

LICENSING SUB COMMITTEE AGENDA

Tuesday, 19 December 2017 at 10.00 am in the Whickham Room - Civic Centre

From the Chief Executive, Sheena Ramsey

Item	Business
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1	Application for the review of a Premises Licence (Pages 3 - 126)
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	Report of the Strategic Director, Communities and Environment
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TITLE OF REPORT: **Application for the review of a Premises Licence:**
Wellfield Stores, 1 Wellfield Terrace, Windy Nook,
Gateshead, NE10 9BU

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

1. PURPOSE OF THE REPORT

The Sub-Committee is asked to consider the application from the Chief Inspector of Weights & Measures, who is duly authorised on behalf of Trading Standards (Local Weights and Measures Authority) at Gateshead Council for the review of a Premises Licence for Wellfield Stores, 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU.

Representations from the Licensing Authority, Gateshead's Local Safeguarding Children Board (LSCB), Public Health and Northumbria Police have also been received and are to be considered with the review application.

2. BACKGROUND

There has been a premises licence for Wellfield Stores at 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU since June 2005. There have been several applications to transfer the premises licence and variations to nominate individuals as designated premises supervisor.

On 30 November 2016 Mr Suwandrarasa Jeyarasa submitted an application to transfer the premises licence into his name and nominated himself as the designated premises supervisor. Northumbria Police had no objections to these applications.

3. THE CURRENT REVIEW APPLICATION

The review application submitted by the Local Weights and Measures Authority ('Applicant') is attached at Appendix 1. A copy of the Premises Licence is attached at Appendix 1.1.

The Applicant applied for a review of the existing licence (Appendix 1.1) under s51 of the Licensing Act 2003 on the following grounds:

On 24 October 2017 Mr Daniel Shaw, an employee at the store, sold four cans of Stella lager to a 15 year old volunteer, contrary to section 14691) of the Licensing Act 2003

The application for review relates to the following licensing objectives:

- The prevention of crime and disorder

- The protection of children from harm

The application for review was advertised in accordance with the provisions of the Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005.

The Licensing Authority may attach conditions to any licence which are appropriate for the promotion of the Licensing Objectives. A copy of the Model Pool of Conditions from Gateshead Council's Statement of Licensing Policy is attached at Appendix 1.2.

4. REPRESENTATIONS

The following representations have been received:

- Licensing Authority (Appendix 2)
- Gateshead Local Safeguarding Children Board (LSCB) (Appendix 2.1)
- Public Health (Appendix 2.2)
- Northumbria Police (Appendix 2.3)

5. PARTIES

The Parties to the hearing will be:

- a) Local Weights and Measures Authority;
- b) Licensing Authority;
- c) Gateshead Local Safeguarding Children Board (LSCB);
- d) Public Health
- e) Northumbria Police;
- f) The Premises Licence Holder, Mr Suwandrarasa Jeyarasa

6. 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 Licensing Act 2003
- (c) the Amended Guidance (April 2017) 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.

An area plan is attached as Appendix 5.

7. 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:

- Take no action;
- Modify the conditions of the licence (alter, add or remove conditions);
- Remove the designated premises supervisor;
- Suspend the licence for a period not exceeding three months; or
- Revoke the licence.

APPENDICES

Appendix	1	Review Application
	1.1	Premises Licence
	1.2	Pool of Model Conditions from Gateshead Council's Licensing Policy
Appendix	2	Representation from Licensing Authority
	2.1	Representation from Gateshead Local Safeguarding Children Board
	2.2	Representation from Public Health
	2.3	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

REVIEW APPLICATION

Wellfield Stores, 1 Wellfield Terrace, Windy Nook,
Gateshead, NE10 9BU

[Insert name and address of relevant licensing authority and its reference number (optional)]

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Gateshead Council – Local Weights and Measures Authority

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Wellfield Stores 1 Wellfield Terrace Windy Nook	
Post town Gateshead	Post code (if known) NE10 9BU

Name of premises licence holder or club holding club premises certificate (if known) Suwandrarasa Jeyarasa
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Number of premises licence or club premises certificate (if known) 00CH 03021

Part 2 - Applicant details

I am

Please tick ✓ yes

- 1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

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

Surname

First names

I am 18 years old or over

Please tick ✓ yes

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

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Local Weights and Measures Authority Gateshead Council Trading Standards Service Development and Public Protection Civic Centre Regent Street Gateshead NE8 1HH Contact Officer – Tracey Johnson
Telephone number (if any) 0191 433 3934
E-mail address (optional) traceyjohnson@gateshead.gov.uk

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

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

Please tick one or more boxes ✓

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

Please state the ground(s) for review (please read guidance note 2)

On 24th October 2017 Mr Daniel Shaw, an employee at the store, sold four cans of Stella lager to a 15 year old volunteer, contrary to section 146(1) of the Licensing Act 2003.

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

Gateshead Council's Trading Standards Service carries out test purchase operations using child volunteers to check the compliance of retailers selling age restricted products such as alcohol. The Service follows agreed guidelines when carrying out these operations.

On 24th October 2017 a test purchase operation was carried out by officers from Gateshead Trading Standards using a 15 year old child volunteer. The volunteer was instructed to attempt to buy alcohol from Wellfield Stores, 1 Wellfield Terrace, Gateshead. The child volunteer was sold four cans of Stella lager by Daniel Shaw who was working at the store at the time. Mr Shaw asked the volunteer if he had any ID, when he replied "No" he served him anyway and told him he should "keep it with him at all times".

During the test purchase operation the volunteer attempted to purchase alcohol from 10 premises and was refused on 8 occasions.

Suwandrarasa Jeyarasa is the owner of the store as well as the holder of the premises licence and the designated premises supervisor. He was not present at the time of the sale.

Please tick ✓ yes

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

If yes please state the date of that application

Day Month Year

1	1	1	1	1	1	1	1	1
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If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

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

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

Part 3 – Signatures (please read guidance note 4)

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

Signature

[Handwritten Signature]

Date

2nd November 2017

Capacity Chief Inspector of Weights and Measures

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 using an e-mail address your e-mail address (optional)	

Notes for Guidance

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

Licensing Act 2003

Premises Licence

Premises Licence Number **00CH 03021**

Part 1 - Premises Details

Postal address of premises, or if none, ordnance survey map reference or description			
Wellfield Stores 1 Wellfield Terrace Windy Nook			
Post town	Gateshead	Postcode	NE10 9BU
Telephone number	0191 420 0080		

Where the licence is time limited, the dates
Not applicable

Licensable activities authorised by the licence
1. For the sale by retail of alcohol (indoors only)

The times the licence authorises the carrying out of licensable activities
<u>For the supply of alcohol</u>
Monday to Saturday 08:00 to 23:00 hours
Sunday 10:00 to 22:30 hours
Good Friday 08:00 to 22:30 hours
Christmas Day 12:00 to 15:00 hours and 19:00 to 22:00 hours

The opening hours of the premises
Monday to Sunday 08:00 to 21:00 hours

Where the licence authorises supplies of alcohol, whether these are On and/or Off supplies
For consumption off the premises

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

Suwandrarasa Jeyarasa
25 Cambridge Street
Newcastle Upon Tyne
NE4 7HJ

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.

Suwandrarasa Jeyarasa
25 Cambridge Street
Newcastle Upon Tyne
NE4 7HJ

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

NCC00CJ3101 Newcastle City Council

Signature on behalf of the issuing licensing authority

Date Of Issue : 15 December 2016



Environmental Health, Licensing and Enforcement Manager
Development and Public Protection

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.

Annex 2 - Conditions consistent with the operating schedule.

None

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

None

Annex 4 - Copy of Plan

APPENDIX 1.2

LICENSING ACT 2003 - POOL OF MODEL CONDITIONS

CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

1. The Licensee, that is the person in whose name the Premises Licence is issued, 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 preventing crime and disorder.
2. The Licensee shall ensure that on each day that door supervisors are engaged for duty at the premises, their details (names and licence numbers) are recorded in an appropriate book kept at the premises. In conjunction with this record book, the licensee shall also keep an incident book. This record book and incident book must be available for inspection by the Police or Authorised Officer at all times when the premises are open.
3. Glass bottles containing beverages of any kind shall not be left in the possession of any patrons after service and following the discharge of the contents into an appropriate glass or drinking vessel.
4. Glass bottles containing wine may be sold for consumption with a meal taken at a table, by customers who are seated in an area set aside exclusively for patrons taking table meals.
5. No persons carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
6. One pint and half pint capacity drinking glasses, and highball (tumbler) drinking glasses, in which drinks are served, shall be of strengthened glass (tempered glassware) or of a material whereby in the event of breakage, the glass will fragment with no sharp edges being left. Alternatively, drinks may be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).
(Note. Weights and measures legislation requires the use of "stamped glasses" where "meter-measuring equipment" is not in use.)
7. No glass drinking vessels or glass bottles shall be permitted (in the areas described in the attached schedule and delineated on the approved plan.)
8. No patrons shall be allowed to leave the premises whilst in the possession of any drinking vessel or open glass bottle, whether empty or containing any beverage.
(Note. This condition shall not apply to patrons who have purchased beverages for consumption off the premises (within the curtilage of the premises licensed area or in the area covered by a Pavement Café Licence) with the express consent of the Licensee, designated premises supervisor or responsible person.)
9. The Licensee and designated premises supervisor shall ensure that there are effective management arrangements in place to enable them to know how many persons there are in the premises at all times when the premises are open for a licensable activity.

