

LICENSING SUB COMMITTEE AGENDA

Tuesday, 3 July 2018 at 9.30 am in the Saltwell Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item	Business
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1	Application to Transfer the Premises Licence and Vary the Designated Premises Supervisor (Pages 3 - 78)
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Report of the Strategic Director, Communities and Environment

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TITLE OF REPORT: **Application to transfer the premises licence and vary the Designated Premises Supervisor for:**
Anna's Mini Market, 112 Eastbourne Avenue, Gateshead,
NE8 4NJ

REPORT OF: **Strategic Director, Communities and Environment:**
Licensing Officer

1. PURPOSE OF THE REPORT

The Sub-Committee is asked to consider the applications from Anna Tychmann to:

- Transfer the Premises Licence for Anna's Mini Market, 112 Eastbourne Avenue, Gateshead, NE8 4NJ from Renata Pappova to Anna Tychmann
- Vary the Designated Premises Supervisor for Anna's Mini Market, 112 Eastbourne Avenue, Gateshead, NE8 4NJ from Petr Maralik to Imran Alam

The applications have been brought before the Sub-committee due a representation /objection made by Northumbria Police.

2. BACKGROUND

The Application

The application submitted by Anna Tychmann ('Applicant') to transfer the premises licence for Anna's Mini Market, 112 Eastbourne Avenue, Gateshead, NE8 4NJ is attached at Appendix 1.

The application submitted by Anna Tychmann ('Applicant') to vary the Designated Premises Supervisor for the premises is attached at Appendix 1.1.

A copy of the Premises Licence is attached at Appendix 1.2. You will note that the premises was previously called Papp's Convenience Store.

Representation

Northumbria Police objected to both applications. They have stated that they believe should the Applicant become the Premises Licence Holder and Designated Premises Supervisor the licensing objectives would be undermined. The representation is attached at Appendix 2.

Parties

The Parties to the hearing will be:

- a) Anna Tychmann
- b) Imran Alam
- c) Renata Pappova
- d) A representative from Northumbria Police.

3. FOR CONSIDERATION

The areas for consideration by the Sub-Committee are:

- The application to transfer the Premises Licence for Anna's Mini Market, 112 Eastbourne Avenue, Gateshead, NE8 4NJ from Renata Pappova to Anna Tychmann
- The application to vary the Designated Premises Supervisor for Anna's Mini Market, 112 Eastbourne Avenue, Gateshead, NE8 4N from Petr Maralik to Imran Alam

4. THE POLICY & GUIDANCE

When carrying out its functions the Sub-Committee must have regard to:

- (a) the Statement of Gateshead Council's Licensing Policy, and
- (b) the Amended Guidance (April 2018) issued under Section 182 of the Licensing Act 2003 by the Secretary of State.

Some relevant parts of the Policy and Amended Guidance are reproduced in Appendices 3 and 4. The parties may refer to any part of the Policy and Guidance during the hearing.

5. FOR DECISION

The Licensing Authority may, having regard to the application, take any of the following steps as it considers appropriate for the promotion of the licensing objectives:

- Grant either or both of the Applications; or
- Refuse the Applications.

APPENDICES

Appendix	1	Application to transfer the Premises Licence
	1.1	Application to vary the Premises Licence to specify an individual as a Designated Premises Supervisor
	1.2	Premises Licence
Appendix	2	Representation from Northumbria Police
Appendix	3	Relevant Extracts from Gateshead Council's Licensing Policy
Appendix	4	Relevant Extracts from the Guidance issued under Section 182 of the Licensing Act 2003
Appendix	5	Area Plan

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APPENDICES

**APPLICATION TO TRANSFER THE PREMISES LICENCE AND VARY THE
DESIGNATED PREMISES SUPERVISOR:**

Anna's Mini Market Ltd, 112 Eastbourne Avenue, Gateshead, NE8 4NJ

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I/We ANNA IVCHMANN
(Insert name of applicant)

apply to transfer the premises licence described below under section 42 of the Licensing Act 2003 for the premises described in Part 1 below

Premises licence number

0004 04422

Part 1 – Premises details

Postal address of premises or, if none, ordnance survey map reference or description	
ANNA'S MINI MARKET LTD 112 Eastbourne Avenue	
Post town	Post code
GATESHEAD	NE8 4NJ
Telephone number at premises (if any)	

Please give a brief description of the premises (see note 1)

For the sale by retail of alcohol

Name of current premises licence holder

MRS. RENATA PAPPOVA

Part 2 - Applicant details

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

- Please tick yes
- a) an individual or individuals* please complete section (A)
- b) a person other than an individual *
- i. as a limited company please complete section (B)
- ii. as a partnership please complete section (B)
- iii. as an unincorporated association or please complete section (B)

- iv. other (for example a statutory corporation) please complete section (B)
- c) a recognised club please complete section (B)
- d) a charity please complete section (B)
- e) the proprietor of an educational establishment please complete section (B)
- f) a health service body please complete section (B)
- g) an individual who is registered under Part 2 of the Care Standards Act 2000 (c14) in respect of an independent hospital in Wales please complete section (B)
- ga) a person who is registered under Chapter 2 of Part 1 of the Health and Social Care Act 2008 (within the meaning of that Part) in respect of an independent hospital in England please complete section (B)
- h) the chief officer of police of a police force in England and Wales please complete section (B)

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

Please tick yes

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)

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

Surname **First names**

Date of birth 30/10/81 **I am 18 years old or over**
Nationality POLISH
Current residential address if different from premises

address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

SECOND INDIVIDUAL APPLICANT (fill in as applicable)

Mr Mrs Miss Ms

Other title
(for example, Rev)

Surname

First names

Date of birth

I am 18 years old or over

Please tick yes

Nationality

Current
residential
address if
different from
premises
address

Post town

Post code

Daytime contact telephone number

E-mail address
(optional)

(B) OTHER APPLICANTS

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

Name
Address
Registered number (where applicable)
Description of applicant (for example partnership, company, unincorporated association etc.)
Telephone number (if any)
E-mail address (optional)

Part 3

Please tick yes

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

Do you wish the transfer to have immediate effect?

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

Day	Month	Year

Please tick yes

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

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

Please tick yes

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



Please tick yes

I have enclosed the premises licence



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

- I have made or enclosed payment of the fee
- I have enclosed the consent form signed by the existing premises licence holder or my statement as to why it is not enclosed
- I have enclosed the premises licence or relevant part of it or explanation
- I have sent a copy of this application to the chief officer of police today
- I have sent a copy of this form to Home Office Immigration Enforcement today

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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

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

Part 4 – Signatures (please read guidance note 3)

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

Signature *Ann T*

Date *04/06/18*

Capacity *Lease holder*

For joint applicants signature of second applicant, second applicant’s solicitor or other authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. Describe the premises. For example the type of premises it is, its general situation and layout and any other information which would be relevant to the licensing objectives.
2. **Right to work/immigration status for individual applicants and applications from partnerships which are not limited liability partnerships:**

A licence may not be held by an individual or an individual in a partnership which is not a limited liability partnership who:

- does not have the right to live and work in the UK; or
- is subject to a condition preventing him or her from doing work relating to the

Consent of premises licence holder to transfer

I/we RENATA PAPPOVA

[full name of premises licence holder(s)]

the premises licence holder of premises licence number 00CH04422

[insert premises licence number]

relating to

PAPP'S CONVENIENCE STORE 112 EASTBOURNE AVENUE NE8 4N:

[name and address of premises to which the application relates]

hereby give my consent for the transfer of premises licence number

00CH04422

[insert premises licence number]

to

ANNA TYCHMANN

[full name of transferee].

signed

name

(please print)

dated

Renata Pappova

RENATA PAPPOVA

24/05/18

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I / we Anna Tychemann
(full name(s) of premises licence holder)

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

Premises licence number

00CH04422

Part 1 – Premises details

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

ANNA'S MIM MARKET LTD
112 Earthenware Avenue

Post town

A GATESHEAD

Post code (if known)

NE 8 4NJ

Telephone number (if any)

07874376551

Description of premises (please read guidance note 1)

OSS Licence.

Part 2

Full name of proposed designated premises supervisor

Imfan ALAM

Nationality

British

Place of birth

~~1710/19~~ GLASGOW

Date of birth

17.01.1979

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

DCC PER 20125

Full name of existing designated premises supervisor (if any)

Please tick yes

I would like this application to have immediate effect under section 38 of the Licensing Act 2003



I have enclosed the premises licence or relevant part of it



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

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

Please tick yes

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

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

IT IS AN OFFENCE UNDER SECTION 24B OF THE IMMIGRATION ACT 1971] FOR A PERSON TO WORK WHEN THEY KNOW, OR HAVE REASONABLE CAUSE TO BELIEVE, THAT THEY ARE DISQUALIFIED FROM DOING SO BY REASON OF THEIR IMMIGRATION STATUS. THOSE WHO EMPLOY AN ADULT WITHOUT LEAVE OR WHO IS SUBJECT TO CONDITIONS AS TO EMPLOYMENT WILL BE LIABLE TO A CIVIL PENALTY UNDER SECTION 15 OF THE IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 AND, PURSUANT TO SECTION 21 OF THE SAME ACT, WILL BE COMMITTING AN OFFENCE WHERE THEY DO SO IN THE KNOWLEDGE, OR WITH REASONABLE CAUSE TO BELIEVE, THAT THE EMPLOYEE IS DISQUALIFIED.

