

LICENSING SUB-COMMITTEE A – 1 AUGUST 2018

REVIEW OF A PREMISES LICENCE – BUDGENS, 1 CHERTSEY ROAD, WOKING

Executive Summary

This report considers an application to review the Premises Licence (PL) for the above premises from Surrey Police.

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:

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:

23 July 2018

1.0 Summary of Proposal

Application Type: Review of Premises Licence
Variation: No
Site Address: 1 Chertsey Road, Woking, Surrey, GU21 5AA
Applicant Surrey Police, Woking
Application Ref: 17/00056/PREMIS

2.0 Description of Premises and Existing Licence

2.1 Medium sized retail shop with off-licence

2.2 Current licensed hours of operation are:

Sale of Alcohol, Monday to Saturday inclusive – 08:00 to 23:00

Sale of Alcohol, Monday to Saturday inclusive – 10:00 to 22:30

2.3 The Premises Licence is attached as Appendix 1

3.0 Details of Application

3.1 Surrey Police have called for a review of the premises licence on the grounds that it believes the Licensing Objectives of prevention of crime and disorder and the protection of children from harm are being adversely affected. The full application is attached as Appendix 2.

4.0 Promotion of Licensing Objectives

4.1 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.

5.0 Relevant Representations

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

Responsible Authorities

Surrey Police: Original review application, attached as Appendix 2
Surrey Fire and Rescue Service: No representations received.
Environmental Health (WBC): No representations received.

Planning Authority (WBC):	No representations received.
Social Services (SCC):	No representations received.
Trading Standards:	Representations received, attached as Appendix 3

Interested Parties

Members of Public:	No representations received.
Other Persons:	Representations received from Welcome Skills on behalf of Mr Nurul Islam. Attached as Appendix 6.

6.0 Policy Considerations

- 6.1 In making its decision, the Sub-Committee is obliged to have regard to the relevant national Guidance (Appendix 4) 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, and its duty under S17 Crime and Disorder Act 1998.
- 6.2 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 2016-2021

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, club or business holding the licence, certificate or authorisation concerned.

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 issues in high volume vertical drinking (HVVD) establishments.
- 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 N/A

7.5 N/A

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 (Protection of Children from Harm)

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. Trading Standards encourage retailers to train their staff specifically about what forms of ID are acceptable and how to check that they are genuine in order to avoid selling to young people using fake ID (currently a growing concern due to the easy access to fakes online and the increasing sophistication of fakes).
 - 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, Challenge 25. In line with Trading Standards, the adoption of a 'Challenge 25' age verification policy is particularly recommended as this is now accepted as best practice by industry and enforcing authorities.
- 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.

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 N/A

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 premise 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.

- The Portman Group operates the Code on behalf of the alcohol industry with the aim of ensuring that all alcoholic drinks are promoted in a socially responsible manner and only to those aged 18 years or older.
- The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products in licensed premises in a manner which may appeal to or attract children. An independent

complaints panel considers complaints about products under the Code, and publishes their decisions on the Portman Group's website, in the trade press and in its 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.
- If a retailer continues to stock products or point of sale material which have been found in breach of the Code by the Independent Complaints Panel, the Portman Group may notify the Council and request it to take this into account, subject to legal requirements, when considering whether to grant, transfer, renew or revoke licences. Breaches of the Code may also be notified to the Local Authorities Co-ordinators of Regulatory Services (LACORS), which may, in some cases, lead to prosecutions under appropriate legislation
- Companies may indicate their support for the Code and their willingness to abide by the decisions of the Independent Complaints Panel by becoming code signatories.

6.3 The "Pool of Conditions" is provided as Appendix 5.

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

(a) to modify the conditions of the licence; (either permanently or temporarily for up to three months);

(b) to exclude a licensable activity from the scope of the licence; (either permanently or temporarily for up to three months);

(c) to remove the designated premises supervisor (not applicable where alcohol is not licensed)

(d) to suspend the licence for a period not exceeding three months;

(e) to revoke the licence;

Committee may also offer informal advice and guidance or take no further action.

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 Implications

Financial

7.1 There are no significant financial implications. The applicant, licence holder and any interested parties or responsible authorities who have made a representation have the right of appeal to a Magistrates' Court (within 21 days starting the day after the date a decision is reached) should they feel any decision is unjust. Although there is a possibility

costs may be awarded against the Council where decisions are overturned, case law shows this as unlikely where the Council are shown to be acting in accordance with their duties as Licensing Authority based on information supplied at the time.