10. The maximum number of persons permitted to assemble on the licensed premises, or relevant part of the licensed premises shall be indicated by a fixed notice bearing the words "Maximum Occupancy" with letters and numbers not less than 20 mm high, conspicuously sited at each relevant part of the premises and at the reception point.
11. All members of staff at the premises including Door Supervisors shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 25 years and who is seeking access to the premises or is seeking to purchase or consume alcohol on the premises. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a "PASS" logo.
12. A suitably worded sign of sufficient size and clarity shall be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.
13. A conspicuous notice shall be displayed on or immediately outside the premises adjacent to the entrance to the premises which gives details of times when the premises are permitted to be open for any licensable activity.
14. A conspicuous notice shall be displayed on, or immediately outside the premises, or immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.
15. A CCTV system shall be designed, installed and maintained in proper working order, to the satisfaction of the Licensing Authority and in consultation with Northumbria Police. Such a system shall:
 - Ensure coverage of all entrances and exits to the Licensed Premises internally and externally,
 - The till area
 - Ensure coverage of such other areas as may be required by the Licensing Authority and Northumbria Police.
 - Provide continuous recording facilities for each camera to a good standard of clarity. Such recordings shall be retained (on tape or otherwise) for a period of 28 days, and shall be supplied to the Licensing Authority or a Police Officer on request.
 - Be in operation at all times the premises are in use.
16. The Premises Licence Holder and Designated Premises Supervisor shall co-operate with any reasonable crime prevention initiative which are promoted by the Licensing Officer at Gateshead Police Station from time to time.
17. The Premises Licence Holder and Designated Premises Supervisor shall comply with any reasonable measures required by the Licensing Authority from time to time relating to preventing the sale of alcohol to children.
18. A 'Challenge 25' policy shall be adopted, ensuring that all members of staff at the premises shall refuse to sell alcohol to anyone who appears to be under the age of

- 25 and who is seeking to purchase alcohol unless that person provides credible photographic proof of age evidence.
19. Implementing and maintaining a 'Challenge 25' policy, including staff training to prevent underage sales, and ensuring that all members of staff at the premises shall seek credible photographic proof of age evidence from any person who appears to be under the age of 25 and who is seeking to purchase cigarettes and/or alcohol. Such credible evidence, which shall include a photograph of the customer, will either be a passport, photographic driving licence, or Proof of Age card carrying a 'PASS' logo.
 20. Staff are to be made aware of 'proxy sales' and shall refuse sales of alcohol to adults who they suspect are buying alcohol on behalf of children.
 21. Staff shall refuse to sell age restricted products to any adult who they suspect to be passing age restricted products to under age children (i.e. proxy sales). Details of these refusals should also be kept in the ledger.
 22. Staff are to be given sufficient training agreed with the Licensing Authority in the control of age-restricted products, refresher training for existing staff and training for all new staff.
 23. Accurate training records are to be kept for all staff involved in sales of age-restricted products.
 24. A refusals ledger shall be maintained, and made available to Local Authority enforcement officers on request. Refusals to be supported by the CCTV cameras.
 25. Staff are to be provided with an unobstructed view of the area immediately outside the shop and entrance.
 26. Persons under the age of 18 shall only be allowed to enter or remain on the premises prior to 21:00 hours each day, and only when accompanied by a responsible adult, and with the discretion of the Designated Premises Supervisor.
 27. No person carrying open or sealed glass bottles shall be admitted to the premises at any time that the premises are open for any licensable activity.
 28. 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 sale advising customers that underage sales of alcohol are illegal and that they may be asked to produce evidence of their age.

CONDITIONS RELATING TO PUBLIC SAFETY

29. Notices detailing the actions to be taken in the event of fire or other emergency, including how to summon the fire brigade shall be prominently displayed and protected from damage and deterioration.
30. Temporary electrical wiring and distribution systems shall not be provided without notification to the licensing authority at least ten days before commencement of the

- work and prior inspection by a suitable qualified electrician. Premises shall not be opened to the public until the work is deemed satisfactory by the above parties.
31. Where it is not possible to give ten days notification to the licensing authority of provision of temporary electrical wiring and distribution systems, the work shall be undertaken by competent, qualified persons.
 32. All temporary electrical wiring and distribution systems shall be inspected and certified by a competent person before they are put to use.
 33. An appropriately qualified medical practitioner shall be present throughout a sports entertainment involving boxing, wrestling, judo, karate or similar.
 34. Where a ring is constructed for the purposes of boxing, wrestling or similar sports, it must be constructed by a competent person, and inspected by a Building Control Officer of the Council (at the cost of the applicant). Any material used to form the skirt around the ring must be flame retardant.
 35. At any wrestling or other entertainment of a similar nature, members of the public shall not occupy any seat within 2.5 metres of the ring.
 36. Any Licensee wishing to hold a 'Total Fighting' event on the licensed premises shall first apply to the Council for a variation of this licence and in the event that such application is granted, shall comply with any additional conditions that may be imposed. The term 'Total Fighting' shall include any 'full contact' martial arts involving the combined codes of judo, karate and ju-jitsu, judo, sombo and Olympic wrestling or any other mixed martial arts.
 37. At water sports entertainments, staff adequately trained in rescue and life safety procedures shall be stationed and remain within the vicinity of the water at all material times.

CONDITIONS RELATING TO PUBLIC SAFETY IN THEATRES, CINEMAS, CONCERT HALLS AND SIMILAR PLACES

38. The number of attendants on each floor in a closely seated auditorium shall be as set out on the table below:

Number of members of the audience present on a floor	Minimum number of attendants required to be present on that floor
1	One
101	Two
251	Three
501	Four
751	Five
And one additional attendant for each additional 250 persons (or part thereof)	

39. Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty.
40. All attendants shall be readily identifiable to the audience (but this need not entail the wearing of a uniform).
41. The premises shall not be used for a closely seated audience except in accordance with a seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.
42. No article shall be attached to the back of any seat which would reduce the clear width of seatways or cause a tripping hazard or obstruction.
43. A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.
44. Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate.
45. Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate.
46. In no circumstances shall anyone be permitted to:
 - sit in any gangway;
 - stand or sit in front of any exit; or
 - stand or sit on any staircase including any landings.
47. Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to, or be consumed by a closely seated audience except in plastic and paper containers.
48. Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.
49. Any special effects or mechanical installation shall be arranged and stored to minimise any risk to the safety of the audience, the performers and staff.
50. Except with the prior written approval of the Council and subject to any conditions, which may be attached to such approval no special effects shall be used on the premises.

Special effects include:

- dry ice machines and cryogenic fog;
- smoke machines and fog generators;
- pyrotechnics, including fireworks;
- real flame;
- firearms;

- motor vehicles;
- strobe lighting;
- lasers (see HSE Guide 'The Radiation Safety of Lasers used for display purposes' [HS(G)95] and BS EN 60825: 'Safety of laser products');
- explosives and highly flammable substances.

51. Where premises used for film exhibitions are equipped with a staff alerting system the number of attendants present shall be as set out in the table below:

Number of members of the audience present on the premises	Minimum number of attendants required to be on duty	Minimum number of other staff on the premises who are available to assist in the event of an emergency
1 - 500	Two	One
501 - 1000	Three	Two
1001 - 1500	Four	Four
1501 or more	Five plus one for every 500 (or part thereof) persons over 2000 on the premises	Five plus one for every 500 (or part thereof) persons over 2000 on the premises

52. Staff shall not be considered as being available to assist in the event of an emergency if they are:
- the holder of the premises licence or the manager on duty at the premises; or
 - a member of staff whose normal duties or responsibilities are likely to significantly affect or delay his response in an emergency situation; or
 - a member of staff whose usual location when on duty is more than 60 metres from the location to which he is required to go on being alerted to an emergency situation.
53. Attendants shall as far as reasonably practicable be evenly distributed throughout all parts of the premises to which the public have access and keep under observation all parts of the premises to which the audience have access.
54. The staff alerting system shall be maintained in working order and be in operation at all times the premises are in use.
55. The level of lighting in the auditorium shall be as great as possible consistent with the effective presentation of the film; and the level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP. 1007 (Maintained Lighting for Cinemas).

CONDITIONS RELATING TO PUBLIC NUISANCE

56. Windows, doors and fire escapes shall remain closed during proposed entertainment events within the premises
57. Noise generated by amplified music shall be controlled by a noise limiting device set at a level determined by the Local Authority Environmental Health Officer, such level being confirmed in writing to the Licensee.
58. Noise limiting devices, once set, cannot be reset or adjusted without consultation with the Local Authority Environmental Health Officer.
59. The lobby doors at the premises shall be kept closed except for access and egress. Door staff shall supervise to ensure that the doors are maintained closed as far as possible when public entertainment is taking place.
60. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents. In particular, the need to refrain from shouting, slamming car doors and the sounding of car horns shall be emphasised.
61. The premises personal licence holder, designated premise supervisor and door supervisor shall monitor the activity of persons leaving the premises and remind them of their public responsibilities where necessary.
62. Noise and vibration from regulated entertainment shall not be audible at the nearest noise sensitive premises
63. There shall be provided at sufficient regular intervals throughout the premises and grounds, litter bins which shall be emptied and waste removed on a frequent basis, and staff and attendants shall as far as reasonably practicable ensure that the public, members and guests do not litter.