Part 3 – Signatures (please read guidance note 2)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 3). **If signing on behalf of the applicant please state in what capacity.**

Signature *Anna Tg*

Date *04/06/18*

Capacity *Leave holder*

For joint applicants signature of 2nd applicant 2nd applicant's solicitor or other authorised agent (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

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

Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Guidance notes

1. Describe the premises. For example the type of premises it is.
2. The application form must be signed.
3. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
4. Where there is more than one applicant, both applicants or their respective agents must sign the application form.
5. This is the address which we shall use to correspond with you about this application.

Consent of individual to being specified as premises supervisor

I Imeaw ALAM
[full name of prospective premises supervisor]

of

12 the Villas Thornley DM63EU
[home address of prospective premises supervisor]

hereby confirm that I give my consent to be specified as the designated premises supervisor in relation to the application for

Transfer Application
[type of application]

by

Anna Tychmann
[name of applicant]

relating to a premises licence _____
[number of existing licence, if any]

for

112 Eastbourne Avenue
NE 3 4 NY

[name and address of premises to which the application relates]

and any premises licence to be granted or varied in respect of this application made by

Anna Tychmann
[name of applicant]

concerning the supply of alcohol at

112 Earthourne Avenue

NE 8 4NY

[name and address of premises to which application relates]

I also confirm that I am entitled to work in the United Kingdom and am applying for, intend to apply for or currently hold a personal licence, details of which I set out below.

Personal licence number

DCC Per 20125.
[insert personal licence number, if any]

Personal licence issuing authority

Durham county council
[insert name and address and telephone number of personal licence issuing authority, if any]



Signed

I. Alam

Name (please print)

IMRAN ALAM

Date

2-6-18

Licensing Act 2003

Premises Licence

Premises Licence Number **00CH 04422**

Part 1 - Premises Details

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

Papp's Convenience Store
112 Eastbourne Avenue

Post town

Gateshead

Postcode

NE8 4NJ

Telephone number

Where the licence is time limited, the dates

Not applicable

Licensable activities authorised by the licence

For the sale by retail of alcohol (off the premises)

The times the licence authorises the carrying out of licensable activities

Monday – Sunday 08:00 – 23:00 hours

The opening hours of the premises

Monday – Sunday 08:00 – 23:00 hours

Where the licence authorises supplies of alcohol, whether these are **On** and/or **Off** supplies

Off the premises

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

Mrs Renata Pappova
8 Woodbine Street
Gateshead
Tyne and Wear
NE8 1SS

Telephone number: 07584 294 531
Email: jp002d2354@hotmail.com

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 the sale of alcohol.

Mr Petr Maralik
198 Rawling Road
Gateshead
Tyne and Wear
NE8 4QU

Personal Licence number and issuing authority of personal licence held by Designated Premises Supervisor where the premises licence authorises the supply of alcohol.

00CH09677 Gateshead Council

Signature on behalf of the issuing licensing authority

Date Of Issue : 27 April 2018



Environmental Health, Licensing and Enforcement Manager
Communities and Environment

Supply of alcohol

1. No supply of alcohol may be made under the premises licence;
 - a. At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The premises licence 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 licence 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.

Prohibition on sale of alcohol below cost of duty plus VAT

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption off the premises for a price which is less than the permitted price.
2. For the purposes 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 rate 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 b below 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.

1. Alcohol (spirits) will be kept behind the counter.
2. The licensee, that is the person in whose name the Premises Licence is issued, and the designated premises supervisor shall ensure that at all times when the premises are open for any licensable activity, there are sufficient competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for promoting the licensing objectives.
3. A 'Challenge 25' policy shall be adopted, implemented and maintained ensuring that all members of staff are trained to refuse sales to anyone who appears to be under the age of 25 and who is seeking to purchase any age restricted product unless that person provides credible photographic proof of age evidence. Such credible evidence, which shall include a photograph of the customer, will either be a proof of age card carrying a 'PASS' logo, passport, military ID or photographic driving licence.
4. There shall be displayed suitably worded signage of sufficient size and clarity at the point of entry to the premises and in a suitable location at any points of display and sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of age.
5. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to those underage (i.e. proxy sales). Details of these refusals should also be kept in the ledger.
6. A refusals ledger shall be maintained on the premises to record refusals of all age restricted products and shall be made available to officers of the Local Authority or Northumbria Police upon request.
7. All staff will be trained in accordance to internal training manuals prior to making sales of all age restricted products. The training will include:
 - a. The prevention of underage sales.
 - b. Proxy purchasing.
 - c. Sales to drunks.
 - d. The Challenge 25 policy & correct forms of ID.

The training manual and all staff documented training records will be made available to officers of the Local Authority or Northumbria Police upon request.

8. The premises licence holder and designated premises supervisor shall co-operate with any crime prevention initiatives which are promoted by the Local Authority or Northumbria Police.
9. The designated premises supervisor or duty manager shall notify and report any incidents of crime and disorder to Northumbria Police as soon as possible including those that occur in the vicinity of the premises and are reported to staff.
10. An incident book shall be kept at the premises which is utilised and maintained at all times. This book will be available to the Police or Local Authority on request.
11. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of, and in consultation with, Northumbria Police. Such a system shall:
 - a. Be operated by properly trained staff;
 - b. Be in operation at all times that the premises are open;
 - c. Ensure coverage of all public entrances and exits, till areas and other areas as required by Northumbria Police;
 - d. Be kept in a secure environment under the control of the designated premises supervisor or other responsibly named individual.
 - e. Have a member of staff present and trained in the retrieval of CCTV footage, with the ability to download the relevant footage onto a disc at the request from Northumbria Police or a Local Authority officer;
 - f. Cover the inside and outside of the premises.
 - g. Be capable of recognition of all persons entering the premises.

- h. Provide continuous recording facilities for each camera to a high standard of clarity. Such recordings shall be retained on tape/disc/hard drive or otherwise for a minimal period of 28 days and shall be supplied to a Police Officer or Local Authority Officer on request. Images recorded are to be retained in an unedited format and the CCTV system must continually record whilst the premises is open to the public.
12. Notices informing customers of the operation of CCTV shall be prominently displayed.
13. No alcohol shall be sold if:
- a. The CCTV equipment is inoperative for any reason.
 - b. A member of staff trained in downloading the CCTV footage is not present.
 - c. A till roll receipt is not displaying the correct time and date. All alcohol sales must be transparent.

Annex 3 - Conditions attached after a hearing with the Licensing Authority

Not applicable

Annex 4 - Copy of plan

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OBJECTION

**APPLICATION TO TRANSFER THE PREMISES LICENCE AND VARY THE
DESIGNATED PREMISES SUPERVISOR:**

Anna's Mini Market Ltd, 112 Eastbourne Avenue, Gateshead, NE8 4NJ



VERA BAIRD OC
POLICE & CRIME COMMISSIONER



**NORTHUMBRIA
POLICE**

Northumbria Police Licensing
Central Area Command (Gateshead)
Eldon Square, Floor 1
Central Management Office
Eldon Court, Percy Street
Newcastle upon Tyne NE1 7JB
Tel: 0191/2219234

Anna Tychmann
25 Laburnum Avenue
Wallsend
NE28 8HQ

Date: 18th June 2018

Forwarded to :

The Licencing Authority: licensing@gateshead.gov.uk, rebeccasparrow@gateshead.gov.uk,

OBJECTION NOTICE UNDER THE LICENSING ACT 2003

APPLICATION TO TRANSFER PREMISES LICENCE

AND

APPLICATION TO VARY THE DESIGNATED PREMISES SUPERVISOR

PREMISES:

Anna's Mini Market LTD
112 Eastbourne Avenue
Gateshead
NE8 4NJ

Premises licence number: 00CH 04422

Northumbria Police wish to object to both applications to transfer the premises licence by Anna Tychmann and vary the designated premises supervisor to Imran Alam at the above named premises.

On 24th May 2018 Renata PAPPOVA the previous premises licence holder at Papp's Convenience Store, 112 Eastbourne Avenue NE8 4NJ consented to the transfer of the premises licence to Anna TYCHMANN. Mrs PAPPOVA and her husband later informed the police that they knew Mrs TYCHMANN had no Designated Premises Supervisor to nominate and warned her that she is not to sell alcohol until she appoints a DPS.

On 1st June 2018 Renata PAPPOVA and Peter MARALIK the previous DPS attended licensing section at Gateshead Council to report that they had no connection to the shop anymore.

On 2nd June 2018 PC 1223 GIBSON's attention was drawn to a vehicle driving past at speed. The vehicle stopped at a traffic lights junction half way across the centre line of the road. PC 1223 activated his blue lights indicating to the driver of the vehicle to stop. Despite this and the police vehicle being directly behind, the driver continued to drive stopping in a back lane of the applicant's address. The applicant Anna TYCHMANN was identified as the driver. At 02:05hrs of the above date she was cautioned and arrested on suspicion of driving motor vehicle whilst unfit through drink. The applicant Anna TYCHMANN was more than twice over the legal limit, with the station breath test reading 83ug.

Schedule 4 - Licensing Act 2003 identifies an offence under provisions of the Road Traffic Act 1988 contrary to S.5 driving etc. a vehicle with alcohol concentration above prescribed limit as a relevant offence to that Act.

On 2nd June 2018 PC 1790 Jackson visited the premises Papp's Convenience Store and witnessed alcohol being displayed in the fridge. He spoke to the new lease holder Anna TYCHMAN who told them that the alcohol on display was not for sale and that she was waiting for her licence to be granted. We can confirm that there has been no attempt made by the new lease holder on any other party to make an application to transfer the premises licence nor there has been a new DPS nomination made between the official transfer date 24th May 2018 and the officer's visit on 2nd June 2018.