Human Resource/Training and Development

7.2 None.

Community Safety

7.3 Improving standards and ensuring compliance can potentially improve community safety in line with the Licensing Objectives as set out in the Licensing Act 2003

Risk Management

7.4 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.

7.5 These risks have been dealt with in the report under section 6.0 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

7.6 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.

8.0 Conclusions

8.1 The Committee is asked to consider the review 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

Appendix 1 – Budgens Premises Licence



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

Premises licence number

17/00056/PREMIS

Part 1 – Premises details

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

Budgens

1 Chertsey Road, Woking, Surrey, GU21 5AA

Telephone number

The date the licence takes effect

3 March 2017

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

Sale of alcohol	Week Days	08:00 - 23:00
Sale of alcohol	Saturday	08:00 - 23:00
Sale of alcohol	Sunday	10:00 - 22:30

Seasonal variation / non-standard timings:

Christmas Day: 12.00 to 15.00 and 19.00 to 22.30

The opening hours of the premises

Not applicable

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

Off premises

PREMIS

Part 2

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

Mr Nurul Islam

8 Woodlands Court, Constitution Hill, Woking, Surrey, GU22 7RY,

E-mail budgens838@btconnect.com

Home phone number 01483 761320

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 Nurul Islam

8 Woodlands Court, Constitution Hill, Woking, Surrey, GU22 7RY,

Home phone number 01483 761320

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 17/00045/PERSON

Licensing Authority Woking Borough Council

3 March 2017

Date Licence Issued



Senior Licensing Officer

PREMIS

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.
- 3) (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - (1) games or other activities which require or encourage, or are designed to require or encourage, individuals to–
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - (2) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries significant risk of undermining a licensing objective.
 - (3) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries significant risk of undermining a licensing objective.
 - (4) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - (5) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 4) The responsible person must ensure that free potable water is provided on request to customers where it reasonably available.
- 5) (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
(2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - a. a holographic mark or
 - b. an ultraviolet feature.
- 6) The responsible person shall ensure that–
 - (1) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures–
 - a. beer or cider: 1/2 pint;
 - b. gin, rum, vodka or whisky: 25 ml or 35 ml; and

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- c. still wine in a glass: 125 ml; and
 - (2) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (3) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.
- 7) (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- (2) For the purpose of the condition set out in paragraph 1:-
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula:- $P = D + (D \times V)$ where:
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence:-
 - (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (a) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph (2) on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (b) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

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Annex 2 – Conditions consistent with the operating schedule

General – all four licensing objectives

None

The prevention of crime and disorder

None

Public safety

None

The prevention of public nuisance

None

The protection of children from harm

None

PREMIS

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

Not applicable

PREMIS

Annex 4 – Plans

P:\3 Store Schematics\Region South East\Alldays South East-151 Stores\Woking 2 -Chertsey Road- 2417\WokingChertsey-P2-A.dwg, Carl Killian

05/00281/PREMS

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EXISTING BASEMENT

WALK-IN FREEZER NOT USED

AREA MANAGERS OFFICE

STAFF ROOM

OFFICE

W.C.

STORE

STOCK ROOM

LIFT

ELECTS. MAINS

PLANT ROOM

BOND ROOM

88

Woking Chertsey
 151 Chertsey Road
 Woking, Surrey GU24 0HT
 Tel: 01483 741000
 Fax: 01483 741001
 Email: sales@alldays.com

PREMIS



Woking Borough Council

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

Premises licence number

17/00056/PREMIS

Premises details

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

Budgens

1 Chertsey Road, Woking, Surrey, GU21 5AA

Telephone number

The date the licence takes effect

3 March 2017

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

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Sale of alcohol	Saturday	08:00 - 23:00
Sale of alcohol	Sunday	10:00 - 22:30

Seasonal variation / non-standard timings:

Christmas Day: 12.00 to 15.00 and 19.00 to 22.30

The opening hours of the premises

Not applicable

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

Off premises

PREMIS

Name, (registered) address of holder of premises licence
Mr Nurul Islam
8 Woodlands Court, Constitution Hill, Woking, Surrey, GU22 7RY,