CONDITONS RELATING TO THE PREVENTION OF HARM TO CHILDREN

64. Children under 18 years will not be allowed access to the premises.
65. The club premises certificate holder shall ensure that all attendants (including volunteers and staff) who are to supervise children have been properly vetted (by an enhanced DBS check) and have no convictions that would make them unsuitable to supervise children.
66. There shall be child protection policies agreed with the Licensing Authority and actioned accordingly.

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REPRESENTATIONS

Wellfield Stores, 1 Wellfield Terrace, Windy Nook,
Gateshead, NE10 9BU



Representations on a Current Application for a Grant/Variation/Review of a Premises Licence or Club Premises Certificate under The Licensing Act 2003

Before completing this form please read the Guidance Notes at the end of the form

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

I/We (Insert name)

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

PART 1 – PREMISES OR CLUB PREMISES DETAILS

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description Wellfield Stores 1 Wellfield Terrace Windy Nook	
Post Town Gateshead	Post Code NE10 9BU

Name of premises licence holder or club holding club premises certificate (if known) Suwandrarasa Jeyarasa
--

Number of premises licence or club premise certificate (if known) 00CH 03021
--

PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

- | | |
|--|-------------------------------------|
| | Please Tick ✓ |
| 1) A responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |
| 2) A member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/> |
| 3) Other persons (Please complete (A) or (B) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)

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

Surname

First Names

I am 18 years old or over

Yes (Please Tick)

Current Address			
Post Town		Post Code	

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)

Name and Address

Telephone Number (If any)	
E-Mail address (optional)	

(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION

Name and Address
Licensing Authority
Civic Centre
Regent Street
Gateshead
NE8 1HH

Telephone Number (If any)	0191 433 4741
E-Mail address (optional)	Licensing@gateshead.gov.uk

This representation relates to the following licensing objective(s)

Please
Tick ✓

- | | | |
|----|--------------------------------------|-------------------------------------|
| 1. | The Prevention of Crime and Disorder | <input checked="" type="checkbox"/> |
| 2. | Public Safety | <input type="checkbox"/> |
| 3. | The Prevention of Public Nuisance | <input checked="" type="checkbox"/> |
| 4. | The Protection of Children From Harm | <input checked="" type="checkbox"/> |

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

The premises licence for this business is one with very few conditions (only the Mandatory conditions), which poses difficulties for the Licensing Authority both in terms of ensuring that the business is actively promoting the Licensing Objectives and to impose sufficient controls to regulate the Licensable activity.

For example the premises is not currently obliged to operate a challenge either 21 or 25 policy, they are not obliged to keep training records, they are not obliged to keep a refusals register nor to have CCTV.

Beyond the concerns about the limited conditions on the Licence there are concerns about the management arrangements at the premises. In the period from September 2016 to November 2016 4 applications were made to transfer the Licence and to vary the Designated Premises Supervisor. Two of these application were refused, a third was granted but the applicant left after around 4 weeks and a fourth application was submitted.

Please provide as much information as possible to support the representation

(Please read guidance note 2)

The Licensing Authority reserves the right to produce and submit whatever further information that is considered relevant to the review application in accordance with the Regulations.

--

Please
Tick ✓

Have you made any representation relating to these premises before?

If Yes, please state the date of that representation

Day		Month		Year			

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

How We Collect And Use Information

The information collected, on this form and from supporting evidence, by Gateshead Council will be used to process your application. The information may be passed to other Enforcement Agencies as permitted by law.

We may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties, or give information to them to check the accuracy of information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and local authorities.

We will not disclose information about you to anyone outside Gateshead Council nor use information about you for other purposes unless the law permits us to.

Gateshead Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about what information we have about you, or the way we use your information, you can ask at Civic Centre, Regent Street, Gateshead, NE8 1HH

Part 3 – Signatures (Please read guidance note 3)

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

Signature	Licensing Authority	Date	30/11/17
Capacity	For and on behalf of the Licensing Authority		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5)	
Post Town	Post Code

Telephone Number (if any)	
E-mail Address (optional)	

Notes for Guidance

1. The ground(s) for representation **must** be based on one or more of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation, if applicable.
3. The representation form must be signed.
4. A representative's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this representation.
6. For further information about the Licensing Act 2003 please contact: The Licensing Act Section, Development & Public Protection, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH
Tel: 0191 433 3918 or 0191 433 3178



Representations on a Current Application for a Grant/Variation/Review of a Premises Licence or Club Premises Certificate under The Licensing Act 2003

Before completing this form please read the Guidance Notes at the end of the form

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

I/We (Insert name) Saira Park

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

PART 1 – PREMISES OR CLUB PREMISES DETAILS

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description Wellfield Stores, 1 Wellfield Terrace, Windy Nook	
Post Town Gateshead	Post Code NE10 9BU

Name of premises licence holder or club holding club premises certificate (if known) Suwandrarasa Jeyarasa
--

Number of premises licence or club premise certificate (if known) 00CH 03021
--

PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

- | | Please Tick ✓ |
|--|--------------------------|
| 1) A responsible authority (please complete (C) below) | ✓ |
| 2) A member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/> |
| 3) Other persons (Please complete (A) or (B) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)

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

Surname

First Names

I am 18 years old or over Yes (Please Tick)

Current Address	<input type="text"/>		
Post Town	<input type="text"/>	Post Code	<input type="text"/>

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)

Name and Address

Telephone Number (If any)	<input type="text"/>
E-Mail address (optional)	<input type="text"/>

(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION

Body responsible for the protection of children from harm Saira Park, Local Safeguarding Children Board Business Manager LSCB Business Unit 1 st Floor, Civic Centre Regent Street, Gateshead NE8 1HH

Telephone Number (If any)	(0191) 433 8010
E-Mail address (optional)	sairapark@gateshead.gov.uk

This representation relates to the following licensing objective(s)

Please
Tick ✓

- | | |
|---|-------------------------------------|
| 1. The Prevention of Crime and Disorder | <input type="checkbox"/> |
| 2. Public Safety | <input type="checkbox"/> |
| 3. The Prevention of Public Nuisance | <input type="checkbox"/> |
| 4. The Protection of Children From Harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for representation

Gateshead Local Safeguarding Children Board (LSCB) is concerned that the licensable activities taking place at Wellfield Stores are not in accordance with the promotion of another licensing objective, which is the protection of children from harm.

It has come to the attention of Gateshead LSCB that there is evidence to suggest that underage sales of alcohol have taken place at Wellfield Stores, 1 Wellfield Terrace, thereby demonstrating a failure to promote the licensing objective to protect children from harm. On 24th October 2017 alcohol was sold to a 15 year old child volunteer, contrary to section 146(1) of the Licensing Act 2003. The 15 year old was able to purchase four cans of Stella lager from the store.

Please provide as much information as possible to support the representation

Gateshead Local Safeguarding Children Board, the body responsible for the protection of children from harm, is concerned that the licensable activities are not in accordance with the promotion of the licensing objectives, one of which is the protection of children from harm. The protection of children and young people has always been a core commitment of all partners who work together in Gateshead to keep them safe.

Gateshead Council's Trading Standards Service carries out test purchase operations using child volunteers to check the compliance of retailers selling age restricted products such as alcohol. The Service follows agreed guidelines when carrying out these operations.

The LSCB has received information that On 24th October 2017 a test purchase operation was carried out by officers from Gateshead Trading Standards using a 15 year old child volunteer. The volunteer was instructed to attempt to buy alcohol from Wellfield Stores, 1 Wellfield Terrace, Gateshead. The child volunteer was sold four cans of Stella lager by Daniel Shaw who was working at the store at the time. Mr Shaw asked the volunteer if he had any ID, when he replied "No" he served him anyway and told him he should "keep it with him at all times". During the test purchase operation the volunteer attempted to purchase alcohol from 10 premises and was refused on 8 occasions.

Suwandrarasa Jeyarasa is the owner of the store as well as the holder of the premises licence and the designated premises supervisor. He was not present at the time of the sale.

LSCBs are the key statutory mechanism for protecting children from harm and agreeing how the relevant organisations in each local area will cooperate to safeguard and promote the welfare of children, and for ensuring the effectiveness of what they do. Gateshead LSCB is made up of a number of statutory partners including Gateshead Council, Gateshead Health NHS Foundation Trust, Newcastle Gateshead CCG, North East Ambulance Service, Northumberland, Tyne and Wear NHS Foundation Trust, Northumbria CRC, Northumbria Police, Tyne & Wear Fire and Rescue Service and CAF/CASS.