It is an offence under the Licensing Act 2003 S.136 to carry out or to allow licensable activity to be carried out on premises without an authorisation, S.137 to expose alcohol for unauthorised sale and S.138 to keep alcohol on premises for unauthorised sale .

On 5th June 2018 Northumbria Police received an application to transfer the premises licence at Anna's Mini Market LTD, 112 Eastbourne Avenue, Gateshead, NE8 4NJ to Anna TYCHMANN.

On 5th June 2018 Northumbria Police received an application to vary the premises licence at Anna's Mini Market LTD. The applicant Anna TYCHMANN appointed Mr Imran ALAM as the new Designated Premises Supervisor.

Mr ALAM is a personal licence holder with Durham City Council and resides at an address in County Durham located 23 miles away from Anna's Mini Market LTD.

On 31st January 2018 PC T482 stopped a motor vehicle on Askew Road, Gateshead. The vehicle was at the time driving at speed. The driver identified as the proposed DPS Imran ALAM smelled of cannabis. Officer T482 conducted a routine vehicle check and found 3 small bags of cannabis ALAM stated he just purchased. ALAM was reported for possession of cannabis and warned regarding the manner of driving. He was given cannabis warning at road side.

It is the cumulative negative impact of the above named concerns which gives Northumbria Police rise to object under the “exceptional circumstances” criteria. We can have no confidence in the applicant’s ability to fulfil the requirements under the premises licence, to enforce the existing licensing conditions and to uphold the law.

We believe that such objection is proportionate and wholly justified as the licensing objectives and in particular the prevention of crime and disorder will become undermined should the transfer and the vary DPS be allowed.

Alan Pitchford
A/Chief Inspector 7372



STATEMENT OF LICENSING POLICY

Licensing Act 2003

7 January 2016 - 6 January 2021

1. Foreword by Councillor John McElroy

- 1.1 The Licensing Act has been in force now for ten years, and has contributed to a significant change in how licensable activities are carried on in the Borough.

In Gateshead, both the licensed trade and its patrons are, on the whole, responsible and sensitive to the needs of the communities in which licensed activities take place.

However, the trend away from drinking in pubs and clubs to consumption of alcohol at home presents a different set of challenges in terms of minimizing the harms that can arise.

There has been an increase in the availability and accessibility of alcohol, and a broadening of the type of premises where it is made available. Consequently, there is now an increased role for the licensing regime to play in safeguarding the most vulnerable members of our society.

The licensing regime is not only about the sale and supply of alcohol – the provision of regulated entertainment and late night refreshment equally present challenges to ensure that crime, disorder and public nuisance are prevented, public safety is promoted and children are protected from harm.

There is no single answer to the challenges we will face in the coming months and years; but the licensing regime is key to giving residents and responsible authorities an opportunity to have their say on important matters that can impact their community, and I would encourage everyone to utilise it to its fullest potential.

2. Strategic Context

- 2.1 The Council's overall vision for Gateshead, as described in Gateshead Strategic Partnership's Community Strategy – Vision 2030 and the Council's Corporate Plan is:

“Local people realising their full potential, enjoying the best quality of life in a healthy, equal, safe, prosperous and sustainable Gateshead”

- 2.2 The licensing of premises plays an important role in realising this vision, contributing significantly to the Economy, Environment, and Health areas contained within Priority 1 of the Corporate Plan, in providing safe and accessible venues that promote healthy lifestyles and contribute to economy of the Borough.
- 2.3 This Policy sets out what this Licensing Authority expects of the people that it authorises to carry out licensable activities in the Borough of Gateshead.
- 2.4 Applicants and licensees are of course expected to be familiar with the relevant legislation and the National Guidance issued by the Home Office, but they are also expected to be familiar with the exigencies of the locality that they operate in. This applies to everyone seeking to carry on licensable activities in the Borough, whether they are a large national chain or a small community premises.

- 2.5 The promotion of the licensing objectives underpins every decision that the Licensing Authority makes. How the objectives are best promoted can vary from place to place, and depending on the nature and scale of the activities that are to be carried out. This Policy sets out the issues that are of particular relevance or concern within Gateshead, and the approaches that this Licensing Authority would expect responsible licensees to take into account in their operation.
- 2.6 The Policy links closely with a number of key plans and strategies produced by the Council and its partners, as set out below in the section headed 'Integration with other legislation, policies and guidance'.

3. Local context

- 3.1 Gateshead is located on the southern bank of the river Tyne, opposite Newcastle upon Tyne to the north, and bordering County Durham to the south, Northumberland to the west and South Tyneside/Sunderland to the east. It is a constantly changing borough combining modern facilities with a fascinating heritage. The borough stretches almost 13 miles along the south bank of the river Tyne and covers 55 square miles, making it the largest of the five Tyne and Wear authorities.
- 3.2 Gateshead is a borough of contrasts. It has a large urban hub centred around the main town centre area in Bridges ward and has a number of smaller urban centres and busy employment areas such as Blaydon, Whickham, Felling and Birtley. However, around two thirds of the borough is rural with numerous small settlements such as Kibblesworth, Sunnyside, Chopwell and High Spen.
- 3.3 Built on traditional industries of mining and heavy engineering, the 1930's saw diversification through the development of the Team Valley Trading Estate (TVTE), the first trading estate of its type in the UK. Centrally located for the region the TVTE has become prominent for transport and distribution activities and is the borough's most prestigious employment centre, attracting the highest number of inward commuters to the borough on a daily basis.
- 3.4 The 1970s saw the decline of many of the region's traditional industries. A high proportion of those who lived in Gateshead worked in these industries, resulting in unemployment and high levels of deprivation and financial/social exclusion, the impact of which is still being felt today. In the 1980's Gateshead saw the development of the MetroCentre, now boasting over two million sq ft of retail and leisure floor space, one of the UK's and Europe's largest shopping centres.
- 3.5 The urban core, shared with Newcastle, is the focus of regeneration, promoting growth through the digital economy, knowledge-based businesses and cultural-led regeneration. Major initiatives such as the Sage Gateshead, BALTIC Centre for Contemporary Art, Gateshead College and the Gateshead Millennium Bridge have all been developed over recent years.
- 3.6 Gateshead has a population of around 200,000 living in 90,600 households. The population has reduced by around 13,000 since the 1980's but has grown over the last decade by around 8,000. This growth has been most significant for older age groups with an 11% increase in 45-64 year olds and an 11% increase in those aged 65 and over. In contrast, the number of 0-24 year olds fell slightly by 0.7%

over the decade. Population projections from the Office for National Statistics predict that this ageing population trend will continue into the future, becoming more pronounced as life expectancy continues to increase.

Crime and anti-social behaviour in Gateshead

- 3.7 The number of recorded crimes across the Borough that were linked to alcohol has increased year on year, with 1,386 alcohol-related crimes recorded in 2014/15 which was an 11% increase from 2013/14, compared to a 7% increase in all crime.
- 3.8 More than half the alcohol-related crimes in the Borough in 2014/15 were violence against the person, with significant increases particularly in the number of assaults. It is notable that whilst incidents of the most serious violence are still relatively infrequent, they have more than doubled in the last year. There have also been significant increases in the numbers of alcohol-related sexual offences and burglaries in the Borough in that time.
- 3.9 Temporal profiles show that almost half of all alcohol-related crimes in the Borough are reported on Friday late evenings / Saturday early mornings, Saturday late evenings / Sunday early mornings and (to a lesser extent) Sunday late evenings / Monday early mornings.
- 3.10 Data provided by Northumbria Police enables the Council to identify the most vulnerable locations throughout the Borough in terms of alcohol-related crimes, and to track trends over time. Information about these areas is contained in 'Local Licensing Guidance' documents which are described in further detail below, and will be available from the Council's website and upon request.

Public health in Gateshead

- 3.11 In 2012 the Police and Social Responsibility Act 2011 introduced public health as a responsible authority under the Licensing Act 2003.
- 3.12 Public health is "the science and art of promoting and protecting health and well-being, preventing ill-health and prolonging life through the organised efforts of society." The Public Health Outcomes Framework acknowledges that health is influenced not only by lifestyle choices but also by a range of wider determinants, including the physical environment, domestic abuse, violent crime and noise nuisance.
- 3.13 Gateshead Council recognises the impact upon population-level health that alcohol consumption can cause. While the protection of public health is not a discrete licensing objective, it can where appropriate permeate each of the licensing objectives.
- 3.14 Each year Gateshead's Director of Public Health publishes an Annual Report, the most recent at the time of writing being published in October 2014. The report recognises that alcohol is a complex social issue which forms part of our everyday social fabric, is a source of pleasure and enjoyment to many; but is also a potentially addictive substance which is promoted by powerful commercial forces, especially to young people. It highlights the growing evidence of rising alcohol

harm on the health of people in Gateshead, and focusses on approaches to tackling alcohol harm.

3.15 The report identifies, for instance, that:

- Around one in 5 secondary school / higher education students in Gateshead admit to drinking alcohol; and
- The number of alcohol specific hospital admissions for secondary school / higher education students in Gateshead is increasing.

3.16 Public health data enables the Council to identify the most vulnerable locations in the Borough in terms of alcohol-related harm, and to track trends over time. This data can be particularly relevant to the protection of children from harm, and may also assist in the prevention of crime and disorder, public nuisance and to public safety.

