Cm\\_9471\\_Govt\\_Response\\_Licensing\\_Act\\_PRINT\\_3\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/657231/CCS207_CCS1017254842-1_Cm_9471_Govt_Response_Licensing_Act_PRINT_3_.pdf)



Lobbying for a health objective in the Licensing Act is long standing LGA policy. Whilst public health can contribute against any of the four existing licensing objectives, in practice it can be difficult for them to be heard; a specific 'health' objective could resolve that and allow a much more straightforward contribution. There is also strong support for a health objective among public health directors, Public Health England (PHE) and among some in Parliament.

There has been a lot of work to build the evidence base for how this could work and PHE have piloted a health objective with eight advanced areas including Cornwall, Leeds and Wigan, which all developed practical ways to make using health data in licensing work.

Building on this work PHE have developed an online resource<sup>9</sup> which brings together nationally available data and materials with local information to support councils to access a range of databases and tools. Local teams can input their own data to create interactive maps and reports to help them in their role as a responsible authority.

Whilst there is no indication that the Government is going to take this forward, at least in the near future they continue to highlight the important role that public health plays in the licensing system as a responsible authority under the Act. This includes promoting the use of PHE's analytical support package, providing public health teams with new tools to help effectively present relevant health data and supporting the Information Sharing to Tackle Violence programme to encourage A&E departments to share their data with community safety partnerships.

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9 [www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams](http://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams)

# Overview of the role of councils in licensing

## Introduction to the role of the council

The Act moved the responsibility for administering alcohol licensing from Magistrates and licensing justices to local authorities, bringing democratic accountability to decision making.

District councils and unitary councils are designated as licensing authorities. Each licensing authority is responsible for developing a local policy, processing applications and convening hearings to consider any representations concerning applications or existing licences. To deliver their responsibilities licensing authorities' core functions can be summarised as:

- setting the local framework through a statement of licensing policy
- considering applications with a view to promoting the licensing objectives
- undertaking inspection and enforcement activities to ensure conditions of licences are being met
- maintaining a register of licensed premises, activities and individuals
- providing bi-annual statistics to government as part of the National Statistics collection.

Licensing authorities are responsible for administering the Act and this function is delegated to the council's licensing committee. The licensing committee is responsible for considering and proposing the authority's licensing policy through developing a statement of licensing policy prior to its approval by the licensing authority (full council), and for taking decisions on

specific licence applications or issues.

Statutory guidance for licensing authorities is issued by the Secretary of State under Section 182 of the Act, often referred to as 'Section 182 guidance'. Licensing authorities have a duty to have regard to this guidance and it should be followed unless there is good reason to depart from it. The Section 182 guidance is a comprehensive and useful tool for councils around the discharge of functions under the Act, including processes for hearings. It is updated from time to time, the latest version can be found on the gov.uk website.

### Fee setting

Fees under the Licensing Act have been fixed in regulations since 2005. Premises and club premises licence fees are based on the rateable value of the premises. Premises with higher rateable values that are primarily being used for alcohol sales pay additional premiums as do premises with particularly large capacities (in excess of 5000 people). Fees are also set for a range of other administrative processes under the Act, such as:

- varying a licence
- transferring a licence from one individual to another
- varying the Designated Premises Supervisor (the person named on the premises licence as the individual designated to supervise the premises)
- issuing a temporary event notice (TEN).

As discussed earlier, whilst fees were intended to provide full cost-recovery, in practice many licensing authorities will incur a deficit. The LGA has consistently argued that the Government has underestimated the costs councils incur in administering the Licensing Act, and should be set locally. At the very least, the Government should commit to a flat-rate increase to the 2005 fee levels.

## Developing a statement of licensing policy

### What is a licensing policy

Under the Act, licensing authorities are required to prepare a statement of licensing policy (SLP) which sets out how licensable activities will be regulated and how licensing functions will be exercised in their areas, as well as expectations of licence holders and operators. They can be used to identify areas where the risk of harm may be greater due to the characteristics of a particular area, and how these risks can be mitigated.

The SLP is an opportunity to take a strategic look across all of the licensable activities within your area and set out a vision for them. The decisions made can enhance an area's economy, public health, safety and cultural appeal to tourists and visitors from surrounding areas.

Getting the statement of licensing policy right is important as this will guide the local authority's decision making. Authorities must have regard to their SLP when carrying out their licensing functions and the policy acts as a starting point for a decision. Whilst licensing authorities can depart from their policy when considering applications, there will need to be good reasons for doing so.

The SLP should set out how licensees can contribute to creating the evening and night time economy that the council envisages, for example encouraging certain types of applications in certain areas, for example food led businesses. It is also an opportunity to set out the context in terms of specific local issues that licensees should consider

for example areas of saturation in a town centre, and how they can contribute towards positively addressing them.

An active place-shaping approach in your licensing policy and practice can also help design out problems before they occur and promote safe and sustainable communities. Diversifying the evening and night time offer for example can encourage a wider range of people to engage in it and increase the perception of safety. Thought should be given to how the licensing policy can help to attract entertainment that is not alcohol led, for example restaurants, venues or cinemas which will bring more people into the night time economy and can help to manage levels of alcohol related crime and disorder. On a smaller scale staggering closing times can also be helpful.

In shaping a policy, the licensing authority will need to have regard to the Section 182 guidance as well as giving appropriate weight to the views of the local community. Whilst there is a certain amount of flexibility around setting an approach to making licensing decisions this cannot be inconsistent with the provisions in the Act. The statement cannot create new requirements for applicants outside of the Act, or override the right of anyone to make an application under the Act, make representations or seek a review of a licence.

The SLP takes on additional significance in the event that an applicant challenges or appeals the sub-committee's decision. At this point the Magistrates court will adopt the licensing authority's policy as if it were its' own.

### Process

The SLP must be formally adopted by the licensing authority (full council) normally after a recommendation from the licensing committee. Councils with cabinet governance arrangements may also seek the cabinet's views too. A SLP runs for a maximum period of five years. There is nothing to prevent an authority from updating its statement more frequently if it wishes to, but the five yearly review cycle must still be followed.

There is no need for a SLP to re-state the requirements of the Act or the statutory guidance, although the guidance does suggest topics that ought to be acknowledged in the SLP – for example, an obligation for licensing authorities to help promote cultural activities within their areas by not imposing excessively burdensome conditions, or an acknowledgment that licence-holders cannot be held responsible for their customers' actions once they leave the vicinity of their premises.

### Possible headings within an SLP could include:

- context
- council aspirations and vision for the place
- partnership working
- the licensing objectives
- other legislative responsibilities (such as those under the Human Rights Act 1998, Crime and Disorder Act 1998, Equalities Act 2010 and the statutory Regulators' Code)
- reference to any cumulative impact assessments
- policies for specific circumstances
- approach to setting conditions including whether there is a pool of model conditions
- dealing with representations (including petitions and 'round-robin' letters)
- delegation of functions
- a statement of where the SLP departs from the statutory guidance (if relevant)
- enforcement protocol (usually agreed with the other responsible authorities)
- the use of other legislation alongside the Licensing Act.

Development of the SLP must involve engagement with the community. Consultation is a key part of making sure licensing work is transparent; there should be opportunity for open discussion so that communities have an input into what they want their area to look like.

There are a number of statutory consultees who will need to be involved, including representatives of local businesses, residents and licence-holders as well as the responsible authorities.<sup>10</sup> Both Lambeth and Watford case studies are useful examples of how authorities can engage with stakeholders through consultation events.

In Cheshire and Merseyside, public health, licensing, environmental health, trading standards and the police have worked together to develop a toolkit to support anyone who would like to have a say on how alcohol impacts their community. The toolkit explains how the licensing process works and provides some practical tips to help people who want to get involved:  
[www.alcohollicensing.org.uk](http://www.alcohollicensing.org.uk)

### Case study Watford

Watford Council wanted to regenerate its town centre through a cultural arts programme to remove its reliance on a mono-alcohol economy of late-night clubs and bars. A pop-up shop was opened in the town centre for two weeks to explain proposals and to get views on proposed changes to the public realm and to planning policy, as well as significant changes to the SLP which encouraged the growth of food-led and entertainment businesses through the offer of later hours at the expense of more restrictive hours for alcohol-led premises

### Case study Lambeth

Following the adoption of Lambeth Council's new Licensing Policy in January 2014, six area-based Licensing Transformation co-production workshops were held across the borough. These aimed to bring together a select and focused group of businesses, local residents, ward councillors and statutory partners to help shape local guidance and also offered an opportunity to discuss licensing in practice.

<sup>10</sup> Licensing authorities should consider adopting the Cabinet Office's Consultation Principles when consulting on revisions to their SLP.

Organised jointly with business improvement districts (BIDs), the council's Neighbourhood Regeneration team and the Cross River Partnership, local police, Neighbourhood Watch co-ordinators and Safer Neighbourhood Panel chairs, as well as residents' representatives were invited to attend the workshops. Council staff from Legal Services and Community Safeguarding were also in attendance.<sup>11</sup>

## Key issues for consideration in the statement of licensing policy

### Area specific expectations

At the most local level, licensing authorities' decisions will shape individual neighbourhoods, establishing some as vibrant, active areas late into the night, while other areas may become a centre for restaurants. Similarly, a pub in a smaller community may not attract large numbers from outside the area, but can nonetheless act as a hub for the community.

There may be some neighbourhoods that have particular challenges and require a more detailed and targeted approach.

The SLP can guide applicants towards particular concerns the authority has relating to a locality. In addition to tackling specific problems, it can be used to help shape the local economy, such as by setting out preferred opening hours, which can encourage applications from particular types of premises.

### Planning

The relationship between licensing and planning systems came under intense scrutiny in the House of Lords Select Committee post-legislative review of the Licensing Act in 2017. The committee's key recommendation was that the two systems should be merged and licensing committees

should be scrapped with responsibility shifted to planning committees. The Government rejected this recommendation but accepted that improvements could be made by focusing on improving how the two regimes communicate and interact at local level.

The licensing and planning systems operate independently with the planning and licensing regimes involving consideration of different, albeit related, matters. Planning is the regime that is directed at development of land and the use of premises upon it. Licensing is the regime that is directed at licensable activities and responsible management of said premises upon that land. Licensing committees are not bound by decisions made by a planning committee, and vice versa. For example, a premises licence or club premises certificate cannot be refused on the grounds that they do not have planning permission. Licensing authorities are also able to specify different opening hours on the licence from those specified under planning permission. This is somewhat incongruous, but the two schemes take different matters into account when determining hours, and the more restrictive set of hours always applies.

Nevertheless, where applicants have indicated that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning service prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs. It is also important to note that any decision of the licensing authority on an application for a premises licence does not relieve the premises user of any requirements under planning law for appropriate planning permission where it is required. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

Planning is an important consideration when thinking about what you want your licensing policy to achieve. Your licensing policy should reflect your Local Plan policies core planning documents, and likewise the Local Plan policies planning documents should reflect

<sup>11</sup> A full outline of Lambeth's workshops, including template invitations, can be found at <https://khub.net/documents/5833795/10633403/Lambeth%27s+Licensing+Transformation+Work/587fdf00-ac15-4a28-b249-4be16b2e077f> (Free registration is required)

what you want to achieve with your licensed premises. Whilst there is a clear distinction and separation between licensing and planning in terms of their remit, councillors have a key role in ensuring that these two different services are fully joined-up and aligned.

Where this doesn't happen councils can struggle to shape their areas as they would like them to be. It can be helpful to include your expectation that any premises for which a licence is required should normally have the appropriate authorised use under town planning legislation, in the SLP.

The development of new housing, often under permitted development rights, can have the potential to cause tension within communities where there are already established licensed premises, particularly those that promote live music. These venues can provide an important cultural contribution to an area, as well as promoting the next generation of musicians. In 2018 the Government updated the National Planning Policy Framework to include detailed reference to the 'Agent of Change' principle. Agent of change means those bringing about a change take responsibility for its impact. This means that developers will be responsible for identifying and solving any sound problems, if granted permission to build housing, to help avoid music venues, community and sports clubs and even churches running into expensive issues as a result of complaints from new neighbours.

### **Safeguarding**

Protecting children from being harmed in licensed premises is one of the four licensing objectives and includes harms from consumption of alcohol as well as wider harms including sexual exploitation.

Safeguarding can be addressed in part through licence conditions. The Act includes a mandatory condition requiring alcohol-licensed premises to have an age-verification policy, but other conditions relating to the protection of children from harm can include restrictions on the times which children may be present and the requirement that children must be accompanied by an adult.

Whilst the local children's safeguarding board, or multi-agency safeguarding arrangements as they are now known, are a responsible authority, in practice it is unusual for them to make representations. Public health also have an important role to play in safeguarding and PHE have developed a guidance note<sup>12</sup> which explores how public health can support prevention and intervention. Some authorities have used their powers under the Licensing Act to address child sexual exploitation (CSE) both proactively and reactively when considering licences.

The SLP is an opportunity to set out the councils approach to safeguarding, for example recommending that applicants should address access of children in the operating schedule.

### **Case study Kirklees council**

Kirklees Safeguarding Children Board (KSCB) has been working proactively with partners to engage with the licensed trade and promote risk management in relation to CSE. The board provides advice to assist licensees to identify risk and report concerns at different types of licensed premises and they have developed a webpage providing local information about child safety, child sexual exploitation, policies and procedures including risk factors and signs and symptoms.