Access to alcohol by young people and the resulting crime and disorder is a significant community problem that impacts on crime, and the fear of crime, within many areas of the Borough as well as being an issue that puts children and young people at risk themselves. The vision of Gateshead LSCB is that every child should grow up in a loving and secure environment, which is free from abuse, neglect and crime, enabling them to enjoy good health and fulfil their social and educational potential. Evidence suggests that binge drinking in adolescence could limit opportunities for this to occur and therefore the LSCB is keen to ensure that licensees restrict access to alcohol by underage drinkers and have processes in place to ensure the protection of children from harm.

Research suggests that the adolescent brain may be uniquely sensitive to alcohol's effects due to the major changes in brain structure and function that occur during this developmental period. Studies have found that binge drinking by youths is also associated with alcohol-related violence and other anti-social behaviours. A

UK study found that binge drinking in adolescence was associated with an increased risk of health, social, educational and economic adversity continuing into later adult life. Alcohol intoxication can occur during binge drinking and the acute toxic effects are generally related to blood alcohol concentrations. There is evidence to suggest that the severe hypoglycaemia (low blood sugar) that can accompany alcohol intoxication and may result in coma occurs more commonly in adolescents than adults. Deaths from alcohol poisoning appear to occur most often when relatively inexperienced drinkers consume very large amounts of alcohol in a short time

The information above would appear to suggest that Wellfield Stores, 1 Wellfield Terrace, is not complying with the licensing objective of the protection of children from harm. Licence objectives and laws are not being followed and children in Gateshead are at risk because of this.

Please
Tick ✓

Have you made any representation relating to these premises before?

If Yes, please state the date of that representation

Day		Month		Year			

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

How We Collect And Use Information

The information collected, on this form and from supporting evidence, by Gateshead Council will be used to process your application. The information may be passed to other Enforcement Agencies as permitted by law.


We may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties, or give information to them to check the accuracy of information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and local authorities.

We will not disclose information about you to anyone outside Gateshead Council nor use information about you for other purposes unless the law permits us to.

Gateshead Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about what information we have about you, or the way we use your information, you can ask at Civic Centre, Regent Street, Gateshead, NE8 1HH

Part 3 – Signatures (Please read guidance note 3)

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

Signature		Date	13.11.17
Capacity	Saira Park, LSCB Business Manager		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5)

Post Town	Post Code
-----------	-----------

Telephone Number (if any)	
E-mail Address (optional)	

Notes for Guidance

1. The ground(s) for representation **must** be based on one or more of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation, if applicable.
3. The representation form must be signed.
4. A representative's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this representation.
6. For further information about the Licensing Act 2003 please contact: The Licensing Act Section, Development & Public Protection, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH
Tel: 0191 433 3918 or 0191 433 3178



Representations on a Current Application for a Grant/Variation/Review of a Premises Licence or Club Premises Certificate under The Licensing Act 2003

Before completing this form please read the Guidance Notes at the end of the form

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

I/We (Insert name)

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

PART 1 – PREMISES OR CLUB PREMISES DETAILS

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description Wellfield Stores 1 Wellfield Terrace Windy Nook	
Post Town Gateshead	Post Code NE10 9BU

Name of premises licence holder or club holding club premises certificate (if known) Suwandrarasa Jeyarasa
--

Number of premises licence or club premise certificate (if known) 00CH 03021
--

PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

Please
Tick ✓

- | | | |
|----|---|-------------------------------------|
| 1) | A responsible authority (please complete (C) below) | <input checked="" type="checkbox"/> |
| 2) | A member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/> |
| 3) | Other persons (Please complete (A) or (B) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)

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

Surname

First Names

I am 18 years old or over Yes (Please Tick)

Current Address	<input type="text"/>		
Post Town	<input type="text"/>	Post Code	<input type="text"/>

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)

Name and Address

Telephone Number (If any)	<input type="text"/>
E-Mail address (optional)	<input type="text"/>

(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION

Name and Address Alice Wiseman Director of Public Health Gateshead Council Regent Street Gateshead NE8 1HH
--

Telephone Number (If any)	0191 433 2777
E-Mail address (optional)	<input type="text"/>

This representation relates to the following licensing objective(s)

- | | Please
Tick ✓ |
|--|-------------------------------------|
| 1. The Prevention of Crime and Disorder | <input type="checkbox"/> |
| 2. Public Safety | <input type="checkbox"/> |
| 3. The Prevention of Public Nuisance | <input type="checkbox"/> |
| 4. The Protection of Children From Harm | <input checked="" type="checkbox"/> |

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

This representation is made in my capacity as Director of Public Health for the Borough of Gateshead. The Director of Public Health in Gateshead is concerned that the licensable activities taking place at Wellfield Stores are not in accordance with the promotion of the licensing objectives, one of which is 'The protection of children from harm.'

It has come to the attention of the Public Health Team that there is evidence to suggest that underage sales of alcohol have taken place at Wellfield Stores, thereby demonstrating a failure to promote the licensing objective to protect children from harm. On 24 October 2017 Gateshead Council Trading Standards carried out a test purchase operation using a 15 year old child volunteer who was sold a 4 pack of Stella larger by Daniel Shaw, an employee at the store.

Since 2013 Directors of Public Health have been 'responsible authorities' under the Licensing Act 2003. The role of the Director of Public Health is to help promote the health and wellbeing of the local populations they serve. The Public Health approach to alcohol is to encourage and promote responsible drinking and protect young people from related harm. This is an expansive remit that influences a wide range of circumstances, including local licensing arrangements. Similarly the licensing regime is concerned with the promotion of the licensing objectives, which collectively seek to protect the quality of life for those who live, and work in the vicinity of licensed premises, and those who socialise in licensed premises.

I am particularly concerned that the arrangements to prevent underage sales are not sufficiently robust and therefore fail to protect children from harm. The sale to a minor demonstrates that the checks and balances in place are not rigorous enough and could also lead to a significantly heightened risk of proxy sales, due to the lack of care being taken to check the authenticity and age of the person buying the alcohol.

The sale of alcohol to children leads to a negative impact on the children that consume the alcohol and on those who live and work in the vicinity of the premises. Alcohol can have a significant impact on the health of young people and alcohol related harm remains one of the biggest health problems. Research suggests that alcohol can affect the developing brain in early adolescence, and this is also the age when some young people are particularly vulnerable to risk taking. The Healthy Child Programme (2010) states that 50% of adolescent binge drinkers are more likely to be dependent on alcohol or misusing substances when they reach the age of 30. Alcohol misuse in adolescence has been linked to Poorer memory, increased risk of addiction in later life, impaired ability to understand the physical world. The Chief Medical Officer issues Guidance on the Consumption of Alcohol by Children and Young People- advising that an alcohol free childhood is the healthiest and best option. Public Health evidence suggests adolescents are less likely to try and avoid harm than any other age groups and therefore more likely to go on to binge drink and experience alcohol use disorders and therefore the Director of Public Health is keen to ensure that licenses restrict access to alcohol by underage drinkers and have processes in place to ensure the protection of children from harm.

The latest available data from Public Health England (2013/14-2015/16) for admissions rate for Gateshead, is higher than the England average for the rate of young people under 18 who are admitted to hospital because they have a condition wholly related to alcohol such as alcohol overdose. The North East has the highest rate of under 18 hospital admissions in England. In Gateshead there have been 80 alcohol specific hospital admissions for under 18's (2013/14-2015/16).

Please provide as much information as possible to support the representation

(Please read guidance note 2)

The Director of Public Health as a responsible authority under the Licensing Act 2003 since 2013, is concerned that the licensable activities are not in accordance with the promotion of the licensing objectives, one of which is the protection of children from harm.

A test purchase operation was undertaken by officers from Gateshead Trading Standards using a 15 year old child volunteer on 24th October 2017. The volunteer was sold 4 cans of Stella lager by Mr Daniel Shaw. Mr Shaw asked the volunteer if he had any ID, when he replied "No" he served him anyway and told him that he should "keep it with him at all times".

The store is owned by Suwandrarasa Jeyarasa, who is also the designated premises supervisor; he was not present at the time of sale.

The Director of Public Health shares the concerns raised by Trading Standards that, as a result of the above sale and the failure of systems in place at the shop on the day of the sale, the premises is not complying with the licensing objective of the protection of children from harm, licence conditions continue to be ignored and children in Gateshead are at risk because of this.

Please
Tick ✓

Have you made any representation relating to these premises before?

If Yes, please state the date of that representation

Day		Month		Year			

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

How We Collect And Use Information

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We may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties, or give information to them to check the accuracy of information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and local authorities.

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Part 3 – Signatures (Please read guidance note 3)

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

Signature	<i>Alie Wozman</i>	Date	30/11/2017
Capacity	Director of Public Health		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5)	
Post Town	Post Code

Telephone Number (if any)	
E-mail Address (optional)	

Notes for Guidance

1. The ground(s) for representation **must** be based on one or more of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation, if applicable.
3. The representation form must be signed.
4. A representative's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this representation.
6. For further information about the Licensing Act 2003 please contact: The Licensing Act Section, Development & Public Protection, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH
Tel: 0191 433 3918 or 0191 433 3178

Rebecca L Sparrow

From: Licensing Mailbox <licensing@northumbria.pnn.police.uk>
Sent: 30 November 2017 16:03
To: CE Licensing^
Subject: RE: Review applicaiton- Licensing Act 2003- Wellfield Stores, 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU

Northumbria Police would like to make representations in support of to the review of the premises licence at Wellfield Stores, 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU.