Local Licensing Guidance

3.17 Different localities within the Borough have different characters, and challenges, both of which can change over time depending on a range of factors. To assist applicants and licensees in their understanding of local issues that they should be cognisant of, from time to time the Council publishes and updates 'Local Licensing Guidance' documents on its website.

3.18 The Local Licensing Guidance provides information about the causes of serious and chronic concern in these localities. The areas covered by the guidance can vary depending on the nature of the problems that are identified, so may relate to the whole of a particular Ward or for instance to street level. The guidance can include a wide range of information that is considered to be relevant to those who seek to carry on licensable activities within the area, for instance:

- The physical environment (including transport, school walking routes, blocks of flats, commercial / residential proximity, etc)
- Existing licensed premises
- Health data (such as hospital admissions for under-18s, ambulance calls for alcohol related reasons)
- Crime and disorder hotspots
- Known areas of congregation
- Local initiatives (such as Pubwatch, Offwatch, Community Alcohol Partnerships etc)
- Local concerns about the promotion of the licensing objectives (including from Ward Members, community leaders, GPs, schools, etc)

3.19 The Local Licensing Guidance will be produced by the Council's Public Health team with the input of Responsible Authorities and other stakeholders as appropriate; and presented to and approved by the Council's full Licensing Committee.

3.20 It is recommended that applicants and licensees have regard to these documents when considering their operating schedule. In particular, where the Local Licensing Guidance identifies measures that it is believed will help to promote the licensing objectives in respect of certain licensable activities due to the issues that have been

identified, if an applicant or licensee chooses not to adopt those measures this may result in representations being made.

4. Legal Context

4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Guidance issued by the Home Office under Section 182 of the Act.

4.2 The Licensing Authority is responsible for:

- the licensing of licensable activities under the Licensing Act 2003 (The Act)
- ensuring that those who are authorised under the Act comply with the requirements; and
- ensuring that only those who are duly authorised to carry out licensable activities do so.

4.3 This document sets out the Licensing Authority's policy as to how it will fulfil its obligations and achieve its strategic aims in this respect.

4.4 This Policy should be read in conjunction with the Act itself, the Home Office Guidance, and the other policies and guidance that are referred to in this document.

4.5 This Licensing Authority regards each of the Licensing Objective to be of equal importance.

4.6 This document sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions under the Act, and when addressing non-compliance with the Act itself or any authorisations issued under the Act. The Licensing Authority will consider deviating from the policy on a case by case basis, where it believes it to be appropriate and proportionate in all the relevant circumstances.

5. Integration with other legislation, policies and guidance

5.1 Anyone who is or who seeks to be authorised under the Act to carry out licensable activities in the Borough of Gateshead should be aware of the other legislation, policies and guidance that may apply to their business. Failure to comply with other legislation and/or regulatory regimes can indicate that a licensee is irresponsible, which may call into question their ability to adequately promote the Licensing Objectives.

5.2 Although from the perspective of the business proprietor, there may be an element of crossover between licensing and other regimes, they are separate and are treated as such by the Council.

5.3 Applicants and licensees need to be aware of and have regard to:

- Gateshead Strategic Partnership's Community Strategy – Vision 2030
- the Gateshead Local Plan
- Substance Misuse Strategy
- Culture Strategy

- Gateshead Transport Strategy & Tyne & Wear Local Transport Plan
- The Local Government Declaration on Alcohol signed by Gateshead Council in June 2015

5.4 The Licensing Authority will seek to achieve integration with relevant strategies and their aims in its decision making.

Human Rights

5.5 The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:

- Article 6 that in determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law
- Article 8 that everyone has the right to respect for their home and private life; and
- Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of their possessions.

Equality and Diversity

5.6 Applicants and licensees should be aware of their obligations under the Equality Act 2010 and the characteristics protected by the legislation which are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion and belief
- Sex; and
- Sexual orientation

5.7 It is expected that responsible licensees will be sensitive to the needs of their varied customer base and prepared to make reasonable adjustments to accommodate those needs.

5.8 The Equality Act 2010 also requires the Licensing Authority to have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity; and foster good relations between people with different protected characteristics. Each application will be considered with this in mind.

Crime and disorder

5.9 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the Council, Northumbria Police and others to consider crime and disorder reduction in the exercise of all their duties. The reduction of crime and disorder is integral to this Council's approach to the Licensing Act.

Data protection

- 5.10 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.

Local Government Declaration on Alcohol

- 5.11 Gateshead Council has signed the Local Government Declaration on Alcohol, and has committed to:

- Promoting the introduction of greater regulations around the price, promotion and availability of alcohol
- Calling for changes to the Licensing Act in favour of local authorities and communities, to enable greater control on the number, density and availability of alcohol according to local requirements
- Putting public health and community safety at the forefront of public policy-making about alcohol
- Making best use of existing licensing powers to ensure effective management of the night-time economy; and
- Raising awareness of the harm caused by alcohol to individuals and our communities.

- 5.12 It is recognised that the regime under the Licensing Act is only one part of the framework needed to achieve these aims; that in terms of alcohol the Act only regulates its sale and supply – not its consumption; and that the regime cannot be utilised where the Council's aims do not pertain to the objectives set out in the Act.

- 5.13 However the licensing regime has proven to be an effective tool in Gateshead for the control of price, promotion and availability of alcohol:

Price

The sale / supply of cheap alcohol can lead to its over-consumption which in turn can undermine the licensing objectives particularly in respect of the prevention of crime and disorder and the protection of children from harm. This Licensing Authority has imposed and will continue to impose minimum unit price requirements where appropriate to promote the licensing objectives, and as part of a range of measures to tackle identified concerns. For instance, alcohol can be 'cheap' not only due to its price but also due to its strength. Where appropriate this Licensing Authority will also impose conditions to control the sale of certain types of product, such as 'super strength' ciders, spirits, etc.

Promotion

The Government has imposed certain mandatory conditions to prohibit irresponsible drinks promotions where the consumption is intended to take place on the premises. This Licensing Authority will impose further conditions on licences

where it is appropriate and proportionate to do so, which will depend on the individual circumstances. For instance, conditions can be imposed to prevent promotions which are aimed at young people particularly in the vicinity of schools and other locations attended by children, and promotion of potentially dangerous alcoholic products such as cocktails containing liquid nitrogen. Gateshead Licensing Authority's expectations with respect to the promotion of alcohol in off licensed premises are set out in 8.18 below.

Place

There are a range of measures that can assist in controlling the availability of alcohol in defined localities where there is appropriate evidence to support the restriction. These include:

- Cumulative impact policies
- Night time levy
- Early morning restriction orders

The evidential basis to consider implementing any of these measures in Gateshead has not yet been put forward, however if evidence supports their implementation in the future this will be duly considered.

Public Space Protection Orders

5.14 The following locations have been designated as alcohol exclusion areas:

- Gateshead
- at all of the Metro stations in the borough
- Birtley
- Whickham
- Ryton
- Winlaton

5.15 This means that within the exclusion zones it is an offence to refuse to comply with the reasonable request of a Police Constable or authorised officer to stop consuming alcohol or to hand over alcohol for confiscation. Licensed premises (and their curtilages) are excluded from the scope of the Orders while licensable activities are authorised to take place.

Social Responsibility

5.16 The Portman Group has produced a code of practice on the naming, packaging and promotion of alcoholic drinks. Licensees that sell or supply alcohol are expected to have regard to the code of practice as amended from time to time. http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609_por02_code_of_practice_final.pdf

Pubwatch

5.17 A Pubwatch scheme has been in existence in the Borough for some time. It is led by Northumbria Police, and provides a forum for licensees to gain support from the Police, the Council and other licensees to tackle the problems associated with

individuals who cause disturbance, disorder, use drugs or use or threaten violence in and around licensed premises. By acting collectively in excluding such people from a number of premises in the area, this means that the problem is not simply moved from one pub to the next. Pubwatch schemes have been found to be effective tools in tackling anti-social behaviour in many areas where the schemes are well run and there is a significant level of participation by licence holders in the borough. The Gateshead Alcohol Harm Reduction Strategy 2013-2015 recognises the importance of the Pubwatch scheme and envisages it being used to share and develop best practice and as a forum for training.

Regional and national working

- 5.18 The Licensing Authority participates in regional working through the North East Strategic Licensing Group, which is comprised of representatives of each of the twelve North East Licensing Authorities, and forms part of the North East Public Protection Partnership.
- 5.19 The Licensing Authority also works closely with Balance – the North East Alcohol Office, to achieve an integrated approach across the region and with key partners such as the Police.
- 5.20 From the national perspective, representatives of the Licensing Authority participate in the Local Government Association’s Licensing Policy Forum, and the Licensing Special Area of Activity for Lawyers in Local Government.

6. General Principles of the Policy

- 6.1 Each application will be determined on its merits having regard to this Policy, Guidance under Section 182 of the Act, the Act itself and supporting Regulations.
- 6.2 The Licensing Authority considers:
- the effective and responsible management of premises
 - instruction, training and supervision of staff; and
 - the adoption of best practice

to be amongst the most important control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority will expect these elements to be specifically considered and addressed within an applicant’s operating schedule.

- 6.3 Applicants who do not clearly demonstrate how they intend to address these issues in their operating schedules should expect their applications to be objected to, including by the Licensing Authority.
- 6.4 Also, licensees whose practice does not meet this expectation may have their licence reviewed, and as above this may be triggered by the Licensing Authority itself.

7. Licensing Objectives

- 7.1 Applicants will need to provide evidence to the Licensing Authority that, in respect of each of the four licensing objectives, suitable and sufficient measures, as detailed in their Operating Schedule, will be implemented and maintained, and will be relevant to the individual style and characteristics of their premises and events.