Kirklees' licensing policy outlines the council's recommendation that applicants address the access of children in the operating schedule. They also expect that employers will make careful checks where premises or entertainment is specifically targeted towards children to ensure all persons employed or involved with the supervision or management are deemed appropriate persons to be engaged in the activity, for example that employers would use a Criminal Records Bureau check.

<sup>12</sup> Public Health England and Association of Directors of Public Health (2019) 'Child sexual exploitation: How public health can support prevention and intervention'

## Case study Harrow Council

Harrow Council states within its SLP that it expects staff in premises that will be particularly attractive to children to be familiar with the Metropolitan Police's Operation Makesafe to identify and report possible signs of abuse.

It is also important to look at the wider context of vulnerability. Safeguarding is not limited to children and young people, and vulnerability is an inherent part of the night time economy, for the most part due to the presence of alcohol and drugs. There are various resources and training packages that could be signposted to in the SLP, including the Welfare and Vulnerability Engagement (WAVE) initiative<sup>13</sup> which is a free tool, developed by the Metropolitan Police, looking at vulnerability in the night time economy and the proactive steps operators can and should take to address this.

Again there are various initiatives that can be utilised by operators to help identify and manage vulnerability in the night time economy, for example Drinkaware schemes and Ask for Angela. Reference to these initiatives could be made in the SLP.

## Ask for Angela

Ask for Angela was an initiative first launched by Lincolnshire County Council as part of a campaign to raise awareness of sexual violence and abuse and has since been rolled out across a number of cities.

The intention is to help prevent and reduce sexual violence and vulnerability in the night time economy. Customers are advised via posters in venue toilets that, if they 'ask for Angela' at the bar, staff will be alerted to the fact that they feel unsafe or threatened. Bar staff will know that the individual needs some help getting out of their situation and will call a taxi or help them out discreetly and providing a vital life-line to someone who finds themselves in a difficult situation and can't get out of it.

## Drinkaware

Drinkaware is an independent charity, funded by the alcohol industry, which works to reduce alcohol misuse and harm in the UK. Drinkaware's focus is on education and they offer information, advice and practical resources to support people to make better choices around their alcohol consumption.

Drinkaware also run a number of different initiatives including 'Drinkaware crews' who work in clubs and venues to help support provide support the welfare and wellbeing of young people on a night out. More recently they have partnered with PHE on a 'Drink Free Days' campaign which aims to help people cut down on the amount of alcohol they are regularly drinking.

[www.drinkaware.co.uk](http://www.drinkaware.co.uk)

## Working in partnership

Creating a safe, vibrant and diverse night time economy is in everyone's interests and the police, councils, emergency services, local businesses and the community all play a central role to achieving this.

Working together will almost always achieve the best results; at a minimum, it will establish a clear understanding of positions and identify where there is room for agreement and collaboration.

There is plenty of evidence of the success that partnership approaches to managing the night time economy has had in our towns and cities. The Government's Modern Crime Prevention Strategy placed considerable weight on the benefits of voluntary partnerships, a theme which is likely to remain on Government's agenda for the foreseeable future.

The role of councils is to facilitate dialogue between different groups including local businesses and residents, in particular making sure that there are forums for these conversations to happen.

13 <https://nbcc.police.uk/article/?id=b2cd2a7d17d92c915996003a0473a4b8>

Whilst challenges will be different in different places, there is a range of best practice from schemes across the country as well as tools available to support joint working. The LGA will shortly be publishing some case studies which will be available on the website. The Government's Local Alcohol Action Area (LAAA) programme, has recently completed its second phase, has been one way that authorities have been supported to tackle issues like diversifying the night time economy and data sharing.

The industry has worked hard to raise standards, and there are a large number of initiatives which can be used as tools by business to manage and improve the night time economy, for example the Purple Flag accreditation scheme: [www.atcm.org/purple-flag](http://www.atcm.org/purple-flag)

The best premises will be active participants in one or more of the many industry best practice schemes that exist. If these schemes are not in operation locally, then they can be an effective way to significantly boost performance for comparably little investment. The Portman Group have useful guides around the various industry led Local Alcohol Partnerships.<sup>14</sup>

There is always scope to set up a local initiative to tackle a specific issue; but the following is a short outline of some of the more prominent schemes that already exist. The scheme coordinators will always be happy to meet with councils to discuss how their scheme could work in the local area.

### Partnership schemes involving the industry

Pubwatch is an effective network of licensees working together to combat crime, disorder, and anti-social behaviour in towns, cities and local communities. There are about 1000 pubwatches in the UK. [www.nationalpubwatch.org.uk](http://www.nationalpubwatch.org.uk)

Best Bar None is a national award scheme, supported by the Home Office that aims

to improve standards in local night time economies by sharing and promoting best practice. [www.bbnuk.com](http://www.bbnuk.com)

Purple Flag is the accreditation programme that recognises excellence in the management of town and city centres in the early evening and night time economy. It provides an endorsement of the vibrancy of the local night time economy. [www.purpleflag.org.uk](http://www.purpleflag.org.uk)

Community Alcohol Partnerships is a retailer-led partnership to tackle issues of underage drinking and promote greater awareness and understanding of alcohol among young people. [www.communityalcoholpartnerships.co.uk](http://www.communityalcoholpartnerships.co.uk)

Street Pastors are volunteers from the local church community who give up their time to help people out for the evening. [www.streetpastors.org](http://www.streetpastors.org)

## What other tools are available?

There are a variety of statutory and non-statutory tools that can be used to help manage the night time economy where issues are identified.

### Cumulative impact assessments

If authorities have evidence that the high number or density of licensed premises in a particular area is having a detrimental effect on one or more of the licensing objectives, the licensing authority may consult on a cumulative impact assessment (CIA).

A CIA is essentially an evidence-based tool for licensing authorities to limit the growth of licensed premises in a problem area. Whilst the concept of cumulative impact was not initially included in the Act, it was included in the Section 182 guidance and therefore a number of authorities introduced cumulative impact policies (CIPs).

<sup>14</sup> [www.portmangroup.org.uk/responsibility-programmes/landing\\_page/local-partnerships](http://www.portmangroup.org.uk/responsibility-programmes/landing_page/local-partnerships)



Recent changes under the Policing and Crime Act 2017 have now put cumulative impact on a statutory footing and the Section 182 guidance has been updated to include CIAs. Existing CIPs will need to be reviewed to ensure they comply with the principles in new legislation, primarily the need for evidence, rules around consultation and the need to review CIAs at least every three years. A CIA sits apart from the SLP but the statement should include a summary of the CIA.

The effect of having a cumulative impact assessment is that it creates a presumption that applications for new (or sometimes variations to) licences that receive relevant representations will be refused unless the applicant can show that granting the application will not add to the cumulative impact of existing premises. This does not automatically mean applications will be reviewed. Additionally a licensing sub-committee, in considering an application, may be justified in finding an exception to its CIA depending on the merits of a particular application.

Even in an area where cumulative impact has been identified, licence applications must be granted if no relevant representations are made in relation to that particular application. However CIPs shift the balance of the Act and have been popular, with many authorities having more than one in place for example to cover different parts of the town or city.

### **Late-night levy**

The late night levy is payable by licensed premises and holders of club premises certificates within the designated area, which sell or supply alcohol between midnight and 6.00 am. The levy is intended to recoup some of the costs of policing, and generally maintaining, an area with a high number of licensed premises operating late into the night. It is effectively a tax on licensed premises in the area that must be approved by the full council following an extended consultation period and a recommendation by the licensing committee.

There has been a limited uptake of the levy by local authorities, which is due in part to the requirement to apply a levy across the entirety of a local authority area, and limitations on how the levy can be spent.

Legislation requires that up to 30 per cent of net levy revenue can be allocated to local councils, with at least 70 per cent allocated to the local police and crime commissioner (PCC). However, in practice PCCs have the ability to agree a different split locally, an approach taken in Hounslow and Cheltenham.

Whilst originally a levy had to apply across the whole of the local area, changes under the Policing and Crime Act 2017 (yet to be commenced) will allow licensing authorities to target the levy at specific geographic areas rather than having to implement it in the entirety of their area. They will also give PCCs the right to formally request that a council consults on the levy and make it a requirement that local authorities publish information about what the levy revenue has been spent on, to increase transparency. Changes will also allow local authorities to charge the levy to late night refreshment outlets, in addition to premises selling alcohol in the night time economy. These measures will be commenced once the Home Office has consulted on the levy charge to be applicable to late night refreshment providers.

Whilst there has been some criticism of how the levy is spent, legislation is prescriptive in terms of the types of services that councils can fund with revenue from the levy, to help ensure it is spent on tackling alcohol-related crime and disorder.<sup>15</sup> PCCs have no restrictions on how their portion can be spent. As highlighted above, new regulations under the Policing and Crime Act mean that licensing authorities will need to be more transparent, requiring them to publish details about how the levy is spent.

<sup>15</sup> (1.42) [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/183490/Late-night\\_levy\\_guidance\\_amended\\_.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/183490/Late-night_levy_guidance_amended_.pdf)

The levy has also been criticised by sections of the trade as having a disproportionate effect on smaller businesses. Whilst fees are set centrally in line with the rateable value of the premises, consideration should be given to whether exemptions could be applied. Councils have the option to apply exemptions and reductions from a list set out by regulations for example to theatres and cinemas, and country village pubs.

Councils can also exempt, or reduce the level of levy for businesses contributing to a business improvement district (BID). Islington and City of London offer a 30 per cent reduction and Nottingham City Council allow a complete exemption to licensed businesses that are part of a BID.

Any plans to introduce a late-night levy will need to be consulted on. In 2017 Tower Hamlets Council's introduction of the levy had to be delayed following a successful challenge following a Judicial Review launched by the Association of Licensed Multiple Retailers (ALMR). The challenge focused on the consultation process which failed to include an implementation date for the levy.

There is dedicated statutory guidance available on the late-night levy, which can be found on the gov.uk website.<sup>16</sup>

### **Business improvement districts**

Often councils prefer to use alternative approaches to the levy and BIDs are one such alternative. BIDs are not specific to licensed premises and have been operating across the UK for over a decade and there are over 250 established around the country. BIDs are a popular approach which enable a targeted and business led approach to managing the allocation of funds collected through the BID levy. BIDs have the benefit of being locally led, and can be tailored and developed to meet the needs of the locality in which they operate.

A BID can be set up by a council, business rate payer or a person or company whose purpose is to develop the BID area. The 'proposer' of the BID is required to develop a proposal and submit this to the local authority, along with a business plan setting out the size and scope of the BID, and what businesses will be required to contribute. Following this, businesses which will be affected by the proposed levy vote in a ballot to determine whether the scheme goes ahead.

The amount that businesses pay (the BID levy) is calculated by the business rates of the premises within the targeted area in a similar way to the late night levy (LNL) and the money is ring-fenced to use within the BID area. Unlike the LNL, all types of business contribute rather than just those open between 12.00 pm-6.00 am, meaning that BIDs can often raise more revenue than LNL.

Whilst councils will often play a role in BIDs, they are primarily business led with businesses deciding and directing what they want money to be spent on. This could include extra safety, cleaning or environmental measures. Councils do have the power to propose the introduction of a BID, however they still need to go through the ballot process and ultimately any scheme would need the support of business to be successful meaning in some cases BIDs are not always a viable option.

### **Case study Cheltenham**

A LNL was introduced in Cheltenham in 2014 and between its introduction and 2017 raised over £250,000 which was allocated to various projects to improve the late night economy. Projects and work funded by the levy include the purchase of body worn CCTV cameras for taxi marshals and licensed door staff, funding a 'club hosts' trial in partnership with DrinkAware and obtaining Purple Flag accreditation for the town.

In August 2016, Cheltenham adopted its first BID which is set to generate around £440,000 annually through its levy. Although the BID focused on a smaller area of the city,

<sup>16</sup> Home Office (2015) 'Amended guidance on the late night levy'

the significant majority of licensed premises paying the LNL were also subject to the BID levy and therefore were disproportionately affected. In 2017 the council made a decision to remove the LNL given the BID's potential to generate significantly more income and its commitment to continue to fund the existing projects funded by the LNL, where they operated within the BID area.

### Case study Leeds Business Improvement District

Leeds Business Improvement District (LeedsBID), established in 2015 was developed by the city's business community and has been a catalyst for change, leading on inspiring plans, projects and events to deliver its vision to make Leeds city centre an attractive place to live, work, visit and do business.

Representing close to 1,000 businesses and organisations in the city centre (those within the BID area with a rateable value of £60,000 or above), LeedsBID is focused on transforming Leeds city centre working in collaboration to improve experiences and standards for all city users.

Initiatives led by LeedsBID include the introduction of new street teams to improve the welcome and experience for people, the creative use of art, lighting and experiential activities in public spaces and a new programme of events.

LeedsBID has been a lead partner in helping strengthen, improve and highlight the city's growing evening economy, working collaboratively with a range of organisations to secure Purple Flag status. The LeedsBID Street Rangers provide an early morning reactive service to tackle litter from the night before, while the introduction of the Leeds Evening Ambassadors (primarily funded by LeedsBID with Leeds City Council and BACIL (Businesses Against Crime in Leeds)), welcome people in to the city centre on Fridays and Saturdays from early evening through to the early morning. In addition new events and activities have helped to

encourage people into the city for a night out.