The premises failed to promote the licensing objectives of prevention of crime and disorder and protection of children from harm.

Grounds are clearly set in the review application submitted by Gateshead Council – Weights and Measures Authority.

From: D&E Licensing [mailto:Licensing@Gateshead.Gov.UK]

Sent: 02 November 2017 14:01

To: Peter Wright; Stewart Sorrell; Tracey Johnson; Emma Lucas; 'licensing@northumbria.pnn.police.uk'; 'firesafety.licensing@twfire.gov.uk'; Joy Evans; Alice Wiseman; John Bradley; Lynn Wilson; Saira Park; Paul Christer
Cc: Elaine Rudman; Tim Briton; Anneliese Hutchinson; Michael Aynsley; Sonia Stewart; Barry Ashley; Rebecca L Sparrow; Laura Kirton; Adam Lindridge; Gemma Thompson; CE Highway Events; Councillor Paul Foy; Councillor Neil Weatherley; Councillor Malcolm Brain; Councillor Kathryn Ferdinand; Councillor Stephen Ronchetti; Councillor Angela Douglas; Councillor Bob Goldsworthy; Councillor John Eagle; Councillor Lynne Caffrey; Councillor Michael McNestry; Councillor Maureen Goldsworthy; Councillor John McElroy; Councillor Keith Wood; Councillor Jack Graham; Councillor Helen Haran; Councillor Kathleen McCartney; Councillor Leigh Kirton; Councillor Martin Gannon; Councillor Bernadette Oliphant; Councillor Brenda Clelland; Councillor Pauline Dillon; Councillor Gary Haley; Councillor Allison Thompson; Councillor Chris McHugh; Councillor Peter Maughan; Councillor Bill Dick; Councillor Paul McNally; Councillor Sonya Dickie; Councillor Doreen Davidson; Councillor Malcolm Graham; Councillor Jean Lee; Councillor Christine Bradley; Councillor Mary Foy; Councillor Michael Hood; Councillor Kevin Dodds; Councillor Catherine Donovan; Councillor Eileen McMaster; Councillor Ron Beadle; Councillor Susan Craig; Councillor Daniel Duggan; Councillor Jill Green; Councillor Ian Patterson; Councillor Anne Wheeler; Councillor Alex Geddes; Councillor Christine McHatton; Councillor Liz Twist; Councillor Mick Henry; Councillor John Adams; Councillor Jeannie Kielty; Councillor Linda Green; Councillor Stuart Green; Councillor Peter Mole; Councillor Peter Craig; Councillor Christopher Ord; Councillor Sonya Hawkins; Councillor John McClurey; Councillor Marilyn Ord; Councillor Jonathan Wallace; Councillor Tom Graham; Councillor Jim Turnbull; Councillor Rachel Mullen; Councillor Marilyn Charlton; Councillor Julie Simpson; Councillor Maria Hall; Daniel Lines

Subject: Review applicaiton- Licensing Act 2003- Wellfield Stores, 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU

Dear All,

Please find below information regarding an application for the Review of a Premises Licence under the Licensing Act 2003. Responsible Authorities should have already received copies of the application via email. If you haven't yet received your copy please let me know.

Application for the Review of a Premises Licence

Applicant: Gateshead Council Local Weights and Measures Authority

Applicant Contact Details: Tracey Johnson, Trading Standards Assistant Manager: 0191 433 3934 or traceyjohnson@gateshead.gov.uk

Premises & Address: Wellfield Stores, 1 Wellfield Terrace, Windy Nook, Gateshead, NE10 9BU

Summary of application:

This review application has been submitted after the premises failed a test purchase on 24 October 2017 and sold alcohol to a child volunteer.

Date Received: 02/11/2017

Last Date for Representations: 30/11/2017

Deadline for Hearing (if required): 03/01/2018

All representations need to be made in writing.

Please don't hesitate to contact me if you require any further information.

Kind regards

Rebecca Sparrow
Licensing Officer
Development & Public Protection

- ☐ Direct Line 0191 433 3178
- ☐ Ext 3178
- ☐ <mailto:rebeccasparrow@gateshead.gov.uk>
- ☐ Gateshead Council Website: www.gateshead.gov.uk

In the interests of the environment, only print this email if absolutely necessary.

Important Information

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If you are not the intended recipient of this e-mail and its attachments, you must take no action based upon them, nor must you copy or show them to anyone.

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Please contact the sender if you believe you have received this e-mail in error

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For more information please visit <http://www.symanteccloud.com>

**Representations On A Current Application of a Review of a Premises Licence
Under The Licensing Act 2003**

Before completing this form please read the Guidance Notes at the end of the form

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

I (insert name)

Northumbria Police

Wish to make representation about the application for variation/grant for a premises licence/club premises certificate (delete as applicable)

PART 1 – PREMISES OR CLUB PREMISES DETAILS

Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description

Wellfield Stores, 1 Wellfield Terrace, Windy Nook

Post Town
Gateshead

Post Code
NE10 9BU

Name of premises licence holder or club holding club premises certificate

Suwandrarasa Jeyarasa

Number of premises licence or club premise certificate

00CH03021

PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

I am

Please
Tick ✓

- | | | |
|----|---|--------------------------|
| 1) | an interested party (please complete (A) or (B) below) | <input type="checkbox"/> |
| | a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| | b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| | c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| | d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |
| 2) | a responsible authority (please complete (C) below) | 4 |
| 3) | a member of the club to which this representation relates (please complete (A) below) | <input type="checkbox"/> |

(A) DETAILS OF INDIVIDUAL MAKING REPRESENTATION (fill in as applicable)

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

Surname

First Names

I am 18 years old or over Yes (Please Tick)

Current Address	<input type="text"/>		
Post Town	<input type="text"/>	Post Code	<input type="text"/>

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER PARTY MAKING REPRESENTATION (e.g Body or Business)

Name and Address
--

Telephone Number (If any)	<input type="text"/>
E-Mail address (optional)	<input type="text"/>

(C) DETAILS OF RESPONSIBLE AUTHORITY MAKING REPRESENTATION

Name and Address Central Area Command (Gateshead) Eldon Square, Floor 1 Central Management Office Eldon Court, Percy Street Newcastle upon Tyne NE1 7JB
--

Telephone Number (If any)	101
E-Mail address (optional)	<input type="text"/>

This representation relates to the following licensing objective(s)

- | | |
|--|------------------|
| | Please
Tick ✓ |
| 1. the prevention of crime and disorder | 4 |
| 2. public safety | |
| 3. the prevention of public nuisance | |
| 4. the protection of children from harm | 4 |

NORTHUMBRIA POLICE are in support of the premises licence review instigated by Gateshead Council – Local Weights and Measures Authority. The licensing objectives of prevention of crime and disorder and protection of children from harm are not being upheld.

The Application
Application for a review of the premises licence under the Licensing Act 2003 by Gateshead Council - Local Weights and Measures Authority on 02/11/17.

Grounds
On 24th October 2017 Mr Daniel SHAW sold four cans of Stella lager to a 15 year old volunteer, contrary to section 146(1) of the Licensing Act 2003.

Police support of the review
On 16th September 2016 Northumbria Police submitted an objection notice to an application made by Maheswaran Nimalmahendra the owner of the premises to appoint himself as the Designated Premises Supervisor.

On 4th October 2016 Northumbria Police submitted an objection notice to an application made by Kopalakrishnan PERAMPALAM the owner of the premises to appoint himself as the Designated Premises Supervisor.

On 1ST December 2016 Suwandrarasa JEYARASA became both the Premises Licence Holder and the Designated Premises Supervisor.

On the 1st October 2017 CSO Andrew HARRISON conducted visits to off-licenced premises in the Felling area. This was due to an increase in repots of youths drinking in the area. Whilst at Wellfield Stores he spoke to Mr Daniel SHAW d.o.b. 28/09/1973 who informed him that he ran the shop with his girlfriend. Mr Shaw stated that the shop is owned by Suwandrarasa JEYARASA, but they operate on his behalf.

Northumbria Police wish to support the review process as the licensing objectives of prevention of crime and disorder and protection of children from harm are being undermined.

Please
Tick

Have you made any representation relating to these premises before?

If Yes, please state the date of that representation

Day		Month		Year			
1	6	0	9	2	0	1	6

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

On 16th September 2016 Northumbria Police submitted an objection notice to an application made by Maheswaran Nimalmahendra the owner of the premises to appoint himself as the Designated Premises Supervisor.

On 4th October 2016 Northumbria Police submitted an objection notice to an application made by Kopalakrishnan PERAMPALAM the owner of the premises to appoint himself as the Designated Premises Supervisor.

How We Collect And Use Information

The information collected, on this form and from supporting evidence, by Gateshead Council will be used to process your application. The information may be passed to other Enforcement Agencies as permitted by law.

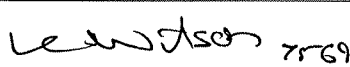
We may check information provided by you, or information about you provided by a third party, with other information held by us. We may also get information from certain third parties, or give information to them to check the accuracy of information, to prevent or detect crime, or to protect public funds in other ways, as permitted by law. These third parties include Government Departments and local authorities.