Prevention of Crime and Disorder

- 7.2 The Licensing Authority will expect to see evidence that the following specific matters that impact on crime and disorder have been addressed in the Operating Schedule of the premises:

- The capability of the person who is in charge to run the premises during trading hours or when Regulated Entertainment is provided to effectively and responsibly manage and supervise the premises, including associated open areas
- The steps to be taken in the absence of the Designated Premises Supervisor to effectively manage the business.
- The steps taken or to be taken to ensure that appropriate instruction, training and supervision is given to those employed or engaged in the premises to prevent incidents of crime and disorder
- The measures taken or to be taken to raise staff awareness and discourage and prevent the use or supply of illegal drugs on the premises
- The features currently in place or planned for physical security at the premises, such as lighting outside the premises
- The policies that have been determined in respect of adoption of appropriate existing and future best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, etc)
- Any arrangements which the licence holder proposes to work in partnership with the Council, police and other traders in establishing a method of co-ordinating closing times to prevent crowds emerging from premises at the same time and to prevent migration between premises with different closing times
- Any appropriate additional measures taken or to be taken for the prevention of violence or public disorder

- 7.3 The extent to which the above matters need to be addressed will be dependent on the individual style, characteristics and location of the premises, and proposed events and activities. In general however, the Licensing Authority will expect more comprehensive measures to be in place at late night entertainment venues or in premises with a history of crime and disorder issues.

- 7.4 In such premises appropriate additional measures taken or to be taken for the prevention of violence or public disorder may include:

- Provision of effective CCTV both within and around premises
- Employment of SIA licensed door staff
- Provision of toughened or plastic glasses
- Procedures for risk assessing drinks promotions and events such as 'happy hours' for the potential to cause crime and disorder and plans for minimising such risks

7.5 The Licensing Authority will have particular regard to representations from the Police in deciding whether the above issues have been adequately addressed. It will not normally grant an application where representations indicate a potential negative impact on crime and disorder, unless the applicant can demonstrate compelling reasons why the application should be approved in the light of these concerns.

Public Safety

7.6 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on public safety:

- The occupancy capacity of the premises
- The age, design and layout of the premises, including means of escape in the event of fire
- The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- The hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- Customer profile (eg age, disability)
- The use of special effects such as lasers, pyrotechnics, smoke machines, etc

7.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- Suitable and sufficient risk assessments
- Effective and responsible management of the premises
- Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons

- Appropriate instruction, training and supervision of those employed or engaged to secure the safety of premises and patrons
- Adoption of best practice guidance (eg Guide to Fire Precautions in Existing Places of Entertainment and like premises, The Event Safety Guide, Safety in Pubs published by the BBPA, and the Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by Independent Street Arts Network)
- Provision of effective CCTV in and around premises
- Provision of toughened or plastic drinking vessels
- Implementation of crowd management measures
- Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety)

Prevention of Public Nuisance

- 7.8 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 7.9 The Licensing Authority will normally apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas.
- 7.10 The Licensing Authority will expect to see that applicants have considered the impact that the following factors may have on the potential for public nuisance:
- The location of premises and proximity to residential and other noise sensitive premises
 - The hours of opening, particularly between 23:00 and 07:00 hours
 - The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises
 - The design and layout of premises and in particular the presence of noise limiting features
 - The occupancy capacity of the premises
 - The availability of public transport
 - 'wind down period' between the end of the licensable activities and closure of the premises, i.e. allowing patrons to remain in the premises for a period after licensable activities have ceased, so that people do not disperse en masse

- last admission time

7.11 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:

- effective and responsible management of the premises
- appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance eg to ensure customers leave quietly
- operating hours for all or parts (eg garden areas) of premises, including such matters as deliveries
- adoption of best practice guidance (eg Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA)
- installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- management of people, including staff, and traffic (and resulting queues)
- liaison with public transport providers
- siting of external lighting including security lighting
- management arrangements for collection and disposal of litter
- effective ventilation systems to prevent nuisance from odour

Protection of Children from Harm

7.12 The protection of children is an important issue and the licensing regime has a fundamental role in achieving this. The protection of children from harm includes moral, psychological and physical harm and applicants are expected to demonstrate that such factors have been considered in their operating schedules.

7.13 Applicants should expect to receive objections in respect of the protection of children from harm, and licensees should expect their licence to be reviewed, where:

- there have been convictions for serving alcohol to minors or the premises have a reputation for facilitating underage drinking
- there is a known association with drug taking or dealing
- there is a strong element of gambling on the premises
- entertainment of an adult or sexual nature is commonly provided

- 7.14 Licensees will be expected to prevent children from viewing films that are unsuitable because of the age classification of the film that has been imposed by the British Board of Film Classification or the Licensing Authority.
- 7.15 Anyone intending to provide staff for the supervision of activities for under 18s will be expected to carry out enhanced criminal record checks on all such persons, and to keep a register which should be available to the Police or authorised Council officer on request. Applicants who do not put these measures in place should expect objections to be made to their application.
- 7.16 Where applicants intend to provide any age restricted goods or services it is expected that they will apply the same standards of age verification in respect of all age restricted goods or services, that staff will be regularly trained, and that appropriate records are kept of training and refusals.

8. Types of activity that may heighten concern as to the promotion of the licensing objectives

- 8.1 It has been the experience of this Licensing Authority over the last ten years since the Licensing Act came into force that there are certain types of licensable activity that tend to require a greater degree of control or a particular emphasis on certain control measures in order that the licensing objectives are effectively promoted.

Adult entertainment

- 8.2 The term 'adult entertainment' is not defined in the Licensing Act, but it is taken in this policy to refer to activities and form of entertainment that may be unsuitable for children to participate in or to observe. Common examples of adult entertainment include striptease, lap dancing and other forms of dancing /entertainment with a sexual content. Other types of activity may also be 'adult entertainment' such as the showing of films that have been certified '18', total fighting, mixed martial arts, and demonstrations and participation in activities containing elements of bondage, discipline, domination, submission, sadism and/or masochism. This list is clearly not exhaustive, and the Licensing Authority will consider each application on its merits.
- 8.3 Although adult entertainment is permitted by the Licensing Act, it is necessary that licensees set out details of the activities they intend to take place in their operating schedule, so that the Licensing Authority, responsible bodies and others may take appropriate steps to ensure that the Licensing Objectives are not undermined. As such it is important that applicants complete box 'N' of their application form, and provide as much detail as possible regarding the nature of the proposed activities.
- 8.4 If applicants do not complete box 'N' it is the policy of this Licensing Authority to impose a condition on the licence / certificate (if issued), consistent with the operating schedule, that prohibits adult entertainment at the premises. If licensees / certificate holders are then found to have provided adult entertainment in breach of this condition, they may be prosecuted and/or the licence / certificate may be reviewed which could lead to the imposition of further conditions, suspension or revocation.

- 8.12 Applicants and existing licensees / certificate holders should be aware that the presence of gaming machines in licensed premises is considered to be “adult entertainment” and requires notification to the licensing authority in box “N” of the application form otherwise they will not be permitted, as it is the policy of this licensing authority to add a condition, consistent with the operating schedule of each premises where box “N” is not completed, prohibiting adult entertainment at the premises as set out in guidance note 8 of the respective application forms.

Film classification

- 8.13 Where the Licensing Authority is requested to classify a film for exhibition within the Licensing Authority’s area, it will do so if the film has not been classified by the British Board of Film Classification, or such classification is not pending.
- 8.14 When an applicant submits a film for classification, they should provide a copy of the film to the Licensing Officer, and should indicate the rating that they consider appropriate. The Licensing Officer shall consult with Northumbria Police and the Local Safeguarding Children Board. The applicant should provide the copy of the film at least 28 days in advance of the proposed screening. If the applicant is unable to provide a copy of the film in DVD format or via a website then they should liaise with the Licensing Officer to arrange for a screening of the film for the relevant bodies as above.
- 8.15 The Licensing Authority shall have regard to any representations received from the Local Safeguarding Children Board and Northumbria Police. The Licensing Authority shall have regard to the classification standards applied by the British Board of Film Classification. The Licensing Authority shall also have regard to (but shall not be bound by) any classification given to the film by another Licensing Authority.
- 8.16 Where a relevant representation is received, the classification of the film shall be determined by a hearing of the Licensing Sub Committee.

Alcohol sales

- 8.17 It is expected that applicants will set out in their operating schedule the measures they will take to ensure that a written record is kept of all the names and addresses of persons who are authorised to sell or supply alcohol at all times, and that the written record is made available to Police and/or Council officers immediately upon request.
- 8.18 It is expected that premises licensed for the sale of alcohol for consumption off the premises will adopt responsible marketing practices and concern may be heightened where alcohol is promoted in such a way as to encourage people to drink more than they would ordinarily do and in a manner that doesn’t promote the licensing objectives, for example quantity based discount promotions and display and promotion of alcohol products in multiple positions in a premises.
- 8.19 It is expected that applicants who intend to sell or supply alcohol by delivery or collection of prepaid orders will include provision in their operating schedules to set out how they will ensure that they do not:

- serve alcohol to a person who appears to be drunk
- serve alcohol to a person who it is believed will pass it on to persons under 18 years old
- take payment for the alcohol at the place where it is served – sales should be pre-paid only

8.20 It is also expected that applicants will:

- operate an age verification policy of at least a Challenge 25 standard
- only deliver to residential addresses
- only stock delivery vehicles with alcohol that has been pre-ordered
- verify that the person that the alcohol is served to is the person who has ordered it
- only make sales where the purchase price is at least £25 and/or the minimum unit price of the alcohol is not less than £1 per unit

Petrol stations / garages

8.21 The Licensing Act prohibits the sale or supply of alcohol from premises used primarily as garages. The Section 182 guidance states that premises are used primarily as a garage if they are used for one or more of the following:

- the retailing of petrol
- the retailing of derv
- the sale of motor vehicles; and
- the maintenance of motor vehicles

8.22 It is expected that applicants for premises licences for premises where any of these activities take place will set out in their operating schedule that they will submit sales data on at least a six monthly basis showing:

- the number of purchases of fuel alone
- the number of purchases of fuel and other goods
- the number of purchases of other goods alone, and
- turnover for each of these type of purchases.