More information about LeedsBID can be found on their website: [www.leedsbid.co.uk](http://www.leedsbid.co.uk)

### Early morning restriction orders (EMROs)

An Early Morning Restriction Order may be applied where an area experiences a significant amount of late-night alcohol-related crime and disorder. The order, which can apply to a specific geographical area within the council's district, can restrict all alcohol sales (but not other licensable activities) between midnight and 6.00 am where this is appropriate for the promotion of the licensing objectives. A strict consultation process must be followed before an EMRO can be adopted. Although it was introduced in the Police Reform and Social Responsibility Act 2011, no licensing authority has yet introduced one.

Blackpool Council looked at the introduction of an EMRO to restrict premises in the town centre from selling alcohol between 3.00 am and 6.00 am. After consideration, the Licensing Committee decided that an EMRO would be disproportionate and instead opted to establish a multi-agency Night Time Economy Working Group which could present recommendations to the committee on alternative approaches to addressing violent crime in the town centre.

# Role of councillors

## Licensing committees/sub-committees

Membership of the licensing committee is prescribed within the Act, and should consist of at least 10, but no more 15 councillors. The licensing committee may delegate some of its responsibilities to a licensing sub-committee, however this must consist of three members of the main committee in order for decisions to be made with proper authority. This has been highlighted in recent case law<sup>17</sup> where the decision of a licensing sub-committee in a review hearing was challenged successfully on the basis that the sub-committee was not lawfully constituted as members were not part of the licensing committee. The sub-committee does not need political balance and can also be appointed outside of full council.

The sub-committee's primary role is to consider whether a licence application is likely to undermine one or more of the licensing objectives in the light of any relevant representations that may have been made about it. These considerations will be made at a hearing.

Licensing hearings, which are convened when a sub-committee is required to consider a contested application, must be held within strict timescales which are set out in regulations.

Day-to-day administration is carried out by licensing officers with some authorities opting for shared service arrangements. Licensing teams are commonly located within environmental health, regulatory services or legal services departments.

The Licensing Act 2003 (the Act) is a permissive regime. This means that licences must be granted if they have been made in accordance with statutory requirements and in the absence of any relevant representations or (depending on the type of application), objections.

Councillors may wish to check if arrangements are in place for the grant of non-contested licences to be reported to members on a regular basis, for example by an annual report to the Licensing Committee.

The House of Lords select committee which undertook post-legislative scrutiny of the Act between 2016 and 2017 was critical of licensing committees/sub-committees. The committee felt they had seen and heard about poor examples of practice by licensing committees. They made a number of recommendations in relation to this, the most far reaching being that the functions of licensing committees and sub-committees should be transferred to planning committees. Whilst government did not accept this recommendation they did support recommendations around the training of licensing committee members.

## Training of councillors

No councillor should be permitted to sit on a committee or sub-committee without first having been formally trained.

It is important that training does not simply relate to procedures, but also covers the making of difficult and potentially controversial decisions, as well as the legal parameters within which the committee as a decision-making body may operate. The use of case study material can be helpful to illustrate this.

All training should be formally recorded by the council and require a signature by the councillor. Training should be refreshed at regular intervals for example following changes in legislation.

In addition to in-house training, there are a number of independent training providers, including licensing bodies – the National Association of Licensing Enforcing Officers (NALEO) and the Institute of Licensing (IoL). The IoL is in the process of developing a course outline for a councillor training package.

<sup>17</sup> MuMu Enterprises (Weston) Limited v North Somerset District Council (2014)

## Suggested content of a training course

- background to the Licensing Act
- makeup of local licensed premises
- current industry trends
- licensable activities
- the Licensing Authority
- responsible authorities
- statement of licensing policy
- statutory guidance
- premises licences
- personal licences
- temporary event notices
- club premises certificates
- industry initiatives such as Challenge 21, ID entry schemes, Best Bar None
- enforcement
  - licence reviews
  - other procedures
- making representations
- holding a hearing
  - committee procedure, rules of nature justice, proportionality, Wednesbury principles, and other legislative duties, eg Human Rights Act
  - member's conduct during a licence consultation
- member's conduct at a hearing
- assessing and testing representations
- developing licence conditions
- giving reasons
- appeals
- partnership working with the licensed trade and others

# Role of responsible authorities

## Overview

Responsible authorities (RAs) are statutory bodies which are able to comment on applications made under the Act. They can make representations about the grant, full variation, transfer and review of premises licences as well as those for regulated entertainment which are not exempt, and can also apply for licence reviews in their own right.

### The responsible authorities are:

- the licensing authority itself
- the chief officer of police
- the fire and rescue authority
- the body responsible for enforcing health and safety at work (this may be the Health and Safety Executive for council-run premises)
- the local planning authority
- environmental health
- the body designated by the local authority for the prevention of children from harm (eg the multi-agency safeguarding arrangements – previously local children’s safeguarding board)
- trading standards
- the council’s director of public health (England) or local health boards (Wales)
- with regard to a vessel – the Environment Agency, the Maritime and Coastguard Agency
- Home Office Immigration Enforcement.

## Police

The police are one of the primary partners in managing the licensed economy and will gather considerable information about the operation of premises through their policing of the area. Consequently, the police are generally the most proactive of the responsible authorities in liaising with applicants and licence-holders, making representations about licences and seeking reviews of licences. Some police forces will have a dedicated licensing team and within that a police licensing officer who manages applications for premise licences, monitors compliance and coordinates enforcement activity.

In April 2017, a mandatory requirement was introduced for police forces in England and Wales to begin systematically recording alcohol-related crime. They are required to apply a ‘flag’ to their recorded crime data, for crimes where alcohol is perceived as an aggravating factor. This data is expected to inform future licensing and policy decisions at a local and national level, provided it is of sufficient quality. The police have a key role in managing the night time economy and should usually be the main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the Act may make representations with regards to any of the licensing objectives if they have evidence to support such representations.

A licensing committee must actually consider all relevant representations carefully, including crime numbers and other evidence presented by the police, as this may well include examples that do not relate to the licensable activity: several licensing decisions have been overturned on appeal as a consequence of this.

The partnership with the police extends outside of the licensing process and related enforcement. The police are often key players in partnership schemes such as Pub Watch and Best Bar None, and can also have an interest in exploring the possibility of a late night levy. The statutory guidance to licensing authorities states that PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. It is important to ensure that a licensing authority's engagement is not limited to the local police licensing officer and includes some discussion with the PCC about the licensed economy and how it is managed.

Many authorities have regular briefings from their local police, at ward level or through community safety partnership arrangements.

#### **Police officers have specific powers in the Act in relation to:**

- serving a closure notice on problem premises (either within an area or specific premises) where there is crime, disorder or nuisance
- calling for a review or summary review of a licence
- objecting to the transfer of a premises licence
- objecting to a change of Designated Premises Supervisor (DPS)
- objecting to a personal licence application if the applicant has relevant current convictions or after a licensing authority has decided not to revoke a personal licence
- objecting to a temporary event notice
- exercising powers of entry to licensed premises if they suspect offences under the Act are being committed.

#### **Public health**

One of the primary reasons for including the director of public health (DPH) as a responsible authority is that public health may have access to information that is unavailable to other responsible authorities.

The role of the DPH is to help promote the health and wellbeing of the local populations they serve. This is an expansive remit that influences a wide range of circumstances, including local licensing arrangements. Similarly the licensing regime is concerned with the promotion of the licensing objectives, which collectively seek to protect the quality of life for those who live and work in the vicinity of licensed premises and those who socialise in licensed premises. This focus on the wellbeing of the wider community via licensing is an important addition to public health teams' existing work to promote the wellbeing in their localities.

Public health representations must be assessed in the same way as evidence from any other responsible authority. It can be more challenging for them to make representations as there is no specific health objective, but is entirely possible and a number of public health teams have made successful representations – either in their own right or in support of other responsible authorities.

Public health teams have a particularly important role in shaping SLPs, and in building the evidence base for CIAs or other special policies being considered.

PHE have supported a number of councils to develop practical ways to use health data in licensing work. These have informed PHE's web based resource<sup>18</sup> which brings together nationally available data and materials with local information to support councils to access a range of databases and tools. PHE's resource allows local teams to input their own data to create interactive maps and reports to help them in their role as a responsible authority.

<sup>18</sup> [www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams](http://www.gov.uk/guidance/alcohol-licensing-a-guide-for-public-health-teams)

For more information on the role public health can play, PHE and the LGA have published joint guidance which includes useful case studies on how public health teams have usefully contributed to licensing decisions.<sup>19</sup> PHE's website also includes tools to support public health teams to make effective representations.

### **Environmental health**

Environmental health plays a significant role in addressing potential nuisance and safety issues associated with licensed premises, such as music noise, dispersal noise from patrons, intrusive odours and general safety. Environmental health officers (EHOs) will frequently discuss conditions with applicants such as proposed sound control or mitigation measures. EHOs can consider 'public nuisance' in relation to licensed premises, which is a broader and more flexible term than the specific 'statutory nuisance' in relation to unlicensed premises.

Statutory guidance warns against using the Licensing Act when other more specific legislative powers are available. The Health and Safety at Work Act 1974 and food hygiene regulations therefore would be used by EHOs to secure workplace and food safety rather than licensing conditions.

Along with the police, environmental health can object to temporary event notices which other RAs are unable to do.

### **Trading standards**

Weights and measures authorities (trading standards) have a specific duty under the Act to enforce the under-age alcohol sales provisions. They have a specific power to conduct test purchase operations and will often organise age-related product sales training and awareness for businesses.

Trading standards may issue fixed penalty notices following an under-age sale, and issue a notice preventing alcohol sales from taking place for up to seven days following two or more failed test purchases within three months.

Trading standards might also apply for reviews where there is evidence of offences on licensed premises such as copyright infringement, the sale of counterfeit cigarettes or other goods.

### **Fire service**

Although in practise the fire service very seldom make representations, their representations on public safety grounds means licensing sub-committees have to effectively either reject the application or reject the representation.

The Regulatory Reform (Fire Safety) Order 2005 does not allow fire-safety related conditions to be applied to a licence. It can be useful to remind applicants of their duties under the Fire Safety Order, ie that they need to carry out a fire risk assessment and implement findings. This can be included in any guidance the council offers to support the application process as well as setting this out as an expectation in the SLP. Applicants can be signposted to the government's guidance on completing fire risk assessments.<sup>20</sup>

### **Home Office Immigration Enforcement**

Home Office Immigration Enforcement (HOIE) are the most recent addition to the list of responsible authorities following changes brought in by the Immigration Act 2016 which requires all licence holders to have the right to live and work in the UK. HOIE can make representations about the grant, full variation, transfer and review of premises licences for the sale of alcohol and/or late right refreshment, and can apply for licence reviews in their own right. They can also make representations for personal licence applications.

HOIE have a central contact point for anything relating to their role as responsible authority for personal and premises licence applications ([alcohol@homeoffice.gsi.gov.uk](mailto:alcohol@homeoffice.gsi.gov.uk)).

<sup>19</sup> [www.gov.uk/government/publications/public-health-and-the-licensing-act](http://www.gov.uk/government/publications/public-health-and-the-licensing-act)

<sup>20</sup> [www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments](http://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-risk-assessments)



### **Licensing authority**

The licensing authority administers and enforces the Act, but they can also make representations about applications or call for reviews. Crucially it must act as a coordination point between the different interests associated with licensable activities and premises.

The statutory 'Section 182' guidance suggests that there should be a separation between the licensing authority officers processing an application and those acting in its role as a responsible authority intending to make representations. This may not always be possible within smaller authorities. Councillors should ensure sufficient resources are in place so the licensing authority can exercise its role to administer and enforce the Act, (including appropriately trained and qualified officers) and to act as a responsible authority.

# Summary of key permissions under the Act

## Premises licences

### Key features

- Can apply to 'any place' (including outdoors).
- Can last indefinitely or for a fixed duration.
- Must name a Designated Premises Supervisor (DPS) in order to allow alcohol sales.
- Subject to public consultation before grant or variation.
- May be reviewed on application by residents/other persons or responsible authorities.

### Application process

A premises licence is required to allow licensable activities to be provided in a specific location.<sup>21</sup> Licences can be granted for an indefinite period, or for a fixed period such as for a music festival in a local park. More than one premises licence can be in force for an area or premises at a time.

To allow public engagement in the process, applicants are required to prominently advertise applications for new or varied licences on the premises for 28 days (10 working days for minor variations). There is a prescribed format for notices that are displayed which need to be at least A4 and printed on pale blue paper. Whilst the LGA has called for the end of the requirement for public notices to be published in a local paper as a way to save businesses money

<sup>21</sup> Some places do not require a licence, eg military establishments and airside at most airports (although the Government have committed to looking at whether the Licensing Act should extend to airside at airports).

this is still a requirement and an application needs to be advertised in a local newspaper (except for minor variations). It is the responsibility of the licensing authority to advertise applications for new licences and full variation applications on its website from the day after they are received.