We will not disclose information about you to anyone outside Gateshead Council nor use information about you for other purposes unless the law permits us to.

Gateshead Council is the Data Controller for the purposes of the Data Protection Act 1998. If you want to know more about what information we have about you, or the way we use your information, you can ask at Civic Centre, Regent Street, Gateshead, NE8 1HH

Part 3 – Signatures (Please read guidance note 3)

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

Signature		Date	30 th November 2017
Capacity	Karl Wilson Chief Inspector 7569		

Contact name (where not previously given) and address for correspondence associated with this representation. (Please read guidance note 5)

Ivana Draper
Licensing Co-ordinator 6544

Post Town	Post Code
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Telephone Number (if any)	0191/221 9234
E-mail Address (optional)	licensing@northumbria.pnn.police.uk

Notes for Guidance

1. The ground(s) for representation **must** be based on one or more of the licensing objectives.
2. Please list any additional information or details for example dates of problems, which are included in the grounds for representation, if applicable.
3. The representation form must be signed.
4. A representative's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this representation.
6. For further information about the Licensing Act 2003 please contact: The Licensing Act Section, Regulatory Services, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH
Tel: 0191 4333957 or 433 2297

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Relevant extracts from Gateshead Council's
Licensing Policy



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'

premises will need to clearly demonstrate how they will ensure that their activities will not lead to such problems.

Outside areas

8.24 Where premises include an outside area it is expected that the operating schedule will set out how the applicant will address:

- The provision of appropriate bins and other receptacles for litter generated by patrons
- Measures to reduce the amount of noise generated by patrons, particularly late at night. This may include door supervision, closure of outside areas after a particular time, restricting re-admission to the premises after a particular time, etc
- Provision and placement of appropriate street furniture to prevent persons 'spilling out' onto public highway in the vicinity of the premises
- Provision of CCTV covering entrances and exits, external areas, and surrounding public highways

9. Licensing Hours

9.1 It is expected that premises whose primary activity is off licence sales will not normally be open between 23:00 and 07:00 hours. Applicants wishing to operate beyond 23:00 hours will need to demonstrate to the satisfaction of the Licensing Authority, in their operating schedule, that there will be no significant disturbance to members of the public living, working or otherwise engaged in normal activity around the premises concerned. Opening hours beyond 23:00 hours will generally be considered to be more acceptable for premises in commercial or tourist areas with high levels of public transport availability, rather than premises in predominately residential areas.

9.2 When considering applications, in respect of hours of operation, the Licensing Authority will take the following into consideration:

- Whether the premises is located in a predominantly retail or entertainment area
- The nature of the proposed activities to be provided in the premises
- Whether there are any arrangements to ensure adequate availability of hackney carriages and private hire vehicles and appropriate places for picking up and setting down passengers
- Whether there is an appropriate amount of car parking, readily accessible to the premises, and in places where the parking and use of vehicles will not cause demonstrable adverse impact to local residents

- Whether the operating schedule agreed with Council Officers indicates that the applicant is taking appropriate steps to comply with the licensing objective of preventing public nuisance
- Whether the licensed activity, particularly if located in areas of the highest levels of recorded crime, may result in a reduction or increase in crime or anti-social behaviour
- Whether the licensed activities are likely to cause adverse impact especially on local residents, and that, if there is a potential to cause adverse impact, appropriate measures will be put in place to prevent it.
- Whether there will be any increase in the cumulative adverse impact from these or similar activities, on an adjacent residential area

9.3 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally expect the hours during which alcohol is sold to match the normal trading hours during which other sales take place, in order to reduce the potential for disturbance or disorder.

10. Operating Schedules

- 10.1 Operating schedules should set out the licensable activities that are intended to be carried out and how it is intended that this happens. Operating schedules should be sufficiently detailed and clear for interested parties and responsible authorities to understand how the applicant or licensee will promote the licensing objectives.
- 10.2 When considering the promotion of the licensing objectives, applicants and licensees should have due regard to the context of the locality that they seek to operate in, and be mindful of any particular concerns that relate to that locality.
- 10.3 For instance, applicants and licensees are expected to have regard to any Local Licensing Guidance in respect of the locality they propose to serve.
- 10.4 Applicants are expected to ensure that their operating schedule enables the Licensing Authority, responsible authorities and interested parties to understand:
- What licensable activities are intended to be carried out
 - When licensable activities will be carried out -- i.e. between what hours, on what days and at what times of year
 - When the premises will be open to the public for non-licensed activities
 - Whether alcohol is intended to be sold for consumption off the premises (including where it will be delivered to customers)
 - (Where the sale or supply of alcohol is intended at premises with a Premises Licence) who the Designated Premises Supervisor will be and what his / her address is

- 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

informed otherwise that applicants are volunteering conditions. For instance, as above where an applicant does not indicate an intention to provide adult entertainment by ticking box 'N' on their application form, it will be assumed that they are volunteering a condition not to provide adult entertainment at the premises; and

- conditions imposed at a hearing – the Licensing Sub-Committee may impose conditions on a licence where it considers it appropriate to do so. Any such conditions will be appropriate to the promotion of the licensing objectives and proportionate to the problems that the Sub-Committee find in relation to the premises.

12.3 The Licensing Authority does not impose 'standard' conditions on licences, but there are certain factors that most premises that carry out certain licensable activities should take into account. A pool of model conditions is set out in Appendix 1, which applicants should consider when preparing their operating schedule.

13. When things go wrong

Complaints about licensed premises

13.1 The Licensing Authority will investigate complaints about both licensed premises where licensable activities are taking place but not in accordance with the relevant authorisation; and unlicensed premises where licensable activities are taking place without authorisation.

13.2 Complainants will usually, in the first instance, be encouraged to raise the complaint directly with the licensee or business concerned, as this can often be the quickest and most effective way for the person carrying on the licensable activity to understand the negative impact of the activity.

13.3 Where appropriate, the Licensing Authority will initially endeavour to seek a resolution through informal means.

13.4 Where appropriate, the Licensing Authority may pass any complaint on for investigation by any other statutory agency under whose enforcement responsibility the complaint falls.

Failing to comply with the Licensing Act

13.5 The Council delivers a wide range of enforcement services, aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The BRDO has published a Regulators' Code, which the Council complies with:

<https://www.gov.uk/government/publications/regulators-code>

The Council will base its enforcement activities around the principles of consistency, transparency and proportionality.

- 13.6 The enforcement policy proposes that a graduated response is taken where offences against licensing legislation are found or where licence conditions have been contravened. An isolated administrative offence may be dealt with for example by way of a written warning whilst more serious offences which have either been committed over a period of time or which jeopardise public safety may result in a referral for prosecution.
- 13.7 The Council will seek to work actively with the Police, Fire & Rescue Service, Trading Standards and any other relevant authority to enforce the licensing legislation. This may include carrying out test purchases, inspections of licensed premises, investigating complaints about licensed premises and investigating allegations of unlicensed premises. Such a partnership approach is intended to prevent duplication of effort, maximise the potential for controlling crime and disorder at premises and to ensure compliance when relevant conditions are appropriate. Gateshead Council has approved the Northumbria Police Joint Enforcement Protocol, which will encourage a consistent approach to enforcement throughout the Licensing Authorities within the Northumbria Police area.
- 13.8 Inspections will take place at the discretion of the Council and its partner agencies and will be concentrated on areas of need. A light touch inspection regime will be employed for well managed and maintained premises with a targeted and graduated inspection and enforcement regime for problem and high-risk premises.
- 13.9 Where possible and appropriate, the Licensing Authority and its partner agencies will give early warning to licence holders of any concerns about problems occurring at premises associated with the licensing objectives
- 13.10 The Licensing Authority will carry out its responsibilities for enforcement so as to promote the licensing objectives.

Reviews

- 13.11 Interested parties and responsible authorities may seek a review of a premises licence or club premises certificate if they believe that the current operation under the licence or certificate is harmful to one or more of the Licensing Objectives.
- 13.12 Where an application to review a licence or certificate is received by the Licensing Authority, it should be accompanied by any relevant supporting information, documentation, etc. If the application is relevant, and (if made by an interested party) is not frivolous, vexatious or repetitive, a hearing before the Licensing Authority's Sub Committee will be held. Where appropriate the parties may be able to hold discussions with a view to reaching an agreement on steps that can be taken to improve the position.
- 13.13 When a hearing before the Sub Committee takes place, the Sub Committee will consider all relevant information presented to it, and decide what course of action is appropriate for the promotion of the Licensing Objectives. There are a range of responses that are open to the Sub Committee on a review application. The Sub Committee may –
- Take no further action
 - Add or modify conditions on the licence or certificate

- 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

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Relevant extracts from guidance issued under
Section 182 of the Licensing Act 2003



Home Office

Revised Guidance issued under section 182 of the Licensing Act 2003

April 2017

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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

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)

against the HMRC online database which will be available from April 2017. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at: <https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>.