Takeaways

8.23 The Licensing Authority will generally not permit the sale of alcohol from 'takeaway' premises that are licensed for late night refreshment, due to the inherent potential for late night alcohol fuelled crime, disorder and anti-social behaviour and the difficulties of addressing such behaviour where the consumption of the alcohol and associated behaviour takes place away from the premises themselves, often in residential areas. Applicants seeking approval to sell alcohol from 'takeaway'

- What steps will be taken to promote the Licensing Objectives.

10.5 It is recommended that applicants contact responsible authorities when preparing operating schedules to discuss any relevant concerns.

11. Designated Premises Supervisor

11.1 Designated Premises Supervisors have an important role to play in ensuring that the measures to promote the licensing objectives that are set out in an operating schedule are put into practice on a day to day basis.

11.2 Where there is a requirement for premises to have a Designated Premises Supervisor, it is expected that the person will be a key person related to the premises, so that matters arising can be dealt with as quickly as possible.

11.3 It is expected that a Designated Premises Supervisor will have day to day responsibility for running the premises and will be present at the premises at least 50% of the time in a seven day week that the premises are open for the carrying on of licensable activities.

11.4 Where the Designated Premises Supervisor is not available at the premises for whatever reason, the Licensing Authority will expect an individual to be nominated as a point of contact who will have details of where the Designated Premises Supervisor can be contacted.

11.5 Where there are problems associated with the running of a premises that stem from the DPS's performance of that role, they may be removed from the role by the Licensing Sub-Committee.

12. Conditions

12.1 Whilst the Licensing Act sets out the regulatory framework that applies to all licensees, conditions can be added to individual licences to prescribe how the licensable activities are to be carried out having regard to all the relevant individual circumstances.

12.2 There are three types of condition:

- mandatory conditions imposed by the Secretary of State – applicants and licensees are expected to comply with the relevant mandatory conditions that apply to the activities they carry out, and to be aware that these mandatory conditions change from time to time. The Home Office issued guidance in respect of these mandatory conditions in October 2014:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/350507/2014-08-29_MC_Guidance_v1_0.pdf.

- conditions imposed voluntarily by the applicant / licensee – these conditions will be consistent with the applicant / licensee's operating schedule, although the wording may be amended to ensure clarity and enforceability. Applicants and licensees should note that in line with this Policy, in certain cases the Licensing Authority will assume unless

- Exclude a licensable activity from the licence or certificate
- Remove the designated premises supervisor
- Suspend the licence or certificate for a period not exceeding three months
- Revoke the licence or certificate.

13.14 The review process is intended to enable the Licensing Authority to take appropriate timely measures to promote the Licensing Objectives in respect of individual premises. A review can take place even if it would be disproportionate to revoke a licence or certificate, as some lesser measure can be taken, as above.

13.15 Also, because the review process is intended to address the future conduct of the licence holder, a review can take place regardless of any other measures that may be open to the interested party or responsible body. For instance, if a licence holder is found to have sold age restricted products to a minor, it is not necessary for a prosecution (or indeed a successful prosecution) to take place in respect of that sale before a review is brought, as the review would consider the steps appropriate to prevent future underage sales.

Summary reviews

13.16 The Police may request a summary review in serious cases of crime and disorder, and in which case within 48 hours of the application the Licensing Authority will consider whether any interim steps are required pending completion of the review process. This may include immediate suspension of the relevant licence.

14. Delegation and Decision Making

14.1 The Council has established a Licensing Committee to administer its functions under the Licensing Act 2003. Powers and functions have also been delegated to Licensing Sub-Committees and officers in order to provide a speedy, efficient and cost effective service to all parties involved in the licensing process.

14.2 Many of the decisions and functions are largely administrative in nature such as the grant of non-contentious applications, including for example those licences and certificates where no representations have been made. These will be delegated to Council officers. All such matters dealt with by officers will be reported for information to the next Licensing Committee meeting.

14.3 Applications where there are relevant representations will be dealt with by the Licensing Committee/Sub-Committee – unless such representations are considered irrelevant, frivolous or vexatious or unless the Licensing Authority, the applicant and everyone who has made representations agrees that a hearing is not necessary (usually after successful mediation).

14.4 The table given below sets out the delegation of decisions and functions of the Licensing Committee, Sub-Committees and officers. The various delegations include delegation to impose appropriate conditions.

14.5 This scheme of delegations is without prejudice to the right of relevant parties to refer an application to a Licensing Sub-Committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.

- 14.6 Unless there are compelling reasons to the contrary, the Licensing Authority will require the Licensing Committee or any of its sub-committees to meet in public – although Members can retire into private session to consider their decision. A public announcement of the decision will be made at the end of the hearing together with clear, cogent reasons for the decision having due regard to the Human Rights Act 1998, the four licensing objectives and all other legislation.
- 14.7 The Licensing Committee will be made up of 15 members and Sub-Committees of three who will hear any relevant representations from authorised persons, responsible authorities and interested parties in the form of a hearing.
- 14.8 Where a function is delegated to an officer, that officer will be responsible for liaising between the applicant, interested parties and the responsible authorities to ensure that any licence granted is subject to the appropriate conditions. Where objections are made then the officer will once again liaise with the applicant, interested parties and the responsible authorities to see if a ‘settlement’ is possible to overcome the objections without the need for the matter to go before the Sub-Committee.
- 14.9 The Sub-Committee will determine each case before it on its individual merits. However, in determining the application the Sub-Committee will consider:
- The case and evidence presented by all parties
 - The promotion of the four licensing objectives
 - Guidance issued by Central Government
 - The Licensing Authority’s own statement of Licensing Policy

14.10 Delegation of functions:

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Consideration of reports to the committee	Six monthly		
Approval of new / updated Local Licensing Guidance	Six monthly		
Application for personal licence		If representation is made	If no representation made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application for a Provisional		If a relevant representation made	If no relevant representation is

Statement			made
Application to vary Premises Licence / Club Premises Certificate		If a relevant representation made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of premises licence		If a Police objection	All other cases
Application for interim authorities		If a police Objection	All other cases
Application to review Premises Licence / Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to make representation on behalf of Licensing Authority			All cases
Determination of objection to a Temporary Event Notice		All cases	
Classification of films for exhibition where BBFC has not classified		If a relevant representation made	If no relevant representation is made

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Home Office

Revised Guidance issued under section 182 of the Licensing Act 2003

April 2018

1. Introduction

The Licensing Act 2003

- 1.1 The Licensing Act 2003 (referred to in this Guidance as the 2003 Act), its explanatory notes and any statutory instruments made under it may be viewed online at www.legislation.gov.uk. The statutory instruments include regulations setting out the content and format of application forms and notices. The Home Office has responsibility for the 2003 Act. However, the Department for Culture, Media and Sport (DCMS) is responsible for regulated entertainment, for which there is provision in Schedule 1 to the 2003 Act (see Chapter 16).

Licensing objectives and aims

- 1.2 The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.
- 1.3 The licensing objectives are:
- The prevention of crime and disorder;
 - Public safety;
 - The prevention of public nuisance; and
 - The protection of children from harm.
- 1.4 Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.
- 1.5 However, the legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:
- protecting the public and local residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
 - giving the police and licensing authorities the powers they need to effectively manage and police the night-time economy and take action against those premises that are causing problems;
 - recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
 - providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and
 - encouraging greater community involvement in licensing decisions and giving local residents the opportunity to have their say regarding licensing decisions that may affect them.

The guidance

- 1.6 Section 182 of the 2003 Act provides that the Secretary of State must issue and, from time to time, may revise guidance to licensing authorities on the discharge of their functions under the 2003 Act. This revised guidance takes effect as soon as it is published. Where a licence application was made prior to the publication of the revised guidance, it should be processed in accordance with the guidance in effect at the time at which the application was made; the revised guidance does not apply retrospectively. However, all applications received by the licensing authority on or after the date the revised guidance was published should be processed in accordance with the revised guidance.

Purpose

- 1.7 This Guidance is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.
- 1.8 The police remain key enforcers of licensing law. This Guidance does not bind police officers who, within the parameters of their force orders and the law, remain operationally independent. However, this Guidance is provided to support and assist police officers in interpreting and implementing the 2003 Act in the promotion of the four licensing objectives.

Legal status

- 1.9 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. This Guidance is therefore binding on all licensing authorities to that extent. However, this Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons. Departure from this Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.
- 1.10 Nothing in this Guidance should be taken as indicating that any requirement of licensing law or any other law may be overridden (including the obligations placed on any public authorities under human rights legislation). This Guidance does not in any way replace the statutory provisions of the 2003 Act or add to its scope and licensing authorities should note that interpretation of the 2003 Act is a matter for the courts. Licensing authorities and others using this Guidance must take their own professional and legal advice about its implementation.

Licensing policies

- 1.11 Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.
- 1.12 However, determining and publishing a statement of its policy is a licensing function and as such the authority must have regard to this Guidance when taking this step. A licensing authority may depart from its own policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. But once again, it is important that it should be able to give full reasons for departing from its published statement of licensing policy. Where revisions to this Guidance are issued by the Secretary of State, there may be a period of time when the licensing policy statement is inconsistent with the Guidance (for example, during any consultation by the licensing authority). In these circumstances, the licensing authority should have regard, and give appropriate weight, to this Guidance and its own existing licensing policy statement.

Licensable activities

- 1.13 For the purposes of the 2003 Act, the following are licensable activities:
- The sale by retail of alcohol;
 - The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - The provision of regulated entertainment; and
 - The provision of late night refreshment.

Further explanation of these terms is provided in Chapter 3.

Authorisations or permissions

- 1.14 The 2003 Act provides for four different types of authorisation or permission, as follows:
- Premises licence – to use premises for licensable activities.
 - Club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in Section 1 of the Act.
 - Temporary event notice – to carry out licensable activities at a temporary event.
 - Personal licence – to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

General principles

- 1.15 If an application for a premises licence or club premises certificate has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions. It is recommended that licence applicants contact responsible authorities when preparing their operating schedules.

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as “must”, “shall” and “will” is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives;
 - must be precise and enforceable;
 - must be unambiguous and clear in what they intend to achieve;
 - should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
 - must be tailored to the individual type, location and characteristics of the premises and events concerned;
 - should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
 - should not replicate offences set out in the 2003 Act or other legislation;
 - should be proportionate, justifiable and be capable of being met;
 - cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
 - should be written in a prescriptive format.

Each application on its own merits

- 1.17 Each application must be considered on its own merits and in accordance with the licensing authority’s statement of licensing policy; for example, if the application falls within the scope of a cumulative impact policy. Conditions attached to licences and certificates must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Additional guidance

- 1.18 From time to time, the Home Office may issue additional supporting guidance to licensing authorities and other persons on the Gov.uk website. This supporting guidance is good practice guidance and should be viewed as indicative and subject to change. Such supporting guidance will broadly reflect but will not be part of the statutory guidance issued by the Secretary of State under section 182 of the 2003 Act. Licensing authorities may wish to refer to, but are under no statutory duty to have regard to such supporting guidance issued by the Home Office.

Other relevant legislation

1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes:

- The Gambling Act 2005
- The Environmental Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

2. 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.

Public safety

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

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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

those premises should be.

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

Public nuisance

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

early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate

authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

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

Table of relevant offences under the 2003 Act

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

3. Licensable activities

Summary

- 3.1 A premises licence authorises the use of any premises (see Chapter 5) for licensable activities. Licensable activities are defined in section 1 of the 2003 Act, and a fuller description of certain activities is set out in Schedules 1 and 2 to the 2003 Act.
- 3.2 The licensable activities are:
- the sale by retail of alcohol;
 - the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
 - the provision of regulated entertainment; and
 - the provision of late night refreshment.

Wholesale of alcohol

- 3.3 The sale of alcohol to the general public is licensable under the 2003 Act in accordance with the definition of "sale by retail" in section 192 of the 2003 Act. This section makes it clear that, to be excluded from the meaning of "sale by retail", a sale must be:
- made from premises owned by the person making the sale, or occupied under a lease with security of tenure; and
 - for consumption off the premises.
- 3.4 In addition, to be excluded, the sales must be sales which are made to:
- a trader for the purpose of his trade;
 - to a club for the purposes of that club;
 - to a holder of a premises licence or a personal licence for the purpose of making sales under a premises licence; or
 - a premises user who has given a temporary event notice, for the purpose of making sales authorised by that notice.
- 3.5 If an employee were buying alcohol as an "agent" for their employer and for the purposes of their employer's trade (i.e. selling alcohol), this could be treated as a sale to a trader. If, however, an employee were buying for the employee's own consumption, this would be a retail sale, and would require a licence.
- 3.6 The same considerations apply in the case of caterers who supply alcohol to their customers. Where a caterer purchases alcohol and then sells this alcohol to its customer, an authorisation will be required at the location where the retail sale of the alcohol is made (likely to be the caterer's own premises). If the customer was proposing to sell the alcohol under an authorisation, it is the customer who would need an authorisation under the 2003 Act. In this case, the exemption under the 2003 Act may apply to the sale made by the caterer.
- 3.7 From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN)

Licensing qualifications

- 4.27 Details of licensing qualifications accredited by the Secretary of State will be notified to licensing authorities and the details may be viewed on the GOV.UK website.

Relevant licensing authority

- 4.28 Personal licences remain valid unless surrendered, suspended, revoked or declared forfeit by the courts. For applications made on or after 6 April 2017, a licence granted to someone subject to immigration control will lapse if the individual ceases to be entitled to work in the UK. The requirement to renew a personal licence was removed from the Licensing Act 2003 by the Deregulation Act 2015. While personal licences issued before the 2015 Act have expiry dates, these licences will remain valid and such dates no longer have an effect. Once granted, the licensing authority which issued the licence remains the “relevant licensing authority” for it and its holder, even though the individual may move out of the area or take employment elsewhere. The personal licence itself will give details of the issuing licensing authority.

Changes in name or address

- 4.29 The holder of the licence is required by the 2003 Act to notify the licensing authority of any changes to a holder’s name or address. These changes should be recorded by the licensing authority. The holder is also under a duty to notify any convictions for relevant offences to the licensing authority and the courts are similarly required to inform the licensing authority of such convictions, whether or not they have ordered the suspension or forfeiture of the licence. The holder must also notify the licensing authority of any conviction for a foreign offence. These measures ensure that a single record will be held of the holder’s history in terms of licensing matters.
- 4.30 The 2003 Act authorises the provision and receipt of such personal information to such agencies for the purposes of that Act.

Specification of new designated premises supervisors

- 4.31 Every premises licence that authorises the sale of alcohol must specify a DPS. This will normally be the person who has been given day to day responsibility for running the premises by the premises licence holder. The only exception is for community premises which have successfully made an application to remove the usual mandatory conditions set out in the 2003 Act. Guidance on such applications is set out in paragraphs 4.52 to 4.65 of this Guidance.
- 4.32 The Government considers it essential that police officers, fire officers or officers of the licensing authority can identify immediately the DPS so that any problems can be dealt with swiftly. For this reason, the name of the DPS and contact details must be specified on the premises licence and this must be held at the premises and displayed in summary form. The DPS’ personal address should not be included in the summary form in order to protect their privacy.
- 4.33 To specify a DPS, the premises licence holder should normally submit an application to the licensing authority (which may include an application for immediate interim effect) with:
- a form of consent signed by the individual concerned to show that they consent to taking on this responsible role, and

- the relevant part (Part A) of the licence.
- 4.34 If they are applying in writing, they must also notify the police of the application. If the application is made electronically via GOV.UK or the licensing authority's own electronic facility, the licensing authority must notify the police no later than the first working day after the application is given.
- 4.35 The premises licence holder must notify the existing DPS (if there is one) of the application on the same day as the application is given to the licensing authority. This requirement applies regardless of whether the application was given by means of an electronic facility, or by some other means.
- 4.36 The general guidance in Chapter 8 on electronic applications applies in respect of new applications.
- 4.37 Only one DPS may be specified in a single premises licence, but a DPS may supervise two or more premises as long as the DPS is able to ensure that the licensing objectives are properly promoted and that each premises complies with the 2003 Act and conditions on the premises licence.
- 4.38 Where there are frequent changes of DPS, the premises licence holder may submit the form in advance specifying the date when the new individual will be in post and the change will take effect.

Police objections to new designated premises supervisors

- 4.39 The police may object to the designation of a new DPS where, in exceptional circumstances, they believe that the appointment would undermine the crime prevention objective. The police can object where, for example, a DPS is first specified in relation to particular premises and the specification of that DPS in relation to the particular premises gives rise to exceptional concerns. For example, where a personal licence holder has been allowed by the courts to retain their licence despite convictions for selling alcohol to children (a relevant offence) and then transfers into premises known for underage drinking.
- 4.40 Where the police do object, the licensing authority must arrange for a hearing at which the issue can be considered and both parties can put forward their arguments. The 2003 Act provides that the applicant may apply for the individual to take up post as DPS immediately and, in such cases, the issue would be whether the individual should be removed from this post. The licensing authority considering the matter must restrict its consideration to the issue of crime and disorder and give comprehensive reasons for its decision. Either party would be entitled to appeal if their argument is rejected.
- 4.41 The portability of personal licences between premises is an important concept under the 2003 Act. It is expected that police objections would arise in only genuinely exceptional circumstances. If a licensing authority believes that the police are routinely objecting to the designation of new premises supervisors on grounds which are not exceptional, they should raise the matter with the chief officer of police as a matter of urgency.

to premises licences with the minimum of fuss.

- 8.49 For some premises, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

Variations

Introduction

- 8.50 Where a premises licence holder wishes to amend the licence, the 2003 Act in most cases permits an application to vary to be made rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives. Applications to vary can be made electronically via GOV.UK or by means of the licensing authority's own electronic facility following the procedures set out in Chapter 8 above.

Simplified processes

- 8.51 There are simplified processes for making applications, or notifying changes, in the following cases:
- a change of the name or address of someone named in the licence (section 33);
 - an application to vary the licence to specify a new individual as the designated premises supervisor (DPS) (section 37);
 - a request to be removed as the designated premises supervisor (section 41);
 - an application by a licence holder in relation to community premises authorised to sell alcohol to remove the usual mandatory conditions set out in sections 19(2) and 19(3) of the 2003 Act concerning the supervision of alcohol sales by a personal licence holder and the need for a DPS who holds a personal licence (sections 25A and 41D); and
 - an application for minor variation of a premises licence (sections 41A to 41C) or club premises certificate (sections 86A to 86C).
- 8.52 If an application to specify a new DPS or to remove the mandatory conditions concerning the supervision of alcohol sales is made electronically via GOV.UK or the licensing authority's own electronic facility, the authority must notify the police no later than the first working day after the application is given.
- 8.53 Where a simplified process requires the applicant (if they are not also the personal licence holder) to copy the application to the licence holder for information, this will apply regardless of whether the application is made in writing or electronically. Otherwise the general guidance set out above (paragraphs 8.21 to 8.28) on electronic applications applies.

Minor variations process

- 8.54 Variations to premises licences or club premises certificates that could not impact adversely on the licensing objectives are subject to a simplified 'minor variations' process. Under this process, the applicant is not required to advertise the variation in a newspaper or circular, or copy it to responsible authorities. However, they must display

Applications to change the designated premises supervisors

8.88 Chapter 4 covers designated premises supervisors and applications to vary a premises licence covering sales of alcohol by specifying a new designated premises supervisor. Chapter 4 covers applications by community premises to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act concerning the authorisation of alcohol sales by a personal licence holder and the need for a designated premises supervisor who holds a personal licence.

Provisional statements

8.89 Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for one or more licensable activities, investors may be unwilling to commit funds unless they have some assurance that a premises licence covering the desired licensable activities would be granted for the premises when the building work is completed.

8.90 The 2003 Act does not define the words “otherwise altered”, but the alteration must relate to the purpose of being used for one or more licensable activities.

8.91 Any person falling within section 16 of the 2003 Act can apply for a premises licence before new premises are constructed, extended or changed. This would be possible where clear plans of the proposed structure exist and the applicant is in a position to complete an operating schedule including details of:

- the activities to take place there;
- the time at which such activities will take place;
- the proposed hours of opening;
- where the applicant wishes the licence to have effect for a limited period, that period;
- the steps to be taken to promote the licensing objectives; and
- where the sale of alcohol is involved, whether supplies are proposed to be for consumption on or off the premises (or both) and the name of the designated premises supervisor the applicant wishes to specify.

8.92 In such cases, the licensing authority would include in the licence the date upon which it would come into effect. A provisional statement will normally only be required when the information described above is not available.

8.93 The 2003 Act therefore provides for a person, if an individual aged 18 or over, who has an interest in the premises to apply for a “provisional statement”. This will not be time limited, but the longer the delay before an application for a premises licence is made, the more likely it is that there will be material changes and that the licensing authority will accept representations. “Person” in this context includes a business.

8.94 When a hearing is held, the licensing authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a premises licence was sought for those premises, it would consider it appropriate for the promotion of the licensing objectives to:

- attach conditions to the licence;
- rule out any of the licensable activities applied for;
- refuse to specify the person nominated as premises supervisor; or

- reject the application.

It will then issue the applicant with a provisional statement setting out the details of that decision together with its reasons.

- 8.95 The licensing authority must copy the provisional statement to each person who made relevant representations, and the chief officer of police for the area in which the premises is situated. The licensing authority should give full and comprehensive reasons for its decision. This is important in anticipation of an appeal by any aggrieved party.
- 8.96 When a person applies for a premises licence in respect of premises (or part of the premises or premises which are substantially the same) for which a provisional statement has been made, representations by responsible authorities and other persons will be excluded in certain circumstances. These are where:
- the application for a licence is in the same form as the licence described in the provisional statement;
 - the work in the schedule of works has been satisfactorily completed;
 - given the information provided in the application for a provisional statement, the responsible authority or other person could have made the same, or substantially the same, representations about the application then but failed to do so without reasonable excuse; and
 - there has been no material change in the circumstances relating either to the premises or to the area in the proximity of those premises since the provisional statement was made.
- 8.97 Any decision of the licensing authority on an application for a provisional statement will not relieve an applicant of the need to apply for planning permission, building control approval of the building work, or in some cases both planning permission and building control.
- 8.98 A provisional statement may not be sought or given for a vessel, a vehicle or a moveable structure (see section 189 of the 2003 Act).

Transfers of premises licences

- 8.99 The 2003 Act provides for any person who may apply for a premises licence, which includes a business, to apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. Where it is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the application is given. However, the responsibility to notify the DPS remains with the applicant. Otherwise the general guidance on electronic applications set out in paragraphs 8.21 to 8.28 applies.
- 8.100 In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. Section 43 of the 2003 Act provides a mechanism which allows the transfer to come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police or the Home Office

(Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application, amend the licence accordingly and return it to the new holder.

- 8.101 In exceptional circumstances where the chief officer of police believes the transfer may undermine the crime prevention objective, the police may object to the transfer. The Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or the Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence, or businesses or individuals linked to such persons, are involved in crime (or disorder) or employing illegal workers.
- 8.102 Such objections (and therefore such hearings) should only arise in truly exceptional circumstances. If the licensing authority believes that the police or the Home Office (Immigration Enforcement) are using this mechanism to vet transfer applicants routinely and to seek hearings as a fishing expedition to inquire into applicants' backgrounds, it is expected that it would raise the matter immediately with the chief officer of police or the Home Office (Immigration Enforcement).

Interim authorities

- 8.103 The 2003 Act provides special arrangements for the continuation of permissions under a premises licence when the holder of a licence dies suddenly, becomes bankrupt, mentally incapable or ceases to be entitled to work in the UK. In the normal course of events, the licence would lapse in such circumstances. However, there may also be some time before, for example, the deceased person's estate can be dealt with or an administrative receiver appointed. This could have a damaging effect on those with interests in the premises, such as an owner, lessor or employees working at the premises in question; and could bring unnecessary disruption to customers' plans. The 2003 Act therefore provides for the licence to be capable of being reinstated in a discrete period of time in certain circumstances.
- 8.104 These circumstances arise only where a premises licence has lapsed owing to the death, incapacity or insolvency of the holder or where the holder ceases to be entitled to work in the UK. In such circumstances, an "interim authority" notice may be given to the licensing authority within 28 consecutive days beginning the day after the licence lapsed. Where applications are made in writing, the applicant must give notice of the application to the chief officer of police in all cases, and the Home Office (Immigration Enforcement) if the licence authorises the sale of alcohol or provision of late night refreshment. If an application is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and the Home Office (Immigration Enforcement) no later than the first working day after the notice is given.
- 8.105 An interim notice may only be given either by a person with a prescribed interest in the premises as set out in the regulations made under the 2003 Act (which may be viewed on www.legislation.gov.uk, the Government's legislation website); or by a person connected to the former holder of the licence (normally a personal representative of the former holder; or a person with power of attorney; or where someone has become

9. Determining applications

General

9.1 When a licensing authority receives an application for a new premises licence or an application to vary an existing premises licence, it must determine whether the application has been made in accordance with section 17 of the 2003 Act, and in accordance with regulations made under sections 17(3) to (6), 34, 42, 54 and 55 of the 2003 Act. It must similarly determine applications for the grant of club premises certificates made in accordance with section 71 of the 2003 Act, and in accordance with regulations made under sections 71(4) to (7), 84, 91 and 92 of the 2003 Act. This means that the licensing authority must consider among other things whether the application has been properly advertised in accordance with those regulations.

Where no representations are made

9.2 A hearing is not required where an application has been properly made and no responsible authority or other person has made a relevant representation or where representations are made and subsequently withdrawn. In these cases, the licensing authority must grant the application in the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the 2003 Act. This should be undertaken as a simple administrative process by the licensing authority's officials who should replicate the proposals contained in the operating schedule to promote the licensing objectives in the form of clear and enforceable licence conditions. Licensing authorities should not hold hearings for uncontested applications, for example in situations where representations have been made and conditions have subsequently been agreed.

Where representations are made

9.3 Where a representation concerning the licensing objectives is made by a responsible authority about a proposed operating schedule and it is relevant (see paragraphs 9.4 to 9.10 below), the licensing authority's discretion will be engaged. It will also be engaged if another person makes relevant representations to the licensing authority, which are also not frivolous or vexatious (see paragraphs 9.4 to 9.10 below). Relevant representations can be made in opposition to, or in support of, an application and can be made by any individual, body or business that has grounds to do so.

Relevant, vexatious and frivolous representations

9.4 A representation is "relevant" if it relates to the likely effect of the grant of the licence on the promotion of at least one of the licensing objectives. For example, a representation from a local businessperson about the commercial damage caused by competition from new licensed premises would not be relevant. On the other hand, a representation by a businessperson that nuisance caused by new premises would deter customers from entering the local area, and the steps proposed by the applicant to prevent that nuisance were inadequate, would be relevant. In other words, representations should relate to the impact of licensable activities carried on from premises on the objectives. For representations in relation to variations to be relevant, they should be confined to

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
 - an appropriate ratio of tables and chairs to customers based on the capacity; and
 - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Mandatory conditions in relation to the supply of alcohol

- 10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated premises supervisor

- 10.26 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.27 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

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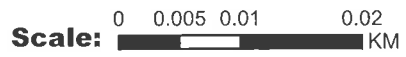
Transfer and Vary DPS applications- Anna's Mini Mark



Not Set



Legend



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