Every licensing authority must be able to accept electronic applications to comply with the EU Provision of Services Regulations 1990. Where applications come in online, the licensing authority is responsible for sharing them with responsible authorities in a timely manner as set out in regulations. However, in the case of postal applications, applicants themselves must distribute applications to all responsible authorities, licensing authorities application forms should therefore include addresses for responsible authorities.

### There are four key parts to a premises licence application:

- the application fee
- the operating schedule, where the applicant details how they propose to operate and promote the licensing objectives
- a detailed plan of the premises
- the consent of the person designated as the premises supervisor (DPS) if alcohol is to be sold.

Since 2017 personal applicants for premises licences (such as sole traders or partnerships) also have to demonstrate they have a right to work in the UK as part of their application process.

### **Operating schedule**

An operating schedule is an important part of a premises licence (or club premises certificate) setting out how the applicant will promote the licensing objectives. It is good practice for applicants to discuss their operating schedules with officers from the appropriate responsible authorities before an application is submitted so that any potential issues can be identified early on and advice given. There is no rule to prevent ward councillors being involved in these discussions, providing they do not subsequently sit on a licensing sub-committee which considers an application they have been involved in discussing.

### **Making changes to a licensed premises**

Where changes occur, there are provisions for varying a premises licence. A full variation application (similar to the process for the grant of a new licence) is required for significant changes, for example extending the hours during which alcohol may be sold.

A minor variation can only be used for less significant changes such as the removal of outdated or redundant licence conditions, or minor changes to the premises layout. The minor variation process involves a more streamlined 10-day consultation period compared to 28 days for a full variation.

### **Granting a licence**

If no representations are made about a premises licence application during the consultation period, the licence must be granted subject to the mandatory conditions and any conditions consistent with the operating schedule. Where relevant representations are received, a hearing will need to be held to consider these. The next section considers these in more detail.

Once a licence has been granted, a review of a current licence can be called for by anyone. Someone experiencing 'noise' well outside the vicinity can still make a representation, as long as it is about the effect of granting the licence on the promotion of one of the licensing objectives. Reviews are explored in more detail later on.

Premises licences may be suspended if the annual licence fee is not paid. Procedures are laid down as to notices that must be given by the licensing authority before a licence can be suspended, and suspensions last until the outstanding fee is paid.

### **Ways to support businesses**

Westminster, Cheltenham and Cherwell are among a number of licensing authorities offering a cost recovery, pre-application advisory service for business licences. This service collaborates with businesses to advise on the most appropriate, cost-effective and sustainable licence for them.

For new or growing businesses, the licensing process can be particularly complex, costly and difficult to get right the first time. Business licences can stretch the most fragile budgets and therefore investing a proportionate amount of time and money into a pre-application advisory service can result in businesses trading sooner. An additional benefit of this service is that these councils now receive more appropriate, full and accurate licence applications which overall speeds up the time required to grant businesses their licence to trade.

# Temporary event notices

## Key features

- Can apply to ‘any place’.
- Can be held by any individual over the age of 18 whether or not they hold a personal licence.
- May not allow temporary events to last for more than seven days.
- No premises may be used for more than 21 days in total a year under a TEN.
- May be objected to by the police or environmental health.

Unlike licences, carrying out ‘temporary licensable activities’ does not have to be authorised by the licensing authority, instead the person holding an event is required to give notice to the licensing authority in the form of a temporary event notice (TEN).

TENs usually account for the largest number of authorisations or transactions for a licensing authority. They can be used to hold ‘one-off’ licensable events at unlicensed premises where a premises licence, club premises certificate or the presence of a personal licence holder might not be necessary. They can also be used to temporarily extend the hours or activities permitted by existing premises licences or club premises certificates, although there are limitations on the amount of times a premises, and an individual, can use a TEN, depending on whether or not they are a personal licence holder.

Notices can be submitted to the licensing authority online (for example via [www.gov.uk](http://www.gov.uk)) or by post, in which case they will need to be sent by the applicant to the police and environmental health, and acknowledged by the licensing authority.

The key features of TENs are that an individual, rather than a business, will need to make the application as a ‘premises user’. The premises user has the same responsibilities as a Designated Premises Supervisor (DPS) but is not required to be a personal licence holder.

Compared to other types of notices the timeframes for TENs are relatively short – no less than 10 clear working days for a standard TEN and no less than five working days for a late TEN. A late TEN is simply a TEN that is submitted late; again there are restrictions on the amount of times this can be done by an individual or at a premises.

Whilst only environmental health or the police can object to either type of TEN, an objection to a standard TEN could lead to a hearing whereas objections to late TENs (due to the timescales involved) means the TEN cannot be used. This does not always mean the associated event has to be cancelled – for instance, a TEN may seek to allow alcohol to be sold at a school fund-raising event. The event could still take place, but not with the alcohol sales.

The police or environmental health may also intervene by agreeing a modification of the proposed arrangements directly with the proposed premises user. If they send an objection, this may result in the licensing authority imposing conditions on a TEN if there is an existing premises licence or club premises certificate.

As a matter of practice, licensing teams will often notify ward councillors when a TEN has been given, particularly if the premises or event is likely to cause concern locally. The ward councillor cannot however object to a TEN.

Issues frequently arise when a premises user does not give a notice in sufficient time. The Act is very prescriptive and the licensing authority does not have any discretion to override those timescales.

Licensable activities under a TEN may not last for more than seven days at a time, and there must be a 24-hour gap between successive TENs when given by the same premises user. No more than 499 people may be present on the premises at any one time, which includes staff.

The licensing authority’s officers will issue a counter-notice if any of the limits (for example in relation to the number of TENs given in a year) have been exceeded.

The LGA has raised concerns that in many areas these are not being used by the community groups and clubs for whom it was intended, but instead to extend the regular operating hours of premises without the safeguards normally imposed by a licence. TENs are also the area where there is the biggest discrepancy between the fee charged and the costs received by licensing authorities, while also making up a significant administrative volume.

## Club premises certificates

### Key features

- May only be granted to a bona fide non-commercial qualifying club consisting of at least 25 members.
- A DPS is not required.
- The club may be open to members and to guests (not the general public).
- Subject to public consultation before grant or variation.
- May be reviewed on application by residents or other persons, club members or responsible authorities.

'Qualifying' clubs can operate under club premises certificates instead of premises licences. This means, for example, that they are not required to have a designated premises supervisor, and sales of alcohol do not need to be authorised by a personal licence holder.

The club premises certificate authorises the supply of alcohol and regulated entertainment. To be classified as a qualifying club, a number of requirements need to be met which are outlined in the Act. Examples of qualifying clubs are Labour, Conservative and Liberal clubs, the Royal British Legion, other ex-services clubs, working men's clubs, miners' welfare institutions and social and sports clubs.

As with the premises licence, where an application for a club premises certificate has been made lawfully and there have been no representations, the licensing authority must grant the application subject only to the conditions that are consistent with the operating schedule and relevant mandatory conditions. A hearing will be held to consider any relevant representations.

There are various benefits for qualifying clubs. There is technically no sale by retail of alcohol (except to guests of members) as the member owns part of the alcohol stock and the money passing across the bar is merely a mechanism to preserve equity between members where one may consume more than another.

This means that there is no requirement for a personal licence holder or a DPS to authorise the supply of alcohol. The premises are considered private as they are not open to the public which means the police and the licensing authority have more limited powers of entry. They would also be exempt in the case of a Magistrates' court order to close all licensed premises in an area where disorder is happening or expected to happen.

Applications for club premises certificates must be in a specific format and be accompanied by the required fee, plans (if applicable), a copy of the club rules, and a club operating schedule (which is equivalent to an operating schedule). The licensing authority may inspect the premises before an application is considered

A club may apply to a licensing authority to vary a certificate in the same way as a premises licence. Certificates may be suspended for non-payment of fees in the same way as premises licences.

# Personal licences

## Key features

- Applicants must have attended an approved training course.
- Authorities have the power to suspend or revoke a licence following conviction for a relevant offence.
- Licences last indefinitely.
- Applicants must demonstrate they have a right to work in the UK.

A personal licence is granted to an individual to make a sale of alcohol, or to authorise others to make sales of alcohol from licenced premises. Whilst all sales of alcohol must be made by or under the authority of a personal licence holder, not everyone who makes a sale has to hold a personal licence. A personal licence holder will need to give 'meaningful' authorisation for the sale of alcohol by non-licence holders which could mean either by being on the premises, or by written permission from the Designated Premises Supervisor (DPS) or another personal licence holder.

In a similar way to a driving licence, a personal licence is 'portable' and is not attached to a specific premises. Personal licence holders no longer have to apply for a renewal of their licence, meaning it lasts in perpetuity unless it is surrendered by the licence holder, or revoked/suspended by the licensing authority, or a court.

To qualify to be a personal licence holder applicants must be over 18 and hold a licensing qualification that has been accredited by the Secretary of State, the intention being that licence holders are aware of licensing law and the wider social responsibilities attached to the sale of alcohol.

Applicants will also need to prove their right to work in the UK and submit a police disclosure check with their application. If there are relevant current offences (as set out in Schedule 4 to the Act), the police can make a representation against the application on

crime prevention grounds. If the police make a representation then there will be a hearing on the application.

A court can order a licence to be forfeited or suspended for up to six months following a conviction for one of the relevant offences. New powers introduced in 2017 allow licensing authorities to also suspend or revoke personal licences following a conviction for a relevant offence, or if the holder has been required to pay an immigration penalty.

## Role of Designated Premises Supervisor

Each licensed premises must have a DPS, the person named on the premises licence as the individual designated to supervise the premises; they must always be a personal licence holder. The DPS will be the single point of contact for responsible authorities, particularly the police and licensing authority. They also have responsibility to make sure licensable activities are carried out lawfully in the premises, although they are not required to be on the premises at all times.

There can only be one DPS in relation to each premises, although the same personal licence holder could be the DPS for several premises. The DPS may also be the, or one of the, premises licence holders.

It is a breach of a mandatory condition for alcohol to be sold without a DPS being named on the licence. There are routine procedures in place for a DPS to be replaced, for example when changing their job. A DPS may be removed following a licence review; the police may object to an incoming DPS on the grounds that they would undermine the crime prevention objective.

Premises that are run as community facilities such as village halls may apply to remove the requirement to have a DPS, making the management committee collectively responsible for the supervision of alcohol sales instead.

# Representations

Licensing sub-committees will need to meet to consider relevant representations about the likely effect of an application on the promotion of the licensing objectives, unless all parties agree that a hearing is unnecessary.

## What is a 'relevant' representation?

Representations by parties other than RAs, for example individuals or businesses, are not relevant if the licensing authority considers them to be vexatious or frivolous, ie are not serious or there are insufficient grounds for action. Representations can be made in favour of or against an application. Equally, a representation may contain both relevant and irrelevant matters.

Representations must be made in writing within the required time period, and are copied or summarised to the applicant for them to consider. Officers can reject representations that are out of time (outside the 28 day period) or irrelevant, or if they are from persons other than responsible authorities and are considered vexatious or frivolous. Statutory guidance recommends that the benefit of the doubt should be given to those making representations and borderline submissions allowed to be considered by the sub-committee.

In the case of a review, representations should not be repetitious, ie identical or substantially similar to grounds for review already made should not be considered if a reasonable interval has not elapsed since an earlier application or a review (at least 12 months).

### Councillors may make representations:

- in their capacity as a private individual
- as a ward councillor
- on behalf of local residents or organisations.

Representations can be withdrawn in writing at any time up to 24 hours before the start of a hearing, or alternatively at the hearing itself.

Hearings are convened where relevant representations have been made and those issues have not been satisfactorily resolved. In the run up to the hearing it is quite proper and indeed should be encouraged, for applicants, responsible authorities and other persons to discuss issues that may lead to the application being amended, additional conditions agreed and/or the representations being withdrawn. Applicants should be encouraged to contact responsible authorities and others, such as local residents, who may be affected by their application before formulating it so that the mediation process may begin before the statutory time limits on hearings (addressed later in this handbook) come into effect following the submission of an application.

# Licence conditions

## Overview

The setting of conditions is one of the most significant ways in which licensing authorities can influence the running of a premises. As well as mandatory conditions which are set out in the Act, authorities can also add 'voluntary' conditions to a licence. Used effectively, this can mean that authorities put in place the elements that are essential to promoting the licensing objectives.

However, poorly designed or inappropriate conditions can have the effect of hampering a premises, preventing it from being financially viable and potentially leaving the community with an empty premises. The general rule is that conditions should be appropriate to the specific premises, necessary and proportionate.

Many licensing authorities publish pools of conditions, which give applicants an idea of the types of conditions that may be imposed. It is recommended that these are published separately from the SLP to allow them to be updated in a more flexible way than the SLP would allow. Whilst pools of conditions are helpful, licensing committees should always avoid imposing these conditions as a matter of course, or as blanket conditions to be applied to every premises. The wording of such conditions should be seen as a template to ensure conditions are tailored to the specific operation of the premises.

Licensing authorities must bear in mind that breach of any licence condition can potentially amount to a criminal offence, punishable by an unlimited fine and/or up to six months' imprisonment. Conditions must therefore be clear, precise and proportionate in order for them to be enforceable.