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
Mr Nurul Islam

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

3 March 2017

Date Licence Issued



Senior Licensing Officer

Appendix 2 – Surrey Police Application for a Review

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I **Inspector Emmie Harris**

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Budgens 1 Chertsey Road	
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Post town Woking	Post code (if known) GU21 5AA
----------------------------	---

Name of premises licence holder or club holding club premises certificate (if known) Mr Nural Islam

Number of premises licence or club premises certificate (if known) 17/00056/PREMIS
--

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises

- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Surrey Police PO Box 101 Guildford Surrey Police GU1 9PE
Telephone number (if any) 101
E-mail address (optional)

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

Please tick one or more boxes

- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note 1)

Budgens is an Off Licence located along Chertsey Road it is on the corner of a very busy main road in the centre of Woking Town.

This premises sells food as well as cigarettes and Alcohol.

Surrey Police has called for a review of the premises on the grounds of the prevention of crime and disorder as well as the protection of children from harm.

The premises was part of a test purchase operation which took place on 6th April 2018 and 8th June 2018. On both of these occasions a member of staff has sold alcohol to a child. Following this Surrey Police have concerns regarding the management of the premises.

Please provide as much information as possible to support the application
(please read guidance note 2)

On Friday 6th April 2018 a test purchase operation was carried out during which Mr Salahuddin Khan served two females who were under the age of 18 alcohol and received a £90 fixed penalty notice.

Following this a visit was made to the premises on Wednesday 18th April 2018 where it was found that:

- There were no training records for any staff.
- The refusals log was clearly not used regularly as it wasn't to hand when asked for it by staff.
- There was no written authorisation to sell alcohol from Mr Islam and when this was discussed he did not appear to know what this meant.
- When asked for his personal licence this was not on Mr Islam's person and stored downstairs.

Mr Nural Islam was given time to correct this and I attended the premises again on Thursday 10th May 2018. On this visit again the seriousness of the matter did not appear to have been processed by Mr Islam as training records were still not complete and there was an attitude that it wasn't important.

On Friday 8th June 2018 another test purchase operation was carried out where Mr Salahuddin Khan again served alcohol two females who were under the age of 18. He will now be summoned to court due to committing the same offence within a three month period having already received a ticket for the same offence.

This is not the first time the premises has failed a test purchase operation. In 2015 the premises sold alcohol to a child while Mr Islam in charge of the premises.

Whilst Surrey Police acknowledge the Licensing Committee have options open to them in any decision reached at a hearing, in addition to any such actions, Surrey Police would like the Committee to give consideration to:

- Removal of the Designated Premises Supervisor.
- There should also be a Personal Licence Holder present on the premises whilst licensable activity is taking place.

Also for the following conditions being added to the Premises Licence as follows:

- CCTV to be in operation whilst any licensable activity takes place and shall record for over 31 days. CCTV shall be able to be downloaded onto a removal storage system (either DVD or USB Stick).
- CCTV shall be made available within 24 hours of a request by Police or responsible authority.
- There should be at least one member of staff on site who is able to operate the CCTV system and download if required whenever licensable activity takes place.
- CCTV should cover all areas of licensable activity as well as the entrance enabling clear facial images of those entering the premises. The system should be able to cope with all levels of illumination throughout the premises as well as outside areas.
- Date and time of CCTV shall always be accurate with no time delays.
- A Challenge 25 policy will be operated at the premises, forms of identification that will be accepted are valid passport, photo card driving licence, HM Forces identity card and PASS accredited identification card

- Signs placed in prominent position explaining Challenge 25 is in force
- A Refusal Log shall be kept at the premises and maintained, logging any refusal of alcohol. This shall be made available for inspection by Police and any other Responsible Authority.
- An Incident Log shall be kept at the premises and maintained, logging any incidents that occur at the premises as well as any that have required police to be call. This shall be made available for inspection by Police or any other Responsible Authority.

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

If you have made representations before relating to this premises please state what they were and when you made them

Please tick yes

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

IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

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

Signature 

Date 21/6/18

Capacity Woking Borough Insp.