Mobile, remote, internet and other delivery sales

- 3.8 The sale by retail of alcohol is a licensable activity and may only be carried out in accordance with an authorisation under the 2003 Act. Therefore, a person cannot sell alcohol from a vehicle or moveable structure at a series of different locations (e.g. house to house), unless there is a premises licence in respect of the vehicle or moveable structure at each location at which a sale of alcohol is made in, on or from it.
- 3.9 The place where the order for alcohol, or payment for it, takes place may not be the same as the place where the alcohol is appropriated to the contract (i.e. the place where it is identified and specifically set apart for delivery to the purchaser). This position can arise when sales are made online, by telephone, or mail order. Section 190 of the 2003 Act provides that the sale of alcohol is to be treated as taking place where the alcohol is appropriated to the contract. It will be the premises at this location which need to be licensed; for example, a call centre receiving orders for alcohol would not need a licence but the warehouse where the alcohol is stored and specifically selected for, and despatched to, the purchaser would need to be licensed. These licensed premises will, as such, be subject to conditions including the times of day during which alcohol may be sold. The premises licence will also be subject to the mandatory licence conditions.
- 3.10 Persons who run premises providing 'alcohol delivery services' should notify the relevant licensing authority that they are operating such a service in their operating schedule. This ensures that the licensing authority can properly consider what conditions are appropriate. Premises with an existing premises licence, which choose to operate such a service in addition to their existing licensable activities, should contact their licensing authority for its view on whether this form of alcohol sale is already permitted or whether an application to vary the licence will be required.

Regulated entertainment

- 3.11 Schedule 1 to the 2003 Act sets out what activities are to be treated as the provision of regulated entertainment and those that are not and are therefore exempt from the regulated entertainment aspects of the licensing regime, including incidental music – (see paragraphs 16.1 to 16.3 below). Chapter 16 of this Guidance document sets out the types of entertainment regulated by the 2003 Act.

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

the subject matter of the variation. There is no requirement for a responsible authority or other person to produce a recorded history of problems at premises to support their representations, and in fact this would not be possible for new premises.

- 9.5 It is for the licensing authority to determine whether a representation (other than a representation from responsible authority) is frivolous or vexatious on the basis of what might ordinarily be considered to be vexatious or frivolous. A representation may be considered to be vexatious if it appears to be intended to cause aggravation or annoyance, whether to a competitor or other person, without reasonable cause or justification. Vexatious circumstances may arise because of disputes between rival businesses and local knowledge will therefore be invaluable in considering such matters. Licensing authorities can consider the main effect of the representation, and whether any inconvenience or expense caused by it could reasonably be considered to be proportionate.
- 9.6 Frivolous representations would be essentially categorised by a lack of seriousness. Frivolous representations would concern issues which, at most, are minor and in relation to which no remedial steps would be warranted or proportionate.
- 9.7 Any person who is aggrieved by a rejection of their representations on either of these grounds may lodge a complaint through the local authority's corporate complaints procedure. A person may also challenge the authority's decision by way of judicial review.
- 9.8 Licensing authorities should not take decisions about whether representations are frivolous, vexatious or relevant to the licensing objectives on the basis of any political judgement. This may be difficult for councillors who receive complaints from residents within their own wards. If consideration is not to be delegated, contrary to the recommendation in this Guidance, an assessment should be prepared by officials for consideration by the sub-committee before any decision is taken that necessitates a hearing. Any councillor who considers that their own interests are such that they are unable to consider the matter independently should disqualify themselves.
- 9.9 It is recommended that, in borderline cases, the benefit of the doubt about any aspect of a representation should be given to the person making that representation. The subsequent hearing would then provide an opportunity for the person or body making the representation to amplify and clarify it.
- 9.10 Licensing authorities should consider providing advice on their websites about how any person can make representations to them.

The role of responsible authorities

- 9.11 Responsible authorities under the 2003 Act are automatically notified of all new applications. While all responsible authorities may make representations regarding applications for licences and club premises certificates and full variation applications, it is the responsibility of each responsible authority to determine when they have appropriate grounds to do so.

Representations from the police

- 9.12 In their role as a responsible authority, the police are an essential source of advice and information on the impact and potential impact of licensable activities, particularly on the crime and disorder objective. The police have a key role in managing the night-time economy and should have good working relationships with those operating in their local area⁵. The police should be the licensing authority's main source of advice on matters relating to the promotion of the crime and disorder licensing objective, but may also be able to make relevant representations with regard to the other licensing objectives if they have evidence to support such representations. The licensing authority should accept all reasonable and proportionate representations made by the police unless the authority has evidence that to do so would not be appropriate for the promotion of the licensing objectives. However, it remains incumbent on the police to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

Licensing authorities acting as responsible authorities

- 9.13 Licensing authorities are included in the list of responsible authorities. A similar framework exists in the Gambling Act 2005. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. It is, therefore, for the licensing authority to determine when it considers it appropriate to act in its capacity as a responsible authority; the licensing authority should make this decision in accordance with its duties under section 4 of the 2003 Act.
- 9.14 Licensing authorities are not expected to act as responsible authorities on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the licensing authority in their own right, and it is reasonable for the licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the licensing authority is aware of relevant grounds to make a representation, it may choose to act in its capacity as responsible authority.
- 9.15 It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.
- 9.16 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; they may do so where they consider it appropriate without having to wait for representations from other responsible authorities. For example, the licensing

⁵ Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) took place on 15th November 2012. PCCs are expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

- authority may (in a case where it has applied a cumulative impact policy) consider that granting a new licence application will add to the cumulative impact of licensed premises in its area and therefore decide to make representations to that effect, without waiting for any other person to do so.
- 9.17 In cases where a licensing authority is also acting as responsible authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 9.18 In these cases, licensing authorities should allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) must be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the licensing authority. For example, discussion should not take place between the officer acting as responsible authority and the officer handling the licence application regarding the merits of the case. Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, must be made in writing. It is for the licensing authority to determine how the separate roles are divided to ensure an appropriate separation of responsibilities. This approach may not be appropriate for all licensing authorities and many authorities may already have processes in place to effectively achieve the same outcome.
- 9.19 Smaller licensing authorities, where such a separation of responsibilities is more difficult, may wish to involve officials from outside the licensing department to ensure a separation of responsibilities. However, these officials should still be officials employed by the authority.

Health bodies acting as responsible authorities

- 9.20 Where a local authority's Director of Public Health in England (DPH)⁶ or Local Health Board (LHB) (in Wales) exercises its functions as a responsible authority, it should have sufficient knowledge of the licensing policy and health issues to ensure it is able to fulfil those functions. If the authority wishes to make representations, the DPH or LHB will need to decide how best to gather and coordinate evidence from other bodies which exercise health functions in the area, such as emergency departments and ambulance services.
- 9.21 Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may

⁶ This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

be used by the health body to make representations in its own right or to support representations by other responsible authorities, such as the police. Such representations can potentially be made on the grounds of all four licensing objectives. Perhaps the most obvious example is where drunkenness leads to accidents and injuries from violence, resulting in attendances at emergency departments and the use of ambulance services. Some of these incidents will be reported to the police, but many will not. Such information will often be relevant to the public safety and crime and disorder objectives.

- 9.22 However, health bodies are encouraged to make representations in respect of any of the four licensing objectives without necessarily seeking views from other responsible authorities where they have appropriate evidence to do so. There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.
- 9.23 Evidence relating to under 18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. For example, the police could use this data to tackle instances of 'shoulder tapping' (where under 18s approach adults to buy alcohol on their behalf) and to suggest measures which retailers might be able to take to ensure, as far as possible, that they are not knowingly selling alcohol to an adult who is buying on behalf of a person aged under 18. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.
- 9.24 DPHs and LHBs will need to consider how to collect anonymised information about incidents that relate to specific premises or premises in a particular area (for example, a cumulative impact zone). Many areas have already developed procedures for local information sharing to tackle violence, which could provide useful evidence to support representations. The College of Emergency Medicine has issued guidelines for information sharing to reduce community violence which recommends that data about assault victims should be collected upon admission to emergency departments, including the date, time and location of the assault – i.e. the name of the pub, club or street where the incident occurred. Sometimes, it may be possible to link ambulance callouts or attendances at emergency departments to irresponsible practices at specific premises, such as serving alcohol to people who are intoxicated or targeting promotions involving unlimited or unspecified quantities of alcohol at particular groups.

Home Office Immigration Enforcement acting as a responsible authority

- 9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

Disclosure of personal details of persons making representations

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

- 9.31 Regulations governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, the applicant and all of the persons who made relevant representations. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.
- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.
- 9.33 Regulations made under the 2003 Act require that representations must be withdrawn

24 hours before the first day of any hearing. If they are withdrawn after this time, the hearing must proceed and the representations may be withdrawn orally at that hearing. However, where discussions between an applicant and those making representations are taking place and it is likely that all parties are on the point of reaching agreement, the licensing authority may wish to use the power given within the hearings regulations to extend time limits, if it considers this to be in the public interest.

- 9.34 Applicants should be encouraged to contact responsible authorities before formulating their applications so that the mediation process may begin before the statutory time limits come into effect after submission of an application. The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful.
- 9.35 There is no requirement in the 2003 Act for responsible authorities that have made representations to attend, but it is generally good practice and assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer, but only if this licensing officer is acting as a responsible authority on behalf of the licensing authority and has had no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.
- 9.36 As noted in paragraphs 9.13 to 9.19 above, where the licensing officer is acting as a responsible authority the relevant steps should be followed to ensure that this individual has no role in the decision making process regarding the licensing determination.
- 9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.
- 9.38 In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:
- the steps that are appropriate to promote the licensing objectives;
 - the representations (including supporting information) presented by all the parties;
 - this Guidance;
 - its own statement of licensing policy.
- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule.

Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.

- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Considering cases where licensing and planning applications are made simultaneously

- 9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

10. Conditions attached to premises licences and club premises certificates

General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment 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 is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code,

the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

Hours of trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The performance of plays

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play⁷ which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

Censorship

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

Major festivals and carnivals

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations

⁷ See chapter 15 for when a performance of a play is licensable.

within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.⁸ This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.⁹ Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

Fixed prices

- 10.21 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions including where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sale of alcohol below the permitted price, as defined in paragraph 10.56.
- 10.22 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

⁸ No licence is required for any entertainment provided by or on behalf of a local authority, see paragraphs 15.16-15.19

⁹ The register of public spaces: <https://www.gov.uk/government/publications/licensed-spaces-register>

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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.

Authorisation by personal licence holders

- 10.29 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.30 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.31 "Authorisation" does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.32 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.33 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.34 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.35 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

- 10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory aspirational licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.37 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex A of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.38 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

- 10.39 Under this condition, the "responsible person" (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

Drinking games

- 10.40 Drinking games which require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise, are prohibited. For example, this may include organised 'drink downing' competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit 'happy hours' as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

- 10.41 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or "all you can drink for £10". Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

- 10.42 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, "Buy one and get two free" and "Buy one cocktail and get a second cocktail for 25p". This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Posters and flyers

- 10.43 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

- 10.44 The responsible person (see paragraph 10.39) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the 'dentist's chair' where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers' mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

Free potable water

- 10.45 The responsible person (see paragraph 10.39) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

Age verification

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

Smaller measures

- 10.51 The responsible person (see paragraph 10.39) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
 - Gin, rum, vodka or whisky: 25ml or 35ml
 - Still wine in a glass: 125ml

- 10.52 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.53 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.54 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Ban on sales of alcohol below the permitted price

- 10.55 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
- 10.56 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.57 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.58 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.

Exhibition of films

- 10.59 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 (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.60 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the

definition of regulated entertainment, but not exempt them from the definition of exhibition of a film. Since the above mandatory condition applies to 'any film', it is therefore applicable to the exhibition of adverts.

Door supervision

- 10.61 Under section 21 of the 2003 Act, when a condition is included in a premises licence that at specified times an individual must be present at the premises to carry out a security activity (as defined in section 21(3)(a) by reference to the Private Security Industry Act 2001 ("the 2001 Act")), the licence must include a condition requiring that individual to be licensed by the Security Industry Authority ("the SIA") under the 2001 Act, or be entitled to carry out that activity by virtue of section 4 of the 2001 Act.
- 10.62 A premises licence need not require a person to hold a licence granted by the SIA if that person benefits from an exemption under section 4 of the 2001 Act. For example, certain employees benefit from an exemption when carrying out conduct in connection with a certified sports ground (section 4(6) to (12)). Furthermore, in certain circumstances persons benefit from an exemption where they operate under the SIA's Approved Contractor Scheme (section 15).
- 10.63 Conditions under section 21 of the 2003 Act should only relate to individuals carrying out security activities defined by section 21(3)(a) of the 2003 Act. Therefore, they should only relate to an activity to which paragraph 2(1)(a) of Schedule 2 to the 2001 Act applies (certain manned guarding activities) and which is licensable conduct within the meaning of section 3(2) of that Act. The requirement does not relate to individuals performing non-security related activities, and section 21 should not be used in relation to any such activities.
- 10.64 Section 21 of the 2003 Act continues to ensure that a premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as unlicensed premises. Those are:
- premises in respect of which there is in force a premises licence authorising a performance of a play or an exhibition of a film;
 - casinos or bingo halls licensed under the Gambling Act 2005;
 - premises where a club certificate is in force when activities are being carried on under the authority of that certificate.
- See paragraph 8(3) of Schedule 2 to the 2001 Act for full details.
- 10.65 It should be noted, however, that the 2001 Act will require contractors and a small number of employees (those managing/supervising and those supplied under contract) to be licensed as manned guards (rather than door supervisors) when undertaking licensable conduct on premises to which paragraph 8(3) of Schedule 2 to the 2001 Act applies.
- 10.66 It is therefore important that if a licensing authority intends that individuals must be present to carry out security activities (as defined by section 21(3)(a) of the 2003 Act) this should be explicit, as should the mandatory condition for those individuals to hold an SIA licence or be entitled to carry out that activity by virtue of section 4 of the 2001 Act. On the other hand, where a licensing authority intends that individuals must be present to carry out other activities (for example, activities related to safety or steward activities to organise, advise and direct members of the public), no mandatory condition

should be imposed under section 21 of the 2003 Act. In all cases it is important when determining whether or not a condition is to be imposed under section 21 of the 2003 Act to consider whether the activities of any individual working in licensed premises fall within the definition of security activities in section 21(3)(a) of the 2003 Act. (Regardless of whether a condition is imposed under section 21 of the 2003 Act, under the 2001 Act the appropriate SIA licence must be held by any individual performing an activity for which they are licensable under that Act.)

11. Reviews

The review process

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

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitive. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
 - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
 - for unlawful gambling; and
 - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies; which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Review of a premises licence following closure order

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
 - the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
 - notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

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

13. Appeals

- 13.1 This chapter provides advice about entitlements to appeal in connection with various decisions made by a licensing authority under the provisions of the 2003 Act. Entitlements to appeal for parties aggrieved by decisions of the licensing authority are set out in Schedule 5 to the 2003 Act.

General

- 13.2 With the exception of appeals in relation to closure orders, an appeal may be made to any magistrates' court in England or Wales but it is expected that applicants would bring an appeal in a magistrates' court in the area in which they or the premises are situated.
- 13.3 An appeal has to be commenced by the appellant giving a notice of appeal to the designated officer for the magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision which is being appealed.
- 13.4 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant, licence holder, club or premises user against the representations of a responsible authority or any other person, or the objections of the chief officer of police, the Home Office (Immigration Enforcement), or local authority exercising environmental health functions, the holder of the premises or personal licence or club premises certificate or the person who gave an interim authority notice or the premises user will also be a respondent to the appeal, and the person who made the relevant representation or gave the objection will be the appellants.
- 13.5 Where an appeal has been made against a decision of the licensing authority, the licensing authority will in all cases be the respondent to the appeal and may call as a witness a responsible authority or any other person who made representations against the application, if it chooses to do so. For this reason, the licensing authority should consider keeping responsible authorities and others informed of developments in relation to appeals to allow them to consider their position. Provided the court considers it appropriate, the licensing authority may also call as witnesses any individual or body that they feel might assist their response to an appeal.
- 13.6 The court, on hearing any appeal, may review the merits of the decision on the facts and consider points of law or address both.
- 13.7 On determining an appeal, the court may:
- dismiss the appeal;
 - substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
 - remit the case to the licensing authority to dispose of it in accordance with the direction of the court and make such order as to costs as it thinks fit.

All parties should be aware that the court may make an order for one party to pay another party's costs.

On any appeal, the court is not entitled to consider whether the licence holder should have been convicted of an immigration offence or been required to pay an immigration penalty, or whether they should have been granted by the Home Office permission to be in the UK. This is because separate rights exist to appeal these matters or to have an immigration decision administratively reviewed.

Licensing policy statements and Section 182 guidance

- 13.8 In hearing an appeal against any decision made by a licensing authority, the magistrates' court will have regard to that licensing authority's statement of licensing policy and this Guidance. However, the court would be entitled to depart from either the statement of licensing policy or this Guidance if it considered it was justified to do so because of the individual circumstances of any case. In other words, while the court will normally consider the matter as if it were "standing in the shoes" of the licensing authority, it would be entitled to find that the licensing authority should have departed from its own policy or the Guidance because the particular circumstances would have justified such a decision.
- 13.9 In addition, the court is entitled to disregard any part of a licensing policy statement or this Guidance that it holds to be ultra vires the 2003 Act and therefore unlawful. The normal course for challenging a statement of licensing policy or this Guidance should be by way of judicial review, but where it is submitted to an appellate court that a statement of policy is itself ultra vires the 2003 Act and this has a direct bearing on the case before it, it would be inappropriate for the court, on accepting such a submission, to compound the original error by relying on that part of the statement of licensing policy affected.

Giving reasons for decisions

- 13.10 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

Implementing the determination of the magistrates' courts

- 13.11 As soon as the decision of the magistrates' court has been promulgated, licensing authorities should implement it without delay. Any attempt to delay implementation will only bring the appeal system into disrepute. Standing orders should therefore be in place that on receipt of the decision, appropriate action should be taken immediately unless ordered by the magistrates' court or a higher court to suspend such action (for example, as a result of an on-going judicial review). Except in the case of closure orders, the 2003 Act does not provide for a further appeal against the decision of the magistrates' courts and normal rules of challenging decisions of magistrates' courts will apply.

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