Applications that do not attract any representations (or where representations have been withdrawn) are granted subject only to conditions consistent with the operating schedule and the relevant mandatory conditions. Officers will draft those conditions under delegated authority in that situation, drawing on their expertise and any pools of model conditions.

However, if there have been representations then licensing authorities have the opportunity to impose or amend/modify conditions on the licence. Like any decision during a licensing hearing, the steps taken to impose conditions must be appropriate to promote the licensing objectives.

A sub-committee should be proactive with conditions and it is always worth considering whether objections could be overcome by conditions. Comments should be invited on proposed conditions before they are imposed. Conditions can be imposed in any case where they are considered 'appropriate'.

The key thing to remember with conditions is that less is more. The premise licence holder will need to be able to easily implement them if they are genuinely to make a difference to how the premises are run. Licences may be issued with just the mandatory conditions.

Licensing authorities should not aim to micro-manage premises through the use of conditions. Premises that appear to need more conditions than usual may have more fundamental problems in terms of management or planned operation.

Many operators will put forward their own conditions when they make an application. This is to be welcomed, but licensing



committees will need to ensure that all of these proposed conditions are genuinely necessary; properly worded so that they are enforceable; and are achievable. These conditions can also be modified or new conditions added.

### Example 1

A poorly-worded condition which is imprecise and difficult to comply with at all times might read:

'Windows and doors must be kept closed'.

A better-worded condition which is more appropriate (addressing the particular concern of the prevention of public nuisance objective) and proportionate (only applying during specific times) might read:

'The Designated Premises Supervisor shall ensure that (apart from access and egress) all external windows and doors are kept closed when live music is played between 10.00 pm and the closing time of the premises on any day.'

### Example 2

An inappropriate condition might read:

'The premises licence holder shall ensure customers use public transport to travel to the premises.'

A better-worded condition might read:

'The premises licence holder shall prominently display signs and notices in the premises promoting the use of public transport to travel to the premises.'

The premises licence holder would be unable to control their customers' action beyond the immediate vicinity of the premises, as stated in the statutory guidance.

Similarly, conditions that relate solely to best practice or management styles are often more effectively addressed by a code of practice on effective management. A number of licensing authorities have adopted this approach and it has proven effective, removing any distracting conditions from the licence and emphasising the crucial importance of those remaining on the licence.

However, there will always be individual cases where a specific condition may be appropriate to include on the actual licence; for instance, serving drinks in polycarbonate or polycarbonate containers may be appropriate where a premises has a history of violence or where broken glass is routinely found on nearby public footpaths. In this example, the conditions would be imposed during a review of the premises.

## Mandatory conditions

There are five mandatory conditions<sup>22</sup> which all licensed premises and club premises must follow.

1. Staff on relevant premises must not carry out, arrange or participate in any irresponsible promotions in relation to the premises. This includes drinking games, encouraging someone to drink as much as possible with or without a time limit; providing free or unlimited alcohol or for a fixed or undetermined fee, including as a prize; using posters that promote or glamorise anti-social behaviour or present the effects of drunkenness in a positive manner.
2. Provide free potable drinking water on request to customers in on-licensed premises.
3. Have in place an age-verification policy and apply it to the sale of all alcohol.

<sup>22</sup> The full details are set out in legislation, which can be found at [www.legislation.gov.uk/ukxi/2014/2440](http://www.legislation.gov.uk/ukxi/2014/2440), with supporting guidance at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350507/2014-08-29\\_MC\\_Guidance\\_v1\\_0.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf)

4. Must ensure that the following drinks if sold or supplied for consumption on the premises are available in the following measures:

- beer or cider – half pint
- gin, rum, vodka or whisky – 25ml or 35ml
- still wine in a glass – 125ml.

The availability of these measures must be displayed in a menu, price list, or other printed material available to customers and must be brought to a customer's attention if they do not specify what quantity they want.

5. Not sell alcohol below the cost of duty plus VAT.

## Volunteered conditions

In a premises licence application, the applicant has the opportunity to volunteer conditions, which will be measures that the licenced premises will introduce, above and beyond the mandatory conditions to promote the licensing objectives.

There are some conditions which need to be approached particularly carefully, as the choice of words used could make the difference between something that makes a meaningful difference to the safety and background noise of the area, and something that causes a regulatory burden to business but fails to protect the community.

### Example

There shall be a minimum of four door supervisors employed at the premises (or more if required in writing by the police) from 9.00 pm until 30 minutes after the time for the premises to close on Fridays, Saturdays and any Sunday falling within a bank holiday.

It is not clear if this volunteered condition applies every Friday, every Saturday and any Sunday or only those that are also a bank holiday (in which case there would not be a Saturday or Sunday bank holiday).

These risks exist with all conditions, but experience has shown that they are most acute when it comes to conditions that require the installation of CCTV or the imposition of noise limits. There have been a number of instances where CCTV has been installed at the licensing committee's request, but the quality of the system failed to meet the standards needed for it to be used by the police.

Similarly, a number of noise conditions have been overturned in Magistrates' courts due to wording that required the premises to keep noise levels 'inaudible' – raising questions of audibly by whom, in what location, and failing to take account of the fact that for the most part young people can detect more sounds than older people.

Where conditions concerning noise or CCTV are being imposed, the final wording must have the input of the police or the council's acoustic expert in the environmental health team. This will ensure the conditions meet their purposes, although the licensing officer will need to ensure that they remain intelligible to the DPS, who will not be trained in these technical areas but must understand how to meet them. Again, these sort of conditions need to be proportionate.

### 'Mediating' conditions in advance of a hearing

#### Example 1

Following an application for a late night restaurant, the police make representations about crime and disorder; environmental health make representations about noise control, and local residents make representations about possible late-night noise. The applicant agrees to install CCTV, to include licence conditions to keep windows and doors shut after 9.00 pm, and to close an hour earlier than originally applied. All parties withdraw their representations and no hearing is necessary.

**Example 2**

An off-licence wants to extend its premises into the shop next door. The police's representations about crime prevention measures and trading standards representations about under-age sales have been resolved by the applicant agreeing to include appropriate conditions. However, the residents' association representation about possible anti-social behaviour has not been withdrawn and a hearing is arranged.

**Example 3**

A petrol station submits an application to extend its sales of late-night refreshment until 3.00 am. A number of representations are made and the application is withdrawn.

**Example 4**

A nightclub applies to vary its hours for licensable activities until 6.00 am. Representations are made and the applicant decides that an application to allow closing at 7.00 am would allow customers to use public transport better to get home. As this is applying for longer than the original hours, a new application is needed.

**Example 5**

A nightclub within a cumulative impact area is being refurbished and will need to submit an application to vary its licensing plans and also extend its hours. The applicant meets with officers from various responsible authorities, local residents and ward councillors. New conditions are agreed between all the parties that are included on the operating schedule. If no representations are made the varied licence is granted by officers under delegated authority.

# Hearings and appeals: What to expect

## Purpose of hearings

The purpose of a hearing is to decide whether granting an application would undermine the licensing objectives in the light of any relevant representations, the statutory guidance and the authority's SLP.

Potential issues in terms of an applicant not meeting the licensing objectives should be identified early. Licensing officers should provide pre-application advice and guidance to applicants to help avoid the need for a hearing, this advice could form part of the SLP. In cases where relevant representations are made about either granting or changing a licence, early mediation is encouraged between parties; this can help avoid the need for a hearing.

### Conducting a hearing

Provisions for holding hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 which provide for the various notification requirements, conduct at, and timings of, hearings.

Where specific provisions for the procedure for hearings have not been made, councils are able to set and control their own procedure as long as it is not contrary to the Regulations. The purpose of procedure should always be to enable those with the right to, to appear and advance their point of view and to test the case of their opponents. This will assist the licensing sub-committee to gather evidence and understand relevant issues. Expectations should be clearly documented in a member's Code of Conduct.

Councillors should be aware there may often be an imbalance of expertise between applicants who may be represented by lawyers, and residents (or even representatives from responsible authorities) who do not have the same degree of familiarity with the Act or the licensable activities being proposed. A degree of latitude and discretion may be necessary.

There is a growing body of case law around licensing hearing procedures, but the following should act as a guide to help avoid decisions being challenged.

### Procedural issues

The Act delegates hearings to the licensing committee or sub-committee, and cannot be delegated to officers. They must be held within 20 working days of the end of the consultation period for premises licences and full variation applications.<sup>23</sup> Hearings may be held during normal working hours, and this may be more suitable if all of the parties are available. Hearings during an evening may be more suitable if local residents are unable to attend during the day but run the risk of being more rushed for parties to make their case and for members to reach a reasoned decision.

Regulations set out timescales for the giving of notices of the hearing, and specify that details of the representations should be provided to the applicant in advance. The Local Government Act 1972 requires that agendas should be published at least five clear days before the meeting (although this would not apply to hearings for TENs or for expedited reviews).

<sup>23</sup> Other time-scales apply to other applications.

Where there are no longer any matters of dispute a hearing is usually cancelled. If the licensing committee wants to hold the hearing anyway, it is recommended that the reasons why should be communicated as soon as possible to the applicant/licensee. It should be clear within the scheme of delegation in the SLP who has the authority to dispense with a hearing. Hearings should not be held where all parties agree one is unnecessary.

Licensing officers should prepare a report for committee members in advance of the hearing. Whilst there is no standard format for these reports they should collate and summarise relevant representations.

In some councils the sub-committee may receive a briefing before the start of the hearing. This should be solely confined to procedural matters. The merits of any material or the application before the sub-committee must not be discussed.

### **Who may attend the hearing**

Any party making an application or making a representation can attend the hearing, and may be accompanied by anyone to represent them or give evidence.

A hearing can still take place in the absence of a person making representations although it is recommended it should not take place in the absence of an applicant/licence holder (particularly for a review) unless they have previously indicated otherwise.

If a party has indicated they will attend as required by the regulations but are absent at the stated time, the hearing should be temporarily adjourned to allow officers the opportunity to try and contact the people concerned.

Powers exist for a hearing to be adjourned in the above circumstances. Hearings may be adjourned in the public interest before they start (for example to allow an applicant to arrange legal representation following consideration of the representations). Hearings may be adjourned during the hearing if for example further information is needed in order to reach a decision. However, case law determines that a matter cannot be adjourned indefinitely but, instead, to a specific date.<sup>24</sup>

## **Member conduct**

Members must, at all times, comply with the council's member code of conduct which should set out the standards that members must observe and include:

- treat others with respect
- do not bully or intimidate anyone
- do not compromise the impartiality of an officer
- give reasons for all decisions
- the 'prejudicial interest' concept.

A prejudicial interest is 'one which a member of the public, with knowledge of the relevant facts, would reasonably regard as so significant that it is likely to prejudice your judgement of the public interest'.

### **Appearance of bias**

While third party lobbying of elected members is legitimate and councillors may make representations to the licensing committee on behalf of other persons, it is crucial for the licensing authority and its committee to ensure that there is neither actual nor an appearance of bias in its decision-making. It should also be remembered that concerns about political lobbying were the basis of the concerns which led to the first Nolan Committee on Standards in Public Life.

<sup>24</sup> R (on the application of Murco Petroleum Limited) v Bristol City Council

Section 25 of the Localism Act 2011 does not prevent councillors from publicly expressing a view about an issue or giving the appearance of having a closed mind towards an issue on which they are to adjudicate. However it is recommended that to avoid an appearance of bias the following advice should be observed.

- No member sitting on the licensing sub-committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the sub-committee which is considering the application. Case law has also established they should not be in the room for the hearing once an interest has been declared.
- If a member who sits on the licensing sub-committee is approached by persons wishing to lobby him/her as regards the licence application then that member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her ward member or the licensing officer who can explain the process of decision making. If the member who sits on the licensing sub-committee wishes to represent them then s/he will need to excuse him/herself from the licensing sub-committee.
- Members who are part of the licensing sub-committee must avoid expressing personal opinions prior to the licensing sub-committee decision. To do so will indicate that the member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the licensing objectives nor the statement of licensing policy.
- Members must not pressurise licensing officers to make any particular decisions or recommendations as regards applications.
- Political group meetings should never be used to decide how any members on the licensing sub-committee should vote. The view of the Local Government Ombudsman is that using political whips in this manner may well amount to findings of maladministration. It may be advisable that the chair of the licensing sub-committee should state, during proceedings, that no

member of the sub-committee is bound by any party whip.

- Councillors must not be members of the licensing sub-committee if they are involved in campaigning about the particular application.
- Other members (ie those who do not sit on the licensing sub-committee) need to be careful when discussing issues relating to matters which may come before the licensing sub-committee members as this can easily be viewed as bias/pressure and may well open that sub-committee member to accusations of such. While a full prohibition upon discussing such issues with committee members by other members may be impractical and undemocratic, local authorities are advised to produce local guidance for members on how such matters can be dealt with. Such guidance could include a definition of what is viewed as excessive, eg attempting to obtain a commitment as to how the member might vote.
- Councillors must also be aware of the need to declare any pecuniary or non-pecuniary interests in matters that may come before them, whether these relate to policy issues or to specific applications.
- Member behaviour is also governed by the code of conduct which members should have regard to, and most authorities also have a member/officer protocol which governs how members and officers should interact and the differences in their roles and responsibilities.
- Members should consult their monitoring officers for further advice where necessary.