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5) Licensing Enforcement Officer – Geanine Crowley c/o Woking Council Offices Gloucester Square Woking Surrey	
Post town Woking	Post Code GU21 6YL
Telephone number (if any) 101	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) crowley12674@surrey.pnn.police.uk	

Notes for Guidance

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

Appendix 3 – Trading Standards representation



Tel: 07968 834613
Email: nicola.smith@bucksandsurreytradingstandards.gov.uk
General Enquiries: 0300 123 2329
www.bucksandsurreytradingstandards.gov.uk

Licensing Department
Woking Borough Council
Civic Offices
Gloucester Square
Woking
Surrey
GU21 6YL

TRADING STANDARDS

County Hall, Aylesbury,
Buckinghamshire HP20 1UP

Consort House, 5-7
Queensway,
Redhill, Surrey RH1 1YB

Your Ref:

Our Ref: NS/053855

11th July 2018

Dear Sir/Madam

Re; Budgens, 1 Chertsey Road, Woking, GU21 5AA

I refer to the above premises and specifically to our recent notification that Surrey Police have submitted an application for their licence to be reviewed.

Buckinghamshire and Surrey Trading Standards Service, as a Responsible Authority under Section 13(4) of the Licensing Act 2003, support the application for a review of the premise licence on the grounds that the licensing objective 'Protection of Children from Harm' is not being upheld.

In response to the information received in the licence review application from Surrey Police, we have concerns that the licensing objective that relates to protection of children from harm is currently not being upheld by the licence premise holder and designated premises supervisor Mr Nurul Islam.

It is alarming that on two occasions within approximately two months that children have been supplied alcohol from this premise.

It is also concerning that despite a failed test purchase and a previous visit from the police on 18th April, during the visit on 10th May the police found that there were still incomplete training records and Mr Islam had an attitude that 'it wasn't important'. The visits that Mr Islam received from the police would have been opportunities for him to listen to advice in relation to the systems that he could implement to help ensure that there were no further



sales of alcohol to anyone under 18 years old. However, it would seem that regardless of the previous failed test purchase and the two visits he received from the police, the premise failed another test purchase on 8th June 2018.

Although the outcome of the Licence Review is of course a matter for the Licensing Committee, it is my view that in relation to the licensing objective protection of children from harm that the committee may wish to consider the following;

- Removal of the designated premises supervisor.

I would also suggest that in relation to the licensing Objective 'Protection of Children from Harm' that the Licensing committee may also wish to consider the inclusion of the following conditions on the premise licence;

- A challenge 25 policy will be operated so that any person wishing to purchase alcohol who appears to be 25 or under will be asked to provide acceptable photographic ID (drivers licence, passport or any nationally approved proof of age scheme ID card such as the 'pass' scheme cards) to prove their age (over 18). If no acceptable ID is provided no sale shall take place. Challenge 25 posters to be displayed in the shop in prominent areas around the alcohol section and at the point of sale area. All staff will be trained on the Challenge 25 policy and records will be kept at the shop premise for proof of training for a period of at least two years.
- A Challenges book will be maintained and every challenge for ID that takes place in relation to a sale of alcohol will be clearly entered into that Challenges book and the person/member of staff who made that challenge will be clearly identified. In addition, the Challenges book shall be made available to the Licensing Authority and all Responsible Authorities and will be kept on the shop premises at all times. The Challenges book will be monitored by the designated premises supervisor or owner at least once a month, who will sign and date the book each time it has been monitored.
- A programme of training for all persons involved in the supply of alcohol, whether paid or not, in relation to acceptable forms of ID, identifying fake ID, proxy purchasing, using a Challenges book, Challenge 25 and licensing law with respect to the sale of alcohol to persons underage. All persons involved in the sale of alcohol will receive refresher training at regular intervals of no more than six months.
- Written records shall be kept of all training that is carried out, such records shall include details of the names of those trained including their signature, date of training, and a summary of the matters covered in the training including any material used.
- Training records will be kept on site for a minimum period of 2 years and will be available for inspection.
- A personal licence holder is present in the shop during the hours of licensable activity.

If you have any queries in connection with this matter please do not hesitate to contact me.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Nicola Smith', with a stylized flourish.

Nicola Smith
Trading Standards Officer

Appendix 4 – Excerpts from National Guidance

The licensing objectives Crime and disorder

- 2.1** Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2** In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3** Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4** The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5** Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.6** The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to

undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

The licensing objectives Protection of Children from harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- it is known that unaccompanied children have been allowed access;
- there is a known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;

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

2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

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 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:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
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 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.