A well-defined policy and comprehensive scheme of delegation to officers can go a long way to avoiding many of these pitfalls, although, of course, members must retain full oversight of how the scheme is working.

There are no rules preventing councillors from sitting on applications within their own wards, although some authorities adopt their own rules to avoid this. Members may make representations about applications,

make representations on behalf of others, or appear at a hearing if asked to do so by another person who has made a representation (subject to the rules above).

### **Principles of good practice**

Ultimately, there are three objectives in holding a hearing; to conduct it fairly, so that each party, regardless of the outcome, would ultimately accept that they have had a fair opportunity to put forward their case; to grant a licence (if appropriate) that promotes the licensing objectives; and also to assist in producing well-reasoned, balanced, and proportionate decisions which will withstand the scrutiny of an appeal.

Procedures should be published before the hearing and reiterated at the outset of a hearing. The chair (who may be elected at the start of the hearing) also has the role of ensuring members have read and understood papers. During a hearing (within the boundaries of fairness), needless formality should be avoided, the meeting should proceed as a discussion, and there should be a dialogue with the chair who is keeping order. The cross-examination of parties at the hearing (the repeated questioning of a person on the same point) should be avoided.<sup>25</sup>

Time limits can be a useful way of managing the hearing, but must be sufficient to allow an applicant or their representative to effectively put their case forward. The practise of allowing a limited amount of time, for example five minutes, for each party to address the sub-committee should be discouraged in all apart from exceptional cases such as where there are a very large number of people wishing to address the sub-committee. Parties must also have adequate time to respond to submissions or questions.

Members must take into account anything relevant, and use this to make judgements or inferences, about potential harm and what is necessary to avoid it. For example they can draw on local knowledge, regardless of whether it would qualify as 'evidence' in a court. However, it is sensible to raise any specific areas of local knowledge for comment by the parties. The committee must disregard any irrelevant considerations, including (but not limited to) information or evidence which is not relevant to the application or to the promotion of the licensing objectives.

The committee may accept hearsay evidence, such as when a witness gives evidence of something which they did not personally see or hear. For example, a newspaper report about a fight at the premises or a neighbour's description of dispersal noise from the premises at night. Hearsay is admissible but it inherently carries less weight than the direct evidence of a witness who experienced the events being described.

Many SLPs contain rules about how petitions would be treated by the sub-committee. It may also refer to 'round robin' letters, and how much weight will be attached to those.

Part of the role of the committee is to keep order, which can mean making sure people stick to the point and to 'cut through issues'. Committees also need to ensure fair treatment of witnesses for example preventing them from being interrupted, and ensuring no 'leading questions' are asked on contentious matters. It is good practice to ask open-ended questions and preferably through the chair.

The committee should be proactive with conditions and it is always worth considering whether objections could be overcome by conditions. Comments should be invited on proposed conditions before they are imposed.

<sup>25</sup> Regulation 23, Licensing Act 2003 (Hearing) Regulations 2005 states: 'A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.'

Members should not express a view on merits before giving decisions. There is a duty to behave impartially so members should not make up their mind until the end, nor appear to do so. Merits of the case should not be discussed with the press or residents or any of the parties to the hearing. If this does happen, disqualification from the hearing should be considered.

This also applies to the time leading up to the hearing. Members must not prejudge any application, express any view on the merits of any application, organise any support or opposition to any application, in advance of the hearing. Any member with a 'closed mind' on any application should be disqualified from sitting on the Licensing Committee which considers that application.

The sub-committee has up to five working days after the end of the hearing to make its decision and give its reasons. Sometimes this additional time is useful to fully consider the representations and the application in more depth.

### **Late representations and evidence**

Representations can be supported with any other relevant material, and can be provided at any time up to 24 hours before the hearing. If material is provided at the hearing, it must be with the consent of all the parties, to avoid a party being ambushed with material they might not be able to respond to.

It is up to the committee's discretion whether to allow late evidence. You may want to consider:

- length, content, complexity and impact of the document
- explanation for any delay
- prejudice to other parties
- whether an adjournment (even to later the same day) would assist the parties to assess the material.

### **Decision making**

Licensing hearings are administrative in nature – neither party has a burden of proof – but the procedures may be slightly different to the usual arrangements for other council committee meetings. The rules of natural justice apply, ie a party must know the case against them; anyone affected by a decision has a right to be heard; and no one should be a judge in his own cause.

All the parties should be given a full and fair hearing, which should be conducted in an open, transparent and accountable manner. Licensing applications must all be considered on the basis of whether they promote the four licensing objectives as incorporated in the SLP. Each application must be considered on its own merits and whilst consistency is important similar applications may be decided in different ways.

Decisions must accord with the Wednesbury<sup>26</sup> principle of reasonableness.

Wednesbury principle

'[A decision] So outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it.'

Wednesbury criteria

- in making the decision, the sub-committee took into account factors that ought not to have been taken into account, or
- the sub-committee failed to take into account factors that ought to have been taken into account, or
- the decision was so unreasonable that no reasonable authority would ever consider imposing it.

<sup>26</sup> Associated Provincial Picture Houses Ltd. v Wednesbury Corporation' [1948] 1 KB 223



In reaching their decisions under the Act, the Licensing Committee must have regard to all relevant considerations including (but not limited to):

- the relevant statutory provisions
- relevant statutory guidance issued under Section 182 of the Act
- the SLP
- the licensing objectives
- the material facts based on the relevant evidence presented and representations received
- the individual merits of each case
- the public interest.

The sub-committee must also ensure decisions are compatible with the Human Rights Act 1998, and take account of the council's wider duties to prevent crime under the Crime and Disorder Act 1998 and to promote equalities under the Equalities Act 2010.

The sub-committee can either grant or refuse a licence application where it is appropriate to do so for the promotion of the licensing objectives, and in accordance with its SLP (unless there are good reasons to depart from the SLP). It may impose additional conditions if it is appropriate to do so, and those conditions should be appropriate to those issues raised in representations or volunteered by the applicant.

### **Giving reasons**

Formulating effective reasons for any decision is vital. The sub-committee will need to make clear to parties why they have reached a decision, not just what the decision is. Reasons do not have to be lengthy (see below) but must deal with the main issues: it is important to explain any findings of fact which were necessary to reach the decision. This ensures that a court can judge whether the decision was correctly made.

### **Case law – full and detailed reasons**

Strong reasons are important if an appeal is made. The fuller and clearer the reasons, the more weight they are likely to carry. The Hope and Glory<sup>27</sup> case is helpful here:

'Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on.

'In a sense questions of fact, they are not question of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location... (this) is essentially a matter of judgment rather than a matter of pure fact.'

Reasons must also refer to all representations – including referring back to the officer report. A useful structure to follow is:

- summarise key points from the evidence heard
- explain why a particular approach was taken rather than others, ie why some conditions might or might not have been appropriate
- refer to policy, guidance and licensing objectives as applicable.

If the sub-committee has departed from the SLP or the statutory guidance, there should be good, cogent reasons for this and these should be clearly stated. (For example, the statutory guidance advises that shops and supermarkets should be allowed to sell alcohol during the same times as other goods in the premises. A sub-committee may find it appropriate to limit alcohol sales to particular times to avoid the risk of sales to under-age people or street drinkers.)

<sup>27</sup> R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

Many licensing authorities have standard templates in which to record decisions and reasons. The decision notice also often serves as the minutes of the sub-committee and is retained as a public record.

### **Examples of reasons**

Reasons should articulate which party's evidence was preferred and why. If for example a party provided inconsistent or vague evidence, the decision notice should say so and make reference to that being the reason that their evidence was not preferred over that of other parties present during the hearing who were more precise and consistent in their submissions.

Rather than just saying a condition has been imposed 'to promote the crime prevention licensing objective', they should also articulate how it would do so and why it is appropriate to impose the condition for example:

'The condition imposed requiring CCTV to be installed is considered appropriate to promote the prevention of crime and disorder as the presence of CCTV will deter people from engaging in criminal or disorderly behaviour and assist in providing evidence to the police of those who have been involved in such behaviour so that appropriate action can be taken against them.'

Other examples could include:

'The condition requiring self-closing devices to be fitted to the external doors of the premises is considered appropriate to promote the prevention of public nuisance as this will help to minimise noise breaking out from the premises when people enter or leave the building.'

## **Roles**

### **The role of the chair of the licensing committee/sub-committee**

The role of the chair is not explicitly referred to in the Act or the Section 182 guidance. However it can be helpful to clearly set out expectations of the role of the chair.

Ultimately, the chair is responsible for oversight of the conduct of hearings and make sure they are carried out properly, this includes ensuring that all relevant matters are discussed and that effective decisions are made. The chair is also responsible for deciding whether any individual councillors should be prohibited from sitting on the committee, for example where there is a conflict of interest.

Before a meeting begins, the chair should ensure members have read and understood the papers. At the beginning of a hearing, the chair should introduce members of the (sub) committee and the council officers and ask others present to introduce themselves.

The chair should explain procedures that are intending to be followed, including a maximum period of time each party will be allowed in which to present their case if deemed necessary. The chair should also ensure procedures are followed throughout the hearing.

Following this, the chair should then ask the licensing officer to outline the background to the case, with each party then asked to confirm that this summary is correct. It is the responsibility of the chair to make sure that issues raised in relation to the case are considered at the hearing.

The chair may ask the licensing officer to clarify factual matters as and when they arise and also where necessary seek advice from the legal advisor or governance officer.

Ultimately, the chair should ensure the (sub) committee reach a decision that is based on criteria set out in the Licensing Act and that clear reasons for this decision are provided.

### **The role of the legal adviser**

The legal adviser's role is to guide and provide advice to the sub-committee, whether or not it is requested, for example:

- questions of law – interpreting any legislation
- matters of practice/procedure
- admissibility of evidence

- range of options available to the committee
- any relevant higher court decisions
- drafting and formulation of conditions
- what the Section 182 guidance says.

The advisor may not take part in findings of fact or decision making, and members should not invite views. Legal advisors have an important but limited role to assist in the formulation and recording of reasons, but not the underlying decision. The legal advisor should advise the committee on the law and, where necessary, steer the committee procedurally to ensure that matters progress fairly and impartially. It is therefore important for legal advisors to receive appropriate training before sitting on a licensing committee or sub-committee as they play an important role and can help ensure consistency.

It is recommended that should any legal advice be given that was not raised during the hearing it should be repeated to the parties before a decision is announced so that any contrary arguments to be taken into account can be made.

### **The role of the licensing officer**

The licensing officer is responsible for preparing a report in advance of the hearing, which should collate and summarise representations. The licensing officer should make a judgement around whether representations are frivolous or vexatious. Practice varies between licensing authorities as to the extent and content of the officer report, and the degree of intervention the licensing officer can have at the hearing. However, the professionalism and expertise of the officers should be recognised and they may be able to help in clarifying matters that arise during the course of the hearing that are not set out in the report or the representations.

Following the hearing, the licensing officer must transpose conditions onto the licence. These will include mandatory conditions, any 'conditions consistent with the operating schedule', and any other conditions imposed at the hearing. The key point here is that these conditions need to be enforceable.

If a licensing officer has made representations on behalf of the licensing authority as a responsible authority they should be treated in the same way as other parties to the hearing.

## **What happens if the committee's decision is challenged?**

### **Process for appeals**

Applicants and others may complain using the council's corporate complaints system if they think their application has been poorly handled administratively: they may also complain to the Local Government and Social Care Ombudsman if they remain dissatisfied.

However should they wish to challenge the committee's decision, any party to a hearing has the right to appeal to the Magistrates court within 21 days of being notified of the licensing authority's decision.

The licensing authority is always the respondent to an appeal and the parties at the sub-committee hearing who are not appealing effectively become witnesses on behalf of the licensing authority, should they wish to do so.

The licensing authority will almost always be represented at an appeal hearing, whether by the council's legal services, external legal advisors or a lawyer specialising in licensing law. Whilst the cost of external legal representation can be daunting, Magistrates can and will award costs against the council if they are found to have departed unreasonably from their policy; however, they should not award costs if the council has acted reasonably but came to an erroneous decision. This is backed up in case law.

Magistrates are effectively 'in the shoes' of the licensing authority and are therefore bound in the same way by its policy, ie if they depart from it they must also record their reasons for doing so. The Magistrates cannot however 'challenge' or disagree with the licensing authority's policy. This can only be done by way of a judicial review.

A Magistrates court should assess the appeal solely on the basis of the facts and the licensing authority's licensing policy; they will not find against the authority simply on the basis that they disagree with the conclusion – the assessment is on whether the authority could reasonably and legally reach the conclusion that it did. The key test for the courts is whether the authority's decision was 'wrong'.

As the appeal is a 'hearing de novo' (a fresh hearing) the court may hear evidence of events or changes since the original sub-committee hearing – for example the police may have evidence of further crimes at the premises, or the appellants may have evidence of new, improved operating procedures.

In light of that, there are some very simple steps that licensing authorities can take at each hearing to ensure the authority is in a robust, defensible position if there is an appeal:

- Ensure proper administrative procedure is followed and that all parties are dealt with fairly.
- Avoid any instance of bias or having predetermined the case. If a councillor has campaigned politically on a relevant issue they may ask how the applicant is able to address the particular issue, but must demonstrably show that they consider the response with an open mind.
- Always set out the reasons for decisions. This includes the relevant weight that licensing committee members applied to the evidence presented by different parties; and whether or not they have followed or are departing from the authority's policy. Members may depart from your council policy, but must be clear about your reasons for doing so.

'behind every ground for refusal there have to be adequate reasons, and for those reasons there has to be a proper basis in fact, ie there must be adequate material to substantiate any ground of refusal' *Leisure Inns UK v Perth and Kinross*

It is worth noting that licensing appeals can take a significant length of time to be heard in the Magistrates' courts. Hearings can take months to arrange and premises continue to carry on licensable activities while the appeal process is ongoing.

### **Pre-appeal negotiations**

Negotiations may take place during the period after a sub-committee hearing and an appeal hearing between the appellant and other parties – for example, a premises licence holder may have further discussions with a responsible authority about the way in which they propose to operate the premises. (This is similar to the process following the receipt of representations and prior to the sub-committee hearing).

An agreement may be reached for the operating schedule to be amended or other conditions to be added to the licence and for the appeal to be withdrawn. As the licensing authority is always the respondent to the appeal, it is recommended good practice that the authority's legal advisers or licensing officers consult with the chair and/or sub-committee members and any other party to the appeal about the terms of any possible agreement. The court can then be invited to confirm a consent order agreed between the parties, requiring the licensing authority to issue a licence on the agreed terms, or to remit the appeal back to the sub-committee for its further determination.

### **Councillor presence at an appeal**

Some licensing authorities may wish to call the chair of the licensing committee or relevant sub-committee to give evidence to the court as to why they reached their particular conclusion. Whilst it may be helpful, such reasons should be contained within the committee minutes or determination notice which can be produced in the licensing officers' evidence. It will be a matter of fact in each case how much weight the court puts on a councillor's evidence in this regard, taking into account that the appeal is a new hearing, operating as if the original decision had not been made.

In most cases either the licensing officer will give evidence as to the fact of the sub-committee's determination, or it will be accepted by the court as a matter of public notice.

# Responding to issues at licensed premises

It is good practice for officers and responsible authorities to give licensees early warning of any concerns or issues relating to the licensing objectives that are linked to the premises and to offer advice on the need for improvement.

A graduated approach consisting of advice, warnings, the use of action plans or statutory notices is sometimes appropriate depending on the nature and severity of the concern.

However, where there is a failure to respond to warnings or where concerns are particularly serious licensing authorities can be asked to review a licence. It is important to note that the vast majority of licensed premises are responsible businesses and reviews are relatively rare.<sup>28</sup>

## Reviews

A review functions as a safeguard or 'check and balance' for communities in the case where problems associated with the licensing objectives are occurring once a licence has been granted, or varied.

There are four types of reviews which licensing authorities can use depending on the circumstances relating to the request. These are:

- a standard review
- a summary/expedited review
- a review following a closure order
- a review following a compliance order made under the Immigration Act.

For the purpose of this section the focus will be on the standard review which can relate to the failure to promote licensing objectives, or a breach of conditions.

A responsible authority, residents, businesses or councillors, indeed anyone may seek a review of a premises licence and, in the case of a club premises certificate, that includes the members of the club. This can be done at any point following the grant or variation of a licence or certificate. Home Office figures show that the police are responsible for instigating most reviews, and most relate to the 'crime and disorder' objective.

The review process includes a 28-day consultation process to allow for public engagement. In a similar way to a hearing, any relevant material can be considered by the sub-committee and the party applying for the review has to persuade the sub-committee the licensing objectives are being undermined.

The primary purpose of a review is to act as a deterrent to prevent further breaches. It can also prevent any licensable activities which are causing concern from happening in future

There are a range of options open to a sub-committee:

- to modify or add conditions, including reducing hours
- change management – remove the DPS
- suspend all or any of the licensable activities for up to three months
- revoke the licence.

<sup>28</sup> As of March 2018, only 611 reviews were completed in England and Wales (Home Office: 2018) [www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2018](http://www.gov.uk/government/statistics/alcohol-and-late-night-refreshment-licensing-england-and-wales-31-march-2018)

Any of these steps needs to be shown to be appropriate and proportionate. Clearly revocation is the most serious of these and will need careful consideration. In most cases, reviews result in the modification or addition of conditions to the licence.

In certain circumstances the police have the power to apply to a Magistrate's Court for a Closure Order, these should not be used lightly and should only be sought where necessary to prevent disorder. Following the making of a Closure Order the licensing authority must complete a review of the Premises Licence within 28 days. The Home Office issues separate guidance<sup>29</sup> around police powers to close premises.

### Summary reviews

Summary reviews can be made by the police (a police superintendent or above) where premises are associated with serious crime and/or disorder. This would typically be involving violence or money laundering. The Home Office issues guidance which includes issues to take into consideration.<sup>30</sup>

Summary reviews are fast track reviews within 28 days with the power to impose interim steps within 48 hours of the application pending a full review hearing. Interim steps could be modifying conditions, ceasing the sale of alcohol, removing the DPS or suspending a licence.

These are very much a last resort and not a routine step. Again, the Home Office issues specific guidance around summary reviews and forms are set out in statute.

## Prosecution

Either before or in conjunction with a review officers may also consider using other statutory powers, including commencing a prosecution.

Prosecutions must relate to a specific breach of licence condition or specific offence under the Act with each element of the offence needing to be proved beyond reasonable doubt. Prosecutions can only be commenced by a responsible authority and must be started within 12 months of discovery of the offence.

The purpose of a prosecution is punitive and for licensing offences a review (with the threat of revocation or suspension) can often be more of a deterrent.

Range of options open to the court:

- unlimited fine
- imprisonment for up to six months (or suspended sentence)
- forfeit or suspend a personal licence where the defendant is a personal licence holder.

In practice, a case can take a significant amount of time to come to court – if there are issues with the promotion of the licensing objectives which can't be resolved amicably, then review is likely to be the most appropriate response.

<sup>29</sup> Home Office (2011) 'Guidance on police powers to close premises under the Licensing Act 2003'

<sup>30</sup> [www.gov.uk/government/publications/summary-review-application-for-the-review-of-a-premises-licence-under-section-53a-of-the-licensing-act-2003-premises-associated-with-serious-crime-serious-disorder-or-both](http://www.gov.uk/government/publications/summary-review-application-for-the-review-of-a-premises-licence-under-section-53a-of-the-licensing-act-2003-premises-associated-with-serious-crime-serious-disorder-or-both)

# Glossary

Designated Premises Supervisor (DPS)	A DPS is the person named on the premises licence as the individual designated to supervise the premises.
Operating schedule	An operating schedule sets out how an applicant for a premises licence (or club premises certificate) will promote the licensing objectives.
Responsible authority (RA)	<p>RAs are statutory bodies who need to be notified of every application for a new premises licence, or variation of an existing licence.</p> <p>RAs include the police, fire authority, trading standards, health and safety and environmental health.</p>





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# Supporting Guidance - Pools of Conditions

**The content of this guidance broadly reflects but is not the statutory guidance (or any part of the statutory guidance) issued by the Secretary of State under section 182 of the Licensing Act 2003. This good practice guidance should be viewed as indicative and may be subject to change. Revised statutory guidance issued under section 182 of the Licensing Act 2003 was laid in Parliament on 25 April 2012 and is available on the Home Office website.**

## CORE PRINCIPLES

1. Licensing authorities and other responsible authorities (in considering applications) and applicants for premises licences and clubs premises certificates (in preparing their operating schedules) should consider whether the measures set out below are appropriate to promote the licensing objectives.
2. Any risk assessment to identify appropriate measures should consider the individual circumstances of the premises and the nature of the local area, and take into account a range of factors including:
  - the nature, type and location of the venue;
  - the activities being conducted there and the potential risk which these activities could pose to the local area;
  - the location (including the locality in which the premises are situated and knowledge of any local initiatives); and
  - the anticipated clientele.

**Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.**

3. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate, they become enforceable under the law and breach could give rise to prosecution.
4. Licensing authorities should carefully consider conditions to ensure that they are not only appropriate but realistic, practical and achievable, so that they are capable of being met. Failure to comply with conditions attached to a licence or certificate could give rise to a prosecution, in particular, as the provision of unauthorised licensable activities under the 2003 Act, which, on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce must be excluded.

## PART 1. CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

### RADIO LINKS AND TELEPHONE COMMUNICATIONS

Two-way radio links and telephone communications connecting staff of premises and clubs to local police and other premises can enable rapid responses to situations that may endanger the customers and staff on and around licensed premises. It is recommended that radio links or

telephone communications systems should be considered for licensed premises in city and town centre leisure areas with a high density of premises selling alcohol. These conditions may also be appropriate in other areas. It is recommended that a condition requiring a radio or telephone link to the police should include the following requirements:

- the equipment is kept in working order (when licensable activities are taking place);
- the link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- relevant police instructions/directions are complied with where possible; and
- instances of crime or disorder are reported via the radio link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

## DOOR SUPERVISORS

Conditions relating to the provision of door supervisors and security teams may be valuable in relation to:

- keeping out individuals excluded by court bans or by the licence holder;
- searching those suspected of carrying illegal drugs, or carrying offensive weapons;
- assisting in the implementing of the premises' age verification policy; and
- ensuring that queues outside premises and departure of customers from premises do not undermine the licensing objectives.

Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, it may also be appropriate for conditions to stipulate:

- That a sufficient number of supervisors be available (possibly requiring both male and female supervisors);
- the displaying of name badges;
- the carrying of proof of registration; and
- where, and at what times, they should be in operation.

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

## RESTRICTING ACCESS TO GLASSWARE

Traditional glassware and bottles may be used as weapons or result in accidents and can cause very serious injuries. Conditions can prevent sales of drinks in glass for consumption on the premises. This should be expressed in clear terms and can include the following elements:

- no glassware, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar; or
- no customers carrying glassware shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place).

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be given to customers for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

The banning of glass may also be a relevant and appropriate measure to promote public safety (see Part 2).

## ALTERNATIVES TO TRADITIONAL GLASSWARE

Where appropriate, consideration should therefore be given to conditions requiring the use of safer alternatives to prevent crime and disorder, and in the interests of public safety. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is appropriate. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of alternatives to traditional glassware may be an appropriate condition during the showing of televised live sporting events, such as international football matches, when there may be high states of excitement and emotion.

## OPEN CONTAINERS NOT TO BE TAKEN FROM THE PREMISES

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be appropriate to prevent the use of these containers as offensive weapons, or to prevent consumption of alcohol, in surrounding streets after individuals have left the premises. Restrictions on taking open containers from the premises may also be appropriate measures to prevent public nuisance (see Part 4).

## CCTV

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise location of each camera, the requirement to maintain cameras in working order, to retain recordings for an appropriate period of time and produce images from the system in a required format immediately to the police and local authority. The police should provide individuals conducting risk assessments as part of preparing their operating schedules with advice on the use of CCTV to prevent crime.

## RESTRICTIONS ON DRINKING AREAS

It may be appropriate to restrict the areas of the premises where alcoholic drinks may be consumed after they have been purchased. An example would be at a sports ground where it is appropriate to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances and times during which the ban would apply.

Restrictions on drinking areas may also be relevant and appropriate measures to prevent public nuisance (see Part 4).

## CAPACITY LIMITS

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but can also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is appropriate, door supervisors may be required to ensure that the numbers are appropriately controlled (see above).

## PROOF OF AGE CARDS

It is unlawful for persons aged under 18 years to buy or attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent the commission of these criminal offences, the mandatory conditions require licensed premises to ensure that they have in place an age verification policy. This requires the production of age verification (which must meet defined criteria) before alcohol is served to persons who appear to staff at the premises to be under 18 (or other minimum age set by premises).

Such verification must include the individual's photograph, date of birth and a holographic mark e.g. driving licence, passport, military ID. Given the value and importance of such personal documents, and because not everyone aged 18 years or over necessarily has such documents, the Government endorses the use of ID cards which bear the PASS (Proof of Age Standards Scheme) hologram. PASS is the UK's national proof of age accreditation scheme which sets and maintains minimum criteria for proof of age card issuers to meet. The inclusion of the PASS hologram on accredited cards, together with the verification made by card issuers regarding the personal details

of an applicant, gives the retailer the assurance that the holder is of relevant age to buy or be served age-restricted goods. PASS cards are available to people under the age of 18 for other purposes such as access to 15 rated films at cinema theatres so care must be taken to check that the individual is over 18 when attempting to purchase or being served alcohol.

## CRIME PREVENTION NOTICES

It may be appropriate at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to voluntarily display such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be appropriate for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

## DRINKS PROMOTIONS

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. It is also likely to be unlawful for licensing authorities or the police to promote generalised voluntary schemes or codes of practice in relation to price discounts on alcoholic drinks, 'happy hours' or drinks promotions. The mandatory licensing conditions (see chapter 10 of the statutory guidance) ban defined types of behaviour referred to as 'irresponsible promotions'.

## SIGNAGE

It may be appropriate that the hours at which licensable activities are permitted to take place are displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place. Similarly, it may be appropriate for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

## LARGE CAPACITY VENUES USED EXCLUSIVELY OR PRIMARILY FOR THE "VERTICAL" CONSUMPTION OF ALCOHOL (HVVDs)

Large capacity "vertical drinking" premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises that have exceptionally high capacities, are used primarily or exclusively for the sale and consumption of alcohol, and provide little or no seating for their customers.

Where appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;

- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see Chapter 10 to control entry for the purpose of compliance with the capacity limit.

## **PART 2. CONDITIONS RELATING TO PUBLIC SAFETY**

The attachment of conditions to a premises licence or club premises certificate will not relieve employers of their duties to comply with other legislation, including the Health and Safety at Work Act 1974 and associated regulations; and, especially, the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control them. Conditions enforcing these requirements are therefore inappropriate.

From 1 October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Licensing authorities should note that under article 43 of the Regulatory Reform (Fire Safety) Order 2005 any conditions imposed by the licensing authority that relate to any requirements or prohibitions that are or could be imposed by the Order have no effect. This means that licensing authorities should not seek to impose fire safety conditions where the Order applies. See Chapter 2 of the statutory guidance for more detail about the Order or <http://www.communities.gov.uk/fire/firesafety/firesafetylaw/>

### **GENERAL**

Additional matters relating to cinemas and theatres are considered in Part 3. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

In addition, to considering the points made in this Part, those preparing operating schedules or club operating schedules; and licensing authorities and other responsible authorities may consider the following guidance, where relevant:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) (“The Purple Book”) ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- 5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) (“The Green Guide”) ISBN 0 11 300095 2



- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through: [www.streetartsnetwork.org.uk/pages/publications.htm](http://www.streetartsnetwork.org.uk/pages/publications.htm) The London District Surveyors Association's "Technical Standards for Places of Public Entertainment" ISBN 0 9531229 2 1

The following British Standards should also be considered:

- BS 5588 Part 6 (regarding places of assembly)
- BS 5588 Part 9 (regarding ventilation and air conditioning systems)
- BS 5588 Part 9 (regarding means of escape for disabled people)
- BS 5839 (fire detection, fire alarm systems and buildings)
- BS 5266 (emergency lighting systems)

**In most premises, therefore, relevant legislation will provide adequately for the safety of the public or club members and guests. However, where this is not the case, consideration might be given to the following conditions.**

#### SAFETY CHECKS

- Safety checks are carried out before the admission of the public.
- Details of such checks are recorded and available to the relevant authorities for inspection.

#### ESCAPE ROUTES

- Exits are not obstructed (including by curtains, hangings or temporary decorations), and accessible via non-slippery and even surfaces, free of trip hazards and clearly identified.
- Where chairs and tables are provided in restaurants and other premises, internal gangways are kept unobstructed.
- All exits doors are easily opened without the use of a key, card, code or similar means.
- Doors at such exits are regularly checked to ensure that they function satisfactorily and a record of the check kept.
- Any removable security fastenings are removed whenever the premises are open to the public or occupied by staff.
- The edges of the treads of steps and stairways are maintained so as to be conspicuous.

#### DISABLED PEOPLE

That adequate arrangements exist to enable the safe evacuation of disabled people in the event of an emergency; and that disabled people on the premises are made aware of those arrangements.

## LIGHTING

- That lighting in areas accessible to the public, members or guests shall be adequate when they are present.
- That emergency lighting functions properly.
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

## CAPACITY LIMITS

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate is not exceeded.
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and be required to inform any authorised person on request.

## ACCESS FOR EMERGENCY VEHICLES

- Access for emergency vehicles is kept clear and free from obstruction.

## FIRST AID

Adequate and appropriate supply of first aid equipment and materials is available on the premises.

If necessary, at least one suitably trained first-aider shall be on duty when the public are present; and if more than one suitably trained first-aider that their respective duties are clearly defined.

## TEMPORARY ELECTRICAL INSTALLATIONS

- Temporary electrical wiring and distribution systems are not provided without notification to the licensing authority at least ten days before commencement of the work and/or prior inspection by a suitable qualified electrician.
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909.

- Where they have not been installed by a competent person, temporary electrical wiring and distribution systems are inspected and certified by a competent person before they are put to use.

In relation to the point in the first bullet above, it should be recognised that ten days notice may not be possible where performances are supported by outside technical teams (for example, where temporary electrical installations are made in theatres for television show performances). In such circumstances, the key requirement is that conditions should ensure that temporary electrical installations are only undertaken by competent qualified persons (for example, those employed by the television company).

#### INDOOR SPORTS ENTERTAINMENTS

- If appropriate, a qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature.
- Any ring is constructed by a competent person and/ or inspected by a competent authority.
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring.
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also Managing Health and Safety in Swimming Pools issued jointly by the Health and Safety Executive and Sport England).

#### SPECIAL EFFECTS

The use of special effects in venues being used for regulated entertainment can present significant risks. Special effects or mechanical installations should be arranged and stored so as to minimise any risk to the safety of the audience, the performers and staff. Further details and guidance are given in Part 3.

#### ALTERATIONS TO THE PREMISES

Premises should not be altered in such a way as to make it impossible to comply with an existing licence condition without first seeking a variation of the premises licence to delete the relevant public safety condition. The applicant will need to propose how they intend to take alternative steps to promote the public safety objective in a new operating schedule reflecting the proposed alteration to the premises.

The application for variation will enable responsible authorities with expertise in safety matters to consider whether the proposal is acceptable.

## OTHER MEASURES

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be appropriate to promote public safety. These might include the provision of door supervisors, bottle bans, and requirements to use plastic or toughened glass containers (see Part 1 for further detail).

## **PART 3.THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES (PROMOTION OF PUBLIC SAFETY)**

In addition to the points in Part 2, there are particular public safety matters which should be considered in connection with theatres and cinemas.

### **PREMISES USED FOR CLOSELY SEATED AUDIENCES**

#### ATTENDANTS

(a) The number of attendants on each floor in a closely seated auditorium should be as set out on the table below:

<b>Number of members of the audience present on a floor</b>	<b>Minimum number of attendants required to be present on that floor</b>
1 – 100	One
101 – 250	Two
251 – 500	Three
501 – 750	Four
751 -1,000	Five
And one additional attendant for each additional 250 persons (or part thereof)	

- (b) Attendants shall not be engaged in duties that would prevent them from promptly discharging their duties in the event of an emergency or require their absence from that floor or auditorium where they are on duty.
- (c) Attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
- (d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to an authorised person on request.

- (e) No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
- (f) A copy of any certificate relating to the design, construction and loading of temporary seating shall be kept available at the premises and shall be shown to an authorised person on request.

## SEATING

Where the potential audience exceeds 250 all seats in the auditorium should be securely fixed to the floor or battened together in lengths of not fewer than four and not more than twelve.

Standing and sitting in gangways etc

- (a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
- (b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
- (c) In no circumstances shall anyone be permitted to-
  - (i) sit in a gangway;
  - (ii) stand or sit in front of an exit; or
  - (iii) stand or sit on a staircase, including landings.

## DRINKS

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to, or be consumed by, a closely seated audience except in plastic and paper containers.

## BALCONY FRONTS

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

## SPECIAL EFFECTS

Special effects or mechanical installations should be arranged and stored so as to minimise risk to the safety of the audience, the performers and staff.

Specials effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;

- firearms;
- motor vehicles;
- strobe lighting;
- lasers; and
- explosives and highly flammable substances.

In certain circumstances, it may be appropriate to require that certain special effects are only used with the prior notification of the licensing authority. In these cases, the licensing authority should notify the fire and rescue authority, who will exercise their inspection and enforcement powers under the Regulatory Reform (Fire Safety) Order. Further guidance can be found in the following publications:

- HSE Guide ‘The radiation safety of lasers used for display purposes’ (HS(G)95)
- ‘Smoke and vapour effects used in entertainment’ (HSE Entertainment Sheet No 3);
- ‘Special or visual effects involving explosives or pyrotechnics used in film and television production’ (HSE Entertainment Sheet No 16);
- ‘Electrical safety for entertainers’ (HSE INDG 247)
- ‘Theatre Essentials’ – Guidance booklet produced by the Association of British Theatre Technicians 8

## CEILINGS

Ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person, who will decide when a further inspection is necessary, and a certificate concerning the condition of the ceilings forwarded to the licensing authority.

## PREMISES USED FOR FILM EXHIBITIONS

### ATTENDANTS – PREMISES WITHOUT A STAFF ALERTING SYSTEM

Where the premises are not equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty
1 – 250	Two
And one additional attendant for each additional 250 members of the audience present (or part thereof)	
Where there are more than 150 members of audience in any auditorium or on any floor	At least one attendant shall be present in any auditorium or on any floor

## ATTENDANTS – PREMISES WITH A STAFF ALERTING SYSTEM

(a) Where premises are equipped with a staff alerting system the number of attendants present should be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 – 500	Two	One
501 – 1,000	Three	Two
1001 – 1,500	Four	Four
1,501 or more	Five plus one for every 500 (or part thereof) persons over 2,000 on the premises	Five plus one for every 500 (or part thereof) persons over 2,000 on the premises

(b) Staff shall not be considered as being available to assist in the event of an emergency if they are:

- (i) the holder of the premises licence or the manager on duty at the premises; or
- (ii) a member of staff whose normal duties or responsibilities are likely to significantly affect or delay their response in an emergency situation; or
- (iii) a member of staff whose usual location when on duty is more than 60 metres from the location to which they are required to go on being alerted to an emergency situation.

(c) Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.

(d) The staff alerting system shall be maintained in working order.

## MINIMUM LIGHTING

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

## **PART 4. CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE**

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from public nuisance, including noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are appropriate for the prevention of public nuisance.

### **HOURS**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted for the prevention of public nuisance. Licensing authorities are best placed to determine what hours are appropriate. However, the four licensing objectives should be paramount considerations at all times.

Restrictions could be appropriate on the times when certain licensable activities take place even though the premises may be open to the public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be appropriate on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises are open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

### **NOISE AND VIBRATION**

In determining which conditions are appropriate, licensing authorities should be aware of the need to avoid disproportionate measures that could deter the holding of events that are valuable to the community, such as live music.

Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:



Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:

- a simple requirement to keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- requiring the licence holder to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licence holder to undertake routine monitoring to ensure external levels of music are not excessive and take action where appropriate;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful);
- prominent, clear and legible notices to be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted; and
- the placing of refuse – such as bottles – into receptacles outside the premises to take place at times that will minimise the disturbance to nearby properties.

## NOXIOUS SMELLS

Noxious smells from the premises are not permitted to cause a nuisance to nearby properties; and the premises are properly vented.

## LIGHT POLLUTION

Flashing or particularly bright lights at the premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

## OTHER MEASURES

Other measures previously mentioned in relation to the crime prevention objective may also be relevant as appropriate to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).

## **PART 5. CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM**

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### ACCESS FOR CHILDREN TO LICENSED PREMISES – IN GENERAL

The 2003 Act prohibits unaccompanied children from premises that are exclusively or primarily used for the supply of alcohol for consumption on the premises. Additional restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where they are appropriate to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

It is recommended (unless there are circumstances justifying the contrary) that in relation to:

- premises with known associations (having been presented with evidence) with or likely to give rise to: heavy or binge or underage drinking;
- drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years;
- premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances should, when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, it is recommended that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children, subject to the terms of the 2003 Act.

#### AGE RESTRICTIONS – SPECIFIC

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- The hours in a day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be appropriate to impose age restrictions for earlier parts of the day.
- Types of event or activity that are unlikely to require age restrictions, for example:
  - family entertainment; or
  - alcohol free events for young age groups, such as under 18s dances,
- Types of event or activity which give rise to a more acute need for age restrictions than normal, for example: during “Happy Hours” or drinks promotions;

#### AGE RESTRICTIONS – CINEMAS

The British Board of Film Classification classifies films in accordance with its published Guidelines, which are based on research into public opinion and professional advice. It is therefore recommended that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role.

Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films in the following way:

- U Universal – suitable for audiences aged four years and over
- PG – Parental Guidance. Some scenes may be unsuitable for young children.
- 12A – Suitable for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 – Suitable for viewing by persons aged 15 years and over.
- 18 – Suitable for viewing by persons aged 18 years and over.

- R18 - To be shown only in specially licensed cinemas, or supplied only in licensed sex shops, and to adults of not less than 18 years.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at [www.bbfc.co.uk](http://www.bbfc.co.uk) before applying relevant conditions. In addition to the mandatory condition imposed by section 20, conditions restricting the admission of children to film exhibitions should include that:

- where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer.

Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

**Persons under the age of [insert Appropriate age] cannot be admitted to any part of the programme**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction. This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained.”

## THEATRES

The admission of children to theatres, as with other licensed premises, is not expected to be restricted normally unless it is appropriate to promote the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play should normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be appropriate. Entertainment may also be presented at theatres specifically for children (see below). Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of children during any emergency (See Part 3).

## PERFORMANCES ESPECIALLY FOR CHILDREN

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## CHILDREN IN PERFORMANCES

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended prescribe requirements for children performing in a show. Licensing authorities should familiarise themselves with these Regulations and not duplicate any of these requirements. However, if it is appropriate to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.

- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

## THE PORTMAN GROUP CODE OF PRACTICE ON THE NAMING, PACKAGING AND PROMOTION OF ALCOHOLIC DRINKS

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

## PROOF OF AGE CARDS

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder.