

## LICENSING SUB COMMITTEE AGENDA

Friday, 9 October 2020 at 10.30 am in the To Be Held Virtually

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From the Chief Executive, Sheena Ramsey

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Item	Business
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1	<b>Application for a Review of a Premises Licence</b> (Pages 3 - 134)
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	Report of the Strategic Director, Economy, Innovation and Growth
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**TITLE OF REPORT:** **Application for a Review of a Premises Licence:**  
The Schooner, South Shore Road, Gateshead, NE8 3AF

**REPORT OF:** **Strategic Director; Economy Innovation and Growth:**  
Licensing Officer

## **1. PURPOSE OF THE REPORT**

The Sub-Committee is asked to consider the application from Environmental Health.

Representations were received from Northumbria Police, Public Health, Environmental Health Noise Team and 12 members of the public (see below).

## **2. BACKGROUND**

On 12 July 2005, a premises licence was granted for The Schooner, South Shore Road, Gateshead, NE8 3AF. This was following an application they had submitted to convert the existing Justices' Licence to a premises licence under the Licensing Act 2003.

On 14 December 2012 an application to transfer the premises licence to Mr David Campbell was submitted. No objections were received and the application was granted.

On 31 October 2016 an application to transfer the premises licence to Grog On The Tyne was submitted. No objections were received and the application was granted.

On 8 January 2019 an application to transfer the premises licence to Mean Eyed Cat Limited was submitted. No objections were received and the application was granted.

On 28 June 2019 an application to transfer the premises licence to The Schooner Gateshead Ltd was submitted. No objections were received and the application was granted.

Numerous applications to vary the Designated Premises Supervisor have been submitted since 2005. Nathan Paul Smith became Designated Premises Supervisor following an application from The Schooner Gateshead Ltd in June 2019. No objections were received and the application was granted.

## **3. THE CURRENT REVIEW APPLICATION**

The review application submitted by Environmental Health ('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:

**Environmental Health seeks to review the premises licence in relation to the following objectives; the prevention of crime and disorder, public safety and the prevention of public nuisance.**

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 representation was received:

- Northumbria Police – Daniel Whyte (Appendix 2.0)
- Public Health – Julia Sharp (Appendix 2.1)
- Environmental Health Noise Team – Lisa Bainbridge (Appendix 2.2)
- Mr Matthew S (Appendix 2.3)
- Ms Linda Richardson (Appendix 2.4)
- Mr Patrick Boyle (Appendix 2.5)
- Mr Christopher Langshaw (Appendix 2.6)
- Mr James Dawson (Appendix 2.7)
- Mr James Powles (Appendix 2.8)
- Mr James MacIntyre (Appendix 2.9)
- Mr Gavin Thompson (Appendix 2.10)
- Mr Richard Mears (Appendix 2.11)
- Ms Anna Feltham (Appendix 2.12)
- Mr John MacIntyre (Appendix 2.13)
- Ms Michelle Darby (Appendix 2.14)

Environmental Health Noise Team have provided additional information (in the form of video evidence) in support of their representation. These are included with the report as Appendix 2.2.1, Appendix 2.2.2, Appendix 2.2.3 and Appendix 2.2.4. Please Note: Northumbria Police also refer to Appendix 2.2.3 and Appendix 2.2.4 in their representation.

#### **5. PARTIES**

The Parties to the hearing will be:

- a) Environment Health – Stewart Sorrell
- b) The Schooner Gateshead Limited, represented by Charles Holland of Trinity Chambers
- c) Northumbria Police – Inspector David Wheeler
- d) Public Health – Julia Sharp
- e) Environmental Health Noise Team – Lisa Bainbridge
- f) Mr Matthew S
- g) Ms Linda Richardson

- h) Mr Patrick Boyle
- i) Mr Christopher Langshaw
- j) Mr James Dawson
- k) Mr James Powles
- l) Mr James MacIntyre
- m) Mr Gavin Thompson
- n) Mr Richard Mears
- o) Ms Anna Feltham
- p) Mr John MacIntyre
- q) Ms Michelle Darby

## **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 2018) issued under Section 182 of the Licensing Act 2003 by the Secretary of State.

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

An area plan is attached at 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 Northumbria Police – C/Insp Daniel Whyte
	2.1	Representation from Public Health – Julia Sharp
	2.2	Representation from Environmental Health Noise Team – Lisa Bainbridge
	2.2.1	Video evidence from Environmental Health Noise Team
	2.2.2	Video evidence from Environmental Health Noise Team
	2.2.3	Video evidence from Environmental Health Noise Team
	2.2.4	Video evidence from Environmental Health Noise Team
	2.3	Representation from Mr Matthew S
	2.4	Representation from Ms Linda Richardson
	2.5	Representation from Mr Patrick Boyle
	2.6	Representation from Mr Christopher Langshaw
	2.7	Representation from Mr James Dawson
	2.8	Representation from Mr James Powel
	2.9	Representation from Mr James MacIntyre
	2.10	Representation from Mr Gavin Thompson
	2.11	Representation from Mr Richard Mears
	2.12	Representation from Ms Anna Feltham
	2.13	Representation from Mr John MacIntyre
	2.14	Representation from Ms Michelle Darby
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

*[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 Stewart Sorrell**

*(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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> The Schooner South Shore Road	
<b>Post town</b> Gateshead	<b>Post code (if known)</b> NE8 3AF

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Paul Smith
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<b>Number of premises licence or club premises certificate (if known)</b>
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**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**

Name and address Stewart Sorrell  Environmental Health Gateshead Council Civic Centre Regent Street Gateshead NE8 1HH
Telephone number (if any) <b>0191 433391</b>
E-mail address (optional) stewartsorrell@gateshead.gov.uk

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

- Please tick one or more boxes ✓
- 1) the prevention of crime and disorder
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

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

During the course of the Coronavirus lockdown Business Compliance have had a number of complaints concerning the Schooner public house and have had constant dialogue with the owners of the premise on how to run the premise safely under the coronavirus restrictions.

This culminated with photographs being presented to Business Compliance of an event at the premise on 25 July 2020 which showed that customers were congregated on the highway and there was no control of social distancing, both contrary to the businesses own risk assessment. I therefore served two health and safety prohibition notices requiring action to be taken in respect of these issues.

Throughout lockdown the owners have continually shown a disregard for the coronavirus and other safety legislation and have had to be reminded of the requirements and at no stage have they sought advice or clarification of their actions.

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

At the start of lockdown on 23 March a new team was formed called Business Compliance to enforce the Coronavirus legislation within businesses. The comprised officers from Environmental Health and Trading Standards. It was also able to draw on the members of the Licensing team for support in licensed premises. To the end of July the team had received over 700 complaints and requests for advice and served 14 coronavirus prohibition notices on various premises.

On 25 March 2020 the council received a report from the police stating that they had received a complaint that the premise was still trading. It was identified that this was not a breach of the regulations at that time as the premise was allowed to trade off sales on its premises license. No visit was carried out.

On 27 March following further reports from members of the public, Environmental Health provided advice on running a take away delivery service during lockdown. Paul Smith responded stating that this sort of advice was invaluable to them.

On the 1 April a further report was made to the police concerning the premises continuing to trade. This was again identified as the operation of a take away service and no visit was carried out.

On 14 April a further complaint was made alleging that they were breaking the lockdown rules by being open. Again, no visit was carried out.

Officers were becoming increasingly concerned about the number of reports we were receiving about the premise being open and people congregating around the premise at a time when there should be no essential travel due to coronavirus.

Further complaints were received, including one alleging that people were encouraged to stay in the beer garden and on 21 April a visit carried out by Ashleigh Jobes and Tracey Johnson. A police officer had visited and confirmed that people were using the tables and the premises appeared to be serving alcohol in open glasses and allowing people to consume the alcohol at the premise contrary to the Regulations at that time in force. Ashleigh identified that the beer garden did not appear to be in use but could be and may have been used by customers, which at the time was against the regulations. There were also people outside of the pub drinking beer from plastic glasses.

She spoke to Gary Moore who was one of the owners of the business but not a director. He said there are 4 people involved in the Schooner, himself, Paul Smith, Suzie Isaac and Phil Boyle. He confirmed that Paul is the DPS and comes to the premises every day. He also is the DPS and has involvement in the Stone Trough pub in Low Fell and the Three tuns on Sheriff Highway. Ashleigh explained the reason for the visit was because they are attracting complaints from the public being allowed to congregate in the vicinity which should be discouraged in this current time. Mr Moore was advised that this was his final chance to show us proactively how he can comply with the regulations and that if we got further complaints or found non-compliance then we could issue a closure notice as well as a premises licence review. He explained that currently around 85% of their work is take away deliveries. Mr Moore was advised to put some wood over the entrance to the beer garden to ensure it was clear that this is not space for anyone to sit. He is to send us a picture of it once he has done this.

Mr Moore also is the one responsible for the Facebook posts. He was advised to carefully consider what he puts on there as some recently look like he is advertising for patrons to come to the pub and drink rather than showing what they have for take outs.

When asked about serving alcohol in open containers Mr Moore stated that

the problem was, they had run out of the plastic containers they were using previously due to having a busy Sunday. The dog walkers were waiting for food and their neighbours also happened to be out and about so had stopped to talk to them. There was no apparent control of social distancing or preventing people from congregating around the premise. Mr Moore was advised that while he has something marked out for people to wait while their order is being prepared, if he gets busier then he may need to think about asking people to wait in cars if they have come in them or putting other things out to mark the 2m social distancing. He did not think it would be required, yet we have people congregating at the premise.

On 21 June following further complaints Tracey Johnson visited the premise with Beverley Cope and witnessed people using tables and chairs outside of the premise to sit and consume alcohol, contrary to the lockdown rules at the time and in violation of advice given to the owners previously by Business Compliance. The premises were also providing plastic glasses for customers to use for their beer again contrary to advice given to them by Business compliance. On this occasion a prohibition notice under the coronavirus regulations preventing the use of the beer garden was served along with a community protection warning notice.

On the 23 June another member of the public contacted us about the premise trading and selling alcohol. The report did not suggest that they were doing anything wrong, so it was not investigated.

On 14 July following complaints about the noise from live music the owners were again contacted, and advice given about holding live music events at this time. It was noted that their risk assessment did not include a section on live performances, and this was amended by the owners following advice from Ashleigh Jobs. The owners also sent photographs of their set up.

The Environmental Protection Team of the council investigated the allegations of noise from the premise.

On 27 July further complaints were received concerning live performances and included a lack of social distancing. These complaints included photographs, which show approximately 100 people gathered on the highway to watch a live band playing at the premise. The risk assessment stated that there would be management checks carried out throughout the performance to identify if people are following the rules and a member of staff would be on duty to ensure customers adhered to the social distancing guidelines. It was obvious that none of this had taken place. A check of the premises Facebook page also revealed a post encouraging customers to bring their own chairs. I felt there were two main issues, both link to the management of the premises. Firstly, people standing on an open public highway, regularly used by vehicles and secondly the issue around the lack of management of social distancing. I therefore decided to serve two prohibition notices under the Health and Safety at Work etc Act 1974. It also became evident that the business was using the area of the highway opposite the premise without the permission of the councils highways team and possibly committing an offence in doing so. This part of the highway, has not been adopted, but is owned by the council. The owners of the premise have never sought permission to use this area, but claim it has been used for years.

Throughout lockdown we have continuously received complaints about the premise, and it has received a total of 14 complaints to 30<sup>th</sup> July, that's more complaints than any other premise in the borough, including Saltwell Park, which has 13 complaints. Admittedly several of these did not appear to be indicating any wrongdoing, but when we have carried out visits, on each occasion we have identified failings to comply with the coronavirus regulations at that time in force.

We have provided advice to the business on numerous occasions, which included how to comply with the regulations and also given our contact details should they have any questions. At no time have they proactively contacted us. We also produced a business advice webpage for businesses to be able

to see the links to official advice all in one place and details on how to contact us.

The company have encourage patrons to stand on the public highway, effectively obstructing the highway and have unilaterally taken over a piece of council land, that forms part of that highway.

**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

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

**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



Date **18 August 2020**

Capacity Assistant Manager (Environmental Health)

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 6)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

## **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 04109**

### Part 1 - Premises Details

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

The Schooner  
South Shore Road

Post town	Gateshead	Postcode	NE8 3AF
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Telephone number	0191 477 7404
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Where the licence is time limited, the dates

Not applicable

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Monday to Saturday	10:00 – 23:00 hours
Sunday & Good Friday	12:00 – 22:30 hours
Christmas Day	12:00 – 15:00 hours & 19:00 – 22:30 hours
New Years Eve	10:00 hours (12:00 hours where New Years Eve falls on a Sunday) to the start of permitted hours on New Years Day

The opening hours of the premises

Not specified

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

For consumption on & off the premises

Part 2

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

The Schooner Gateshead Limited  
25 West Lane  
Chester le Street  
DH3 3HL

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

11864053

Name, address and telephone number of Designated Premises Supervisor where the premises licence authorises the sale of alcohol

Nathan Paul Smith  
25 West Lane  
Chester le Street  
DH3 3HL

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

00CH00008 Gateshead Council

Signature on behalf of the issuing licensing authority

**Date Of Issue : 28 June 2019**



Trading Standards, 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 or her 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 responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises  
  
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
  - (a) Games or other activities which require or encourage, or are designed to require or encourage, individuals to-
    - i. Drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - ii. Drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) Provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) Provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) Selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) Dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (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.
6. The responsible person must ensure that –
  - (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container available to customers in the following measures –

- i. Beer or cider: ½ pint;
  - ii. Gin, rum, vodka or whisky: 25ml or 35ml; and
  - iii. Still wine in a glass: 125ml.
- (b) These measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) Where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

**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 on or 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(6);
  - 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 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.

## Door Supervision

Any person(s) required to be on the premises to carry out a security activity must be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001 or be entitled to carry out that activity by virtue of Section 4 of that Act.

### Annex 2 - Conditions consistent with the operating schedule.

1. Alcohol shall not be sold or supplied except during the hours set out in the Licence.
2. Condition 1 does not prohibit:
  - (a) during the first twenty minutes after the above hours the consumption of alcohol previously supplied
  - (b) during the first twenty minutes after the above hours, the taking of alcohol from the premises unless the alcohol is supplied or taken in an open vessel
  - (c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to meals
  - (d) consumption of the alcohol on the premises by or the taking or supply of alcohol to any person residing in the premises
3. Alcohol shall not be supplied unless it is paid for before or at the time when it is supplied, except alcohol supplied
  - (a) with and for consumption at a meal supplied at the same time, consumed with the meal and paid for together with the meal;
  - (b) for consumption by a person residing in the premises or his guest and paid for together with his accommodation;
  - (c) to a canteen or mess.

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

Not applicable

### Annex 4 - Copy of plan

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## APPENDIX 1

### 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.

## CONDITIONS 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.



## 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)*

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**

THE SCHOONER,  
SOUTH SHORE ROAD

**Post Town**  
Gateshead

**Post Code** NE83AF

**Name of premises licence holder or club holding club premises certificate (if known)**

The Schooner Gateshead Limited

**Number of premises licence or club premise certificate (if known)**

00CH04109

### PART 2 – DETAILS OF PERSON MAKING REPRESENTATION

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



This representation relates to the following licensing objective(s)

Please  
Tick ✓

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

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

Northumbria Police would like to make representations in support of the application to review the premises licence. We are concerned that the licensing objectives of prevention of crime and disorder, the public safety and the prevention of public nuisance are being undermined in respect of the running of the premises.

Gateshead Council Environmental Health are seeking a review of this premises licence. One of the reasons for this review is a due disregard of legislation. An indication a certain lack of confidence in the operator to comply with the law and to prevent crime and disorder.

It is suggested that patrons are being allowed to use part of relevant highway during entertainment. No application was received for a Pavement Licence. The area is widely frequented by motor vehicles passing onto the adjacent car park posing risk to public safety.

It has also been reported that live music was being played outdoors in a manner that has been causing public nuisance as far as Newcastle riverside, Byker and Walker.

**Please provide as much information as possible to support the representation**

(Please read guidance note 2)

The premises licence has been transferred to The Schooner Gateshead Ltd on the 3<sup>rd</sup> July 2019 with the sole director Nathan Paul SMITH appointed as the Designated Premises Supervisor.

There had been no other changes reported to Northumbria Police in respect of Licensing Act 2003. No application for Pavement Licence was received to indicate additional customer areas being provided by the premises licence holder to those already incorporated within the premises licence.

The committee may find the following reports made to Northumbria Police useful when considering the review of this premises licence.

On 24<sup>th</sup> March 2020 PC 2095 Rochester drove past the premises that evening. The premises appeared to be open and serving customers. No offences have been identified as a result of this information.

At 1935hrs on 310320 a passer-by informed PC 8865 Lumsdon about possible activity in the pub. Officer Lumsdon attended at 19:37hrs and will say that staff were doing food takeaway service and delivery service coming in and out.

At 0408hrs on 160420 a third party information was received stating that the complainant had just heard the Schooner Pub on Felling Ind Est is selling pints.

At 1518hrs on 190420 a caller reported that there was a post on Facebook stating the premises were selling Sunday dinners for takeaway. He further stated that there were pictures on Facebook of people in the beer garden eating and with pints of beer in front of them. The post on Facebook was under the Schooner name. Officers attended the premises at 15:55hrs. PC 3238 O'Neil will say " There were two couples and a small family using the tables out the front of the pub when I attended. There was three plastic cups on two separate tables. Two had beer in and one had soda in. The licensee denied that the pub had served them. I believe clearly they have come from the pub - I cannot see that two separate families would bring their own plastic cups down to the pub and sit outside to decant bought beer from the pub..... The licensee did agree to move the tables from the front following my visit – I have since been back along and confirm all outside tables have now been stowed away. We will continue to monitor the situation going forward.

On 200420 PC 659 Daghish attended the premises and will say "I attended with reports of the pub selling pints of alcohol.

On the premises was part owner GARY MOORE dob [REDACTED], mobile number [REDACTED]. He was present with one other member of staff. They were supply takeaway food for collection and delivery. Outside the entrance there was a sign advising people of their social distancing.

However outside the premises were eight people waiting for food. Four of them were drinking alcohol. The people present were not adhering to their social distancing and were not being supervised.

On speaking to Gary I gave him the following advice;

- To stop selling alcohol to people on the premises.
- To ensure that people waiting for food adhere to the social distancing rules.
- To put barriers up and markings on the ground spacing people out to a min of 2 metres apart.
- Clear posters displayed, advising people of the social distancing rules.
- Having a member of staff supervising the people waiting for food.

He appeared to take all my comments on board and confirmed he would implement these actions.

At 1824hrs on 220620 information was received that the pub was selling alcohol, report stated: "people produce a milk carton which gets filled and allowed to drink o/s the pub, this is also on social media."

AT 1645hrs on 250620 a complaint was received from a member of staff that the area being used as a racetrack with nearby car park being frequented by boy racers.

On 010720 police received the following information - " Public House" on South Shore Road is already open and serving Alcohol to large numbers of customers as well as serving food. They have not waited until the 4th July like everyone else and are blatantly breaching COVID-19 Rules . No offences were identified by police as a result of this report.

At 0702hrs on 120720 Northumbria Police received the following report:

"The Schooner put in Gateshead is hosting live gigs this weekend. My husband and I live on the other side of the river I St Peter's Basin and this afternoon the music has been incredibly loud, and we're a good mile away, so I can only imagine how loud it was on site. We've also heard people screaming. It seems highly unlikely this falls within the guidelines to minimise the risk of Covid-19 transmission.

At 1742hrs further call was received. The caller was disturbed 'last night & came across to the premises. He was there were 200 plus people at the premises and a live music stage set up outside he was taken photos of the events.

At 2013hrs on 250720 Northumbria Police received further report of loud live music stating "The Schooner on South Shore Road has live bands on and shows no social distancing it has been posted on Facebook"

At 2041hrs on further report from yet another complainant stated that music has been playing so loud that they can hear this in St Peters Basin. They have seen that a male in Walker stated on F/Book that he could also hear the music. The complainant also stated that music is not meant to be played at a volume that it encourages people to raise their voices.

Further report was received at 2116hrs. The complainant's home address is that in Walker, Newcastle area. The caller stated that loud music was being played on regular basis from the premises and that he can hear the music even though he lives across the river. He has liaised with Gateshead Council about the noise but it continues. He reported that the music was on this occasion particularly bad. He further stated the loudness of the music had become worse since the lockdown has ended – as the music is outside.

Further report was received from another complainant stating the following " The Schooner pub in Gateshead are flouting the rules again this weekend with live music that's so loud I can hear it clearly in Newcastle, indoors, with the windows shut. It must easily be loud enough to raise their voices to talk in the pub! I don't understand why they've been allowed to do this for the past three weekends as it doesn't seem to fall within government guidelines".

Sgt 1555 Richardson attended that day at 1700hrs. He will say". The pub had tables and chairs outside and patrons were queuing to be inside the pub as would be required. I could not see any issue at this time. "The pub has had live music outside for some years now.

Officers spoke to some of the complainants about noise from previous reports, they stated a group was on early evening and the music was very loud, this went on for a few hours. They further said that this happens most Saturdays the Schooner has a group on which is advertised on their Facebook page, the music is on from early evening until 10pm and the music is excessively loud.

On 270720 Northumbria Police received an e-mail from a resident stating that "resident of Newcastle and Byker were disgusted at the level of music, lack of social distancing and blatant disregard to the wider community by the Schooner pub. " The e-mail further states: "the music could be heard up to three miles away and the walls of my house in Newcastle we're vibrating, i enclose some video footage of Saturday

evening and Sunday afternoon and hope that something can be done.” The complainant goes onto saying “The conduct of the Management of the Schooner falls way below a level that I would think could be reasonably expected in normal times, but in this unprecedented pandemic they are paying NO regard to the licensing objectives and feel that this needs to be brought to the attention of the police.”

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	Daniel Whyte 7467	Date	15 <sup>th</sup> September 2020
Capacity	A/Chief Inspector		

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)	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, Development & Public Protection, Civic Centre, Regent Street, Gateshead Tyne and Wear NE8 1HH  
Tel: 0191 433 3918 or 0191 433 3178

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## 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)*

Public Health

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**

The Schooner  
 South Shore Road

**Post Town**

Gateshead

**Post Code**

NE8 3AF

**Name of premises licence holder or club holding club premises certificate (if known)**

Schooner Gateshead Limited

**Number of premises licence or club premise certificate (if known)**

00CH 04109

### 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"/> |



E-Mail address (optional)	
---------------------------	--

This representation relates to the following licensing objective(s)

Please  
Tick ✓

- |  |                                     |
|--|-------------------------------------|
| 1. <b>The Prevention of Crime and Disorder</b> | <input type="checkbox"/>            |
| 2. <b>Public Safety</b>                        | <input checked="" type="checkbox"/> |
| 3. <b>The Prevention of Public Nuisance</b>    | <input type="checkbox"/>            |
| 4. <b>The Protection of Children From Harm</b> | <input 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 supports the representation from the licensing authority that the current arrangements are not in accordance with the promotion of the licensing objectives specifically public safety.

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 reducing harms arising from alcohol misuse 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.

It is clear from the evidence provided by Environmental Health that, despite the provision of specific advice being given to the premises, there have been continued failings to comply with the Covid-19 regulations, Business Compliance advice and the premises' own risk assessment. This has led to complaints from the public and a continued lack of social distancing on and around the premises.

Whilst social distancing is a public health issue and may not appear to engage the Public Safety licensing objective definition, in these challenging times with new social risks and rules it is vital to keep the public safe via public health measures introduced due to Covid-19 and to do this, businesses should adhere to the regulations and guidance to ensure the promotion of the measures.

Since the start of lockdown, the management of these premises have been seen to ignore the guidance, firstly when pubs were told to close, when they allowed the sale of alcohol in open vessels and allowed the use of the adjacent areas for people to congregate. This was following the advice given and being told that they would be expected to demonstrate proactivity in complying with the regulations.

Secondly, during the live music, which was not initially included on the premises risk assessment, the photos show that social distancing was not in place and that there was no evidence of measures that were added to the risk assessment being implemented.

Social distancing is one of the most important measures to protect the residents of Gateshead from Covid-19 during this challenging time. It is vital that businesses reinforce the message and have measures in place that allow customers to maintain a 2 metre distance from people not in their household to prevent further localised outbreaks. Many people who test positive for Covid19 do not show any symptoms, but these asymptomatic people may make up as much half of all infections, therefore a lack of management of social distancing measures has the potential for increased risks of transmission. Even when people do present with symptoms, the infectious period begins two days beforehand leading to the potential for the virus to spread significantly, potentially to those who are vulnerable and less resilient.

I have concerns about the management at this premises in relation to the public safety objective. The lack of adherence to the guidance given in spite of the support and clear advice given by Business Compliance suggests a lack of concern for the potential for widespread transmission of Covid 19.

**Please provide as much information as possible to support the representation**

(Please read guidance note 2)

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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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		Date	14.9.20
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.
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Tel: 0191 433 3918 or 0191 433 3178

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**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**

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I/We *(Insert name)* Environmental Health

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**

<b>Postal Address of Premises or Club Premises, or if none, ordnance survey map reference or description</b>	
The Schooner South Shore Road	
<b>Post Town</b> Gateshead	<b>Post Code</b> NE8 3AF

<b>Name of premises licence holder or club holding club premises certificate</b> (if known)
Mr Nathan Paul Smith

<b>Number of premises licence or club premise certificate</b> (if known)

**PART 2 – DETAILS OF PERSON MAKING REPRESENTATION**

I am

- |  | Please Tick ✓            |
|--|--------------------------|
| 1) A responsible authority (please complete (C) below)                                   | X                        |
| 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"/> |



--	--

This representation relates to the following licensing objective(s)

Please  
Tick ✓

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

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

- Environmental Health has concerns in relation to the licensing objective 'the prevention of public nuisance'
- Since July 2020, Environmental Health have received 12 complaints of noise from excessive music played outdoors at the premises from live bands/ rehearsal of live bands/ DJ's, causing adverse disturbance and reduction in living amenity to residents on a frequent basis (approximately 4 times per week); early – late evening, as late as 22:00.
- Environmental Health have been in communication with Nathan Paul Smith (DPS) by phone and email regarding the complaints. An informal grace period of 2 weeks was given to make improvements with a proviso that guidance would be taken from a professional acoustic engineer. A noise report was submitted by the DPS, however was unable to be accepted due to it being inadequate. No improvements in terms of noise levels were made.
- Excessive noise levels have been witnessed by Environmental Health from a live band playing at the Schooner on 15 August 2020. It was found that music volume levels were excessive, unreasonable and intrusive causing public disturbance to residents of St Peters Basin. Words of the vocalist and drums/ band could clearly be heard. Patrons cheering and shouting could also be heard at excessive levels.
- Management continued to host live music outdoors, despite complaints raised by residents and did not wish to make a variation to their license.
- Environmental Health have also received complaints last year and in previous years from residents at St. Peters Basin regarding excessive noise from outdoor performances during summer months.

**Please provide as much information as possible to support the representation**

(Please read guidance note 2)

I am employed by Gateshead Council in the post of Environmental Health Officer in the Environmental Protection Team within Communities and Environment.

Since 11 July 2020, I have received 12 complaints from residents at St. Peters Basin, Newcastle regarding excessive noise from the premises; 1 anonymous and 11 who have provided their personal details.

Some comments received from the residents include:-

*'Band rehearsal without volume control. Unnecessarily loud, spoilt many people's enjoyment on a fine summer evening'*

*'The noise is anti-social and affecting the ability to use our homes and to rest or sleep'*

*'the music could be heard clearly from within my home, even with all the doors and windows closed. Indoors it could be heard clearly over the sound of a TV/radio. Outdoors, the music was loud enough that it was difficult to hold a normal conversation'*

*'Totally unacceptable'*

*'Live music again disturbing out peace, unable to sit outside without being overpowered by the music from the Schooner'.*

Three residents have provided video footage of what the music sounded like outside their homes. It was indeed excessive.

I have been out myself to the banks of the Tyne at St Peters Basin on 15 August 2020 and found the music to be completely excessive, unreasonable and intrusive. I took several video recordings on my mobile phone.

On 23 July 2020 I sent an email to Nathan Paul Smith regarding the complaints received and spoke on the telephone the following day. He made promises that he would instruct a professional acoustics company with immediate effect to carry out an assessment and soundproof the stage area within 7-10 days. To give the benefit of the doubt I allowed him this period to try and make improvements.

On 12 August, I received a noise report from the DPS that was basic and inadequate. Certainly not undertaken by a professional competent in environmental noise monitoring. I did not accept the report.

On 13 August the DPS emailed me to advise that he had instructed Apex – a reputable acoustic consultancy firm to advise him. I spoke to Richard Hinton from Apex on 18 August, however he was not confident that tweaks he could potentially make would give the desired effect to the residents to prevent noise disturbance (5dB reduction at best, which doesn't make much difference). He works on 3 principles to improve noise from outdoor venues; i) move the noise source further away (which isn't possible in this case); ii) introduce a barrier by putting something up in between the noise source and the receiver (cost prohibitive in this instance) and iii) make the noise source quieter (which would not be acceptable to the venue/ bands and patrons).

The DPS contacted me by email on 20 August to advise that this weekend would be quieter – acoustic set Friday; and DJ on the Saturday using the house PA system rather than the DJ's own equipment, therefore could manage the sound levels better. The DPS assured that he would be there personally making sure it was a low key quiet event. However, residents at St. Peters Basin reported to me that they could clearly hear karaoke on Thursday 20 August and a DJ on Saturday 22 August.

The DPS emailed me on 25 August to advise that he would suspend all amplified bands with immediate effect until he has obtained and acted upon a professional noise assessment.

To help with moving forward, I have contacted each of the 11 complainants to find out what they would be happy with in future. Their comments are mixed. For information, I have included summaries of the five residents who responded:-

1. 'My thoughts are that we want the outside music stopped permanently, however as we know that the outdoor gigs are popular with the public and we don't want to spoil anyone's fun either, my own suggestion would be that the Schooner be allowed in future six such outdoor concerts during the summer months but that each be at least one month apart, last for no longer than two ninety minute sessions and be concluded by 10pm at the latest. Non amplified music can still be heard clearly from the sound stage, albeit not as loud but I also believe that should carry the same restriction, so the DPS would be granted 12 events per year, six amplified and six non-amplified, equivalent to one a month'.
2. 'My concern remains the nuisance of the volume of noise generated by music live and recorded. The volume of noise from the drinkers that progressively becomes more lairy throughout the evening. The concern that the music is loud at least 3 to 4 nights a week over the weekend. The loudness stops the enjoyment of even indoor space within our homes. Going forward we would just ask that the music is quiet and contained within the venue. We would want to pursue every avenue to stop the nuisance.'
3. 'Residents should be allowed to live and use their residences by being able to sit outside,

live with open windows during the summer and not be affected and have their silence taken over by noise pollution, well into the evening. By blasting out loud music during the times residents wish to use their properties shouldn't be allowed. I am looking for no music to allow me to enjoy my house and surroundings because in my opinion I feel the establishment could not resist the temptation to blast it out again and also how can a reasonable level be set and maintained?'

4. 'My main issue is how frequently the pub hosts bands during the summer, every weekend for 5+ months is disrupted by the noise, often 3 or 4 days running – outdoor gigs should be considerably less frequent, perhaps limited to bank holiday weekends'

5. 'A plausible way forward for The Schooner would be:-

No amplified performances;

No outdoor performances or rehearsals. Indoor only ruling based on the problematic track record of outdoor gigs;

No heavy rock or punk indoor performances;

Internal acoustic or DJ sets only;

Customers to be advised to be considerate of nearby residents;

Improved adherence to venue capacity and sound level regulations;

The promised 'sound insulated' wall to be installed and tested before any live performances (no need for outside stage sound insulation as no outdoor performance or rehearsals permitted);

A more kindly outlook towards nearby residents, many of whom have lived nearby for up to thirty years. Whilst Mr Smith has been licensee for just over two years'.

#### **In summary specific problems raised by residents:-**

- Excessive volume from outdoor music events;
- Noise from patrons outside (increasing as the night goes on);
- Frequency of bands and live band rehearsals each week;
- Residents' quiet enjoyment of their homes is spoilt, indoors and outdoors when live entertainment takes place outdoors.

#### **Potential solutions for review of license:-**

##### **Either**

- No outdoor performances or rehearsals (restrict to indoors only with additional measure in

place e.g. doors and windows closed during entertainment)

**Or**

- Limit the permitted number of outdoor performances per year;
- Limit the hours that performances can take place;
- Limit length of time of 'sets';
- Limit the frequency of performances;
- Limit outdoor/ indoor performances to acoustic only;
- Implementation of a noise management plan.

Please  
Tick ✓

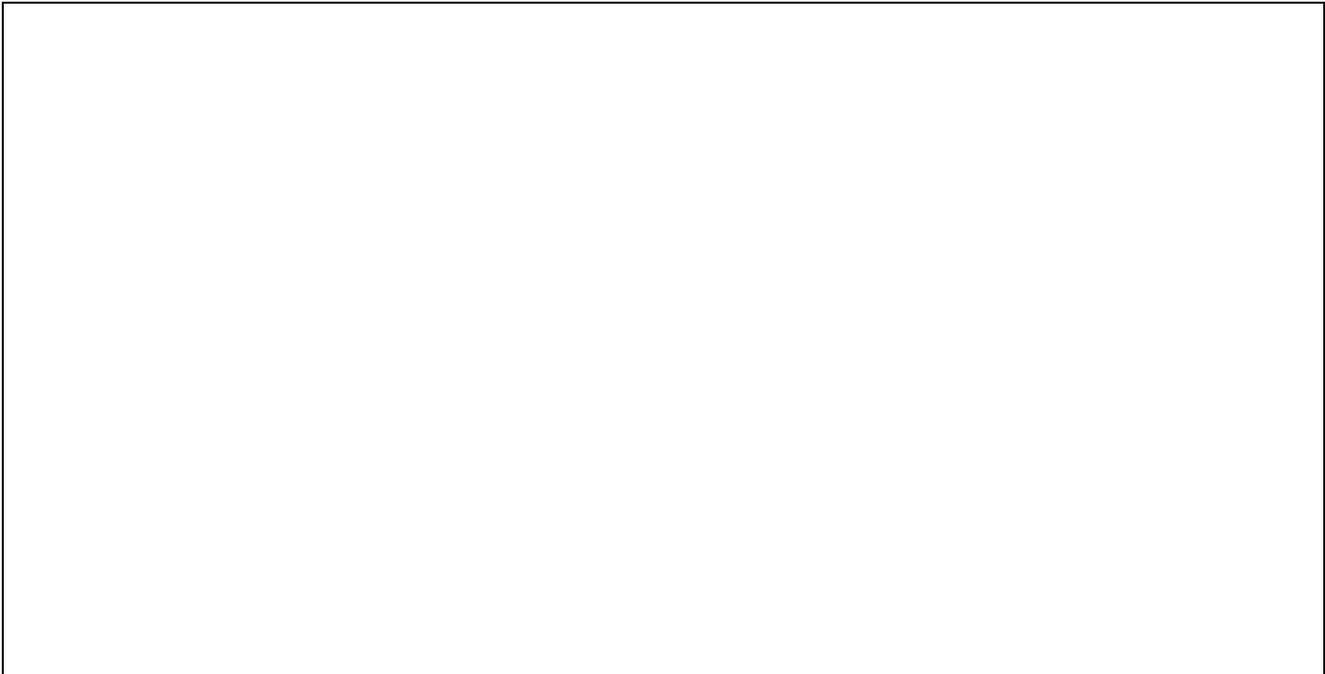
Have you made any representation relating to these premises before?

NO

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	<i>Lisa Bainbridge</i>	Date	15/09/20
Capacity	Environmental Health Officer		

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

## Daniel Lines

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**From:** Matthew S [REDACTED]  
**Sent:** 26 August 2020 13:30  
**To:** CE Licensing  
**Subject:** The Schooner, South Shore Road, Gateshead, Tyne and Wear, NE8 3AF

Hi Gateshead Council

I live in Merchants Wharf, Newcastle (opposite / across the river from the Schooner).

I have not visited the premises so cannot comment on breach of social distancing rules, however if you are interested the volume of their live music seems excessive.

The sound of live music across the river does add to the atmosphere and usually I enjoy it, however on some occasions it seems excessively loud.

Thanks  
Matthew

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## Daniel Lines

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**From:** L Richardson  
**Sent:** 26 August 2020 19:54  
**To:** CE Licensing  
**Subject:** The schooner

The schooner Ref PSR/DCE

Dear sir /Madam

With reference to the pub the schooner because the pub is in an area Where things is closed down especially at weekends they think no one can hear the music or is a disturbance to anyone around them.

Unfortunately the noise from the bands is excessively Loud and comes straight across the water and is quite disturbing to us who live in St. Peter's basin anyone who works shift work and people who are not well doesn't what to listen to the that loud noise when we are living in a reality quite area.

As a Pub without music fine but theses bands need to be stopped In such an area because it's excessively over the top.

St Peter's basin Resident

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## Daniel Lines

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**From:** Patrick B oyle <[REDACTED]>  
**Sent:** 03 September 2020 19:41  
**To:** CE Licensing  
**Cc:** David.Ellerington@gateshead.gov.uk  
**Subject:** Schooner Inn, Gateshead REF: PSR/DCE

Dear Mr David Ellerington, thank you for your letter regarding the application to review the Schooner Inn licence. I would like to object to the approval of the licence due to the significant noise, disruption and the owner, landlords unprofessional and disrespectful behaviour and attitude regarding the neighbours over the river in St Peter's Basis. This is clearly evidenced on social media. Furthermore, I firmly believe that the premises are not adhering to clear government and Public Health England COVID 19 advice by allowing, encouraging too many people to use the venue, or the surrounding area which does not belong to the Schooner Inn. This is not a professional, respectful or legal way to operate a business such as this and it is irresponsible given the current pandemic and increasing number of identified cases of COVID 19. I strongly object to the ongoing licence of the premises. Kind regards.  
Patrick.

Sent from my iPhone

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## Daniel Lines

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**From:** chris thedisc [mailto:chris.the@bt.com]  
**Sent:** 14 September 2020 15:53  
**To:** CE Licensing  
**Subject:** Schooner representation

Christopher Langshaw  
The ropery  
St Peters Basin  
Newcastle Upon Tyne  
Nr6

I am writing to register my objection to the application for a premises licence for The Schooner, South Shore Road, Gateshead, Tyne and Wear, NE8 3AF. The basis for this opposition is that the noise from the premises greatly impacts my quality of life.

I am a resident of St Peters Basin and have been living here for 25 years , in my 25 years of living here I have never experienced noise like what has been coming from the Schooner pub on a Sat and Sunday in 2020. The music is so loud I can still hear it with all my windows and doors closed . I work nightshift and cant sleep for the noise the schooners music this in turn has a detrimental effect on my performance at work and I am so tired on my days off because of lack of sleep , I have tried to call them many times and ask them to turn the music down but they just say they cant ? I have also been over to see the manager and was basically told by him to live with it as there was nothing they could do . During the summer it gets really warm and I like to open my windows but when the schooner is playing its music this is impossible because you cant even hear yourself think in your own home if the windows are open . The schooners loud music has had a massive impact on my life it disrupts my sleep pattern for work and If I am just trying to have a peaceful night in my own home this proves to be impossible on a sat and Sunday you cant even hear your own tv for the noise of their music. If I want to sit on my balcony and read a book or anything I am disrupted by the insanely loud music . I have sent videos of the noise to Newcastle city council and they told me that they sent them over to Gateshead council.

I hope you consider my comments when you make your decision

Regards Chris Langshaw

Sent from [Mail](#) for Windows 10

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**Daniel Lines**

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**From:** james dawson ([REDACTED]@googlemail.com)  
**Sent:** 14 September 2020 19:14  
**To:** CE Licensing  
**Subject:** Fwd: The Schooner - Licence review

----- Forwarded me

**From:** james dawson ([REDACTED]@googlemail.com)  
**Date:** Mon, 14 Sep 2020 at 19:13  
**Subject:** The Schooner - Licence review  
**To:** [licencing@gateshead.gov.uk](mailto:licencing@gateshead.gov.uk) <[licencing@gateshead.gov.uk](mailto:licencing@gateshead.gov.uk)>

Dear Sir/Madam,

I am writing to register my objection to the application for a premises licence for The Schooner, South Shore Road, Gateshead, Tyne and Wear, NE8 3AF. The basis for this opposition is that the noise from the premises greatly impacts my quality of life.

The Schooner, South Shore Road lies directly next to the South bank of the river tyne, the noise travels across the river with nothing to block it, Residents in this area suffer noise and nuisance at from noon until late hours of the evening when they have live bands playing. They have endured this inconvenience since the end of lockdown, and it is totally unacceptable to expect them to continue to do so.

In my particular case I work On-Call hours meaning I am often required to sleep during the hours that they have incredibly loud music playing, they have refused to turn it down in the past stating that it is simply impossible and as this is the case it cannot continue. We moved here for peace and quiet and down to the Schooner we have received the complete opposite.

In view of the above, I would urge the Licensing Authority to refuse the application.

Yours faithfully,

James Dawson  
[REDACTED] The Ropery, NE6 [REDACTED]

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## Daniel Lines

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**From:** James Powles - [redacted]@mail.com  
**Sent:** 14 September 2020 22:04  
**To:** CE Licensing  
**Subject:** Representation RE Ref: PSR/DCE

Dear Sir/Madam,

I received a letter from Newcastle City Council concerning the review of the premise licence for the Schooner.

I made complaints to Gateshead Council regarding noise levels and times of performances last July and August that showed the public house was in violation of its licence agreement.

I enclose details of those complaints here.

Thursday 18th July 2019:

Extract from initial complaint - "Current time is 23:18 and the drums and live guitar solos can still be heard at the back of our house. We believe the venue to be The Schooner pub. This venue also plays their live music excessively loud every Sunday afternoon throughout the Summer months and the volume levels have gotten worse with time. I was happy to go without mentioning it before now, but I feel that the pub are crossing a line now."

Response sent to Lauren Burnett's (Business admin assistant) request for further information - "Last Thursday evening was the Schooner's debut of a new music night. They played up until 23:20. Our neighbour at number 1 noted that they played past 19:00 on Sunday evening as well, which I have noticed myself for the past fortnight at least."

Andrew Phillips (Environmental Health Officer) picks up the complaint and visits the proprietor.

Following Andrew's visit, I provide information on a further Sunday evening event that overruns in an email to Andrew on 29th July 2019 - "The live music from the Schooner ended at between 19:24 and 19:26 this Sunday. I know this because I was going to video on my phone to attempt to capture the apparent noise levels, but the live music stopped straight after."

On August 26th 2019 I send a follow-up email regarding an escalation of the noise levels and event end times -

"Good Evening Andrew,  
Could you please let me know what, if any, assurances The Schooner made to you concerning their noise levels and event end times following your visit?"

Please find attached a couple of videos illustrating the level of noise and times to which we are subjected:

<https://photos.app.goo.gl/s7Y1d7TYb5r6UPp78>

The venue finished playing at 23:29 on 24/08/2019.

Kind Regards,

James"

Please let me know if the videos do not play, as I'll attempt to submit them some other way.

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## Daniel Lines

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**From:** Jamie MacIntyre ◀ [REDACTED]  
**Sent:** 15 September 2020 11:33  
**To:** CE Licensing  
**Subject:** The Schooner

To whom it may concern

I would like to send a quick note as a customer of the Schooner Public House to say that I disagree with the statements made in your notice regarding adhering to COVID-19 measures. I have visited pubs in my local area of Hebburn and within the Gateshead jurisdiction recently and in some cases have not been asked for my details at all in regards Track and Trace, have not been asked too or provided with a means to sanitise my hands and have noticed no signage in regards social distancing, all things the Schooner had and has to this day in place, therefore I am perplexed that time and money is being spent 'going after' an independent local business providing much needed mental health relief in these hard times, when in fact it should be seen as an example of how a business can and should safely operate.

I am quite frankly disgusted at this situation and see this as nothing but persecution and the Council listening to rumour rather than investigating facts and I would hope as a tax payer that this will be looked into properly and in future public money used to proper affect to close or investigate businesses that in fact ARE putting people at risk rather than the ones going to their own expense to reduce it.

Regards  
Jamie

Sent from my iPhone

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## Daniel Lines

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**From:** [REDACTED]@small.com  
**Sent:** 14 September 2020 23:36  
**To:** CE Licensing  
**Subject:** Licensing Review - Schooner, Gateshead

Dear Licensing committee,

Following receipt of a letter regarding complaints re: the Schooner, I would like to respond by registering my support for the Schooner and their efforts to support live music.

Covid-19 has had an incredibly destructive impact on venues and musicians - with musicians in particular being amongst the most badly impacted professions of all. The Schooner as a venue has been a long standing champion of live music in the North East. Their efforts to offer an outlet for live music during these challenging times is noted and appreciated by myself. By providing a venue for outdoor music they have enabled bands and musicians an opportunity to generate much needed income in challenging times. The chance to watch and listen to live music also provides a much needed boost to communities and residents.

As a resident of Churchill Mews (located directly opposite the venue). I can confirm that I have no issue with noise from the Schooner. The venue appear to be respectful of working to reasonable curfews and for limiting music to only a certain number of gigs per week. Whilst I can hear the music from outside the property - should I wish to shut out the noise of the performance completely, I can do so by closing windows or putting the TV on etc.

When choosing to live in St Peters Basin circa 7 years ago, I acknowledged that there was likely to be noise from venues close by (Stadium, Schooner, Spillers etc.) this is entirely in-keeping with living close to central Newcastle and the vibrant Ouseburn area.

Whilst acknowledging the Councils obligation to respond to complaints etc. I would hope that a sensible compromise can be reached which will allow live music to continue to be supported whilst respecting some of the issues raised by residents. From my observations of the correspondence on social media from the Schooner management, it appears that they are willing to work with the St Peters residents to agree sensible way forward.

I look forward to the outcome of the review and am hopeful that a sensible outcome can be reached on this matter.

Yours sincerely

Gavin Thompson (Resident and home owner)  
Churchill Mews  
St Peters Basin  
Newcastle upon Tyne  
NE6

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## Daniel Lines

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**From:** Richard Mears  
**Sent:** 27 August 2020 13:29  
**To:** CE Licensing; david.c.ellerington@newcastle.gov.uk  
**Subject:** Ref: PSR/DCE

Dear Sir/Madam

I write in reference to the "Application for a Review of a Premises Licence" for "The Schooner, South Shore Road, Gateshead, NE8 3AF" (as per a letter from David Ellerington, dated 25 August 2020).

My address is: [redacted] at Peter's Wharf, Newcastle upon Tyne, NE6 [redacted]

I understand that the review covers several issues, including "the prevention of public nuisance."

I also understand that some of my neighbours have made complaints regarding alleged excessive volume at live events. I write only to make representations on this matter (and have no knowledge or opinions on other matters that may be considered).

I have lived here for 3 years. I have excellent hearing, and am highly sensitive to noise. And, as I live on the top corner of the highest building in the Marina, I believe I am in a good position to assess reports of excessive noise, as (unlike most residents) noise is not reduced by other buildings etc. So, for example, I can hear most live concerts at the Gateshead Arena (which some of my neighbours may not be able to, as other structures will block and diffuse the noise).

I do not know any of the involved parties, but certainly have an interest in avoiding excessive noise.

**I believe that some noise may have been misattributed - and I think that this can be easily confirmed.**

Because of the peculiar acoustic properties of the marina, sounds are amplified and reflected in a way that can make it difficult to accurately assess their source.

In the last 2 months there have been a number of incidents where I have heard extremely excessive "live music" on an evening. As I didn't venture downstairs to investigate, I assumed that it must be coming from the newly reopened pub "The Merchant's Tavern" (downstairs, below me).

After speaking to a neighbour, I learned that "The Merchant's Tavern" pub had not been playing any live music at all, although others had mistakenly thought the same as me (or thought that "The Schooner" was the source).

The source of the noise was actually another neighbour who was regularly having garden parties, with volume at extremely excessive levels. I believe they must have been using some sort of commercial equipment, as most speakers in residential homes cannot output this level of volume without severely distorting.

Strangely, every time this neighbour was only playing recordings of *live* music. I found this highly unusual; at parties, people will typically play mainly "studio" versions rather than entire live concerts (with crowd noise).

Because of this, and the volume, it was natural to assume that the adjacent venue (that sometimes plays live music) was the source.

Had I gone downstairs and discovered that the "The Merchant's Tavern" was not playing live music, I'd probably have assumed that the source must be either The Schooner, or the Gateshead Arena (due to the odd acoustics of the marina making it difficult to pinpoint the source of the sound, and also the unlikelihood that the source of the noise would be recordings of live music being played on commercial equipment by a local resident).

As it would be grossly unfair for excessive noise from members of the general public in Newcastle to be misattributed (to either "The Schooner" or "The Merchant's Tavern"), my suggestion is this:

When a report of excessive noise is received from St Peter's Basin (but attributed to "The Schooner", or other venues on the Gateshead side) please will you review the noise levels in *both* locations, rather than just on the Gateshead side. And (should the noise levels be found to be higher on the St Peter's Basin side), please can you determine the actual source (which I believe will likely be residential), and deal with it as appropriate.

Please feel free to contact me with any queries.

Yours sincerely,

Richard Mears

## Daniel Lines

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**From:** Anna Feltham  
**Sent:** 28 August 2020 14:17  
**To:** CE Licensing  
**Cc:** David.c.ellerington@newcastle.gov.uk  
**Subject:** Regarding application PSR/DCE

Hi there,

I am writing as a resident of St Peter's Basin / St Peter's Wharf, NE6 regarding the review of the premises Licence for The Schooner, Gateshead NE8 3AF.

I am writing to dispute the assertions made by one or two of my neighbours which have contributed to this licence review. Myself and my household have never been disturbed from sound coming from over the river. While occasionally we can hear a *faint* sound of music, this has never been heard late in the evening and has never been of sufficient volume to disturb. I am aware that one of two of my neighbours have complained which I find ridiculous, so I would like to formally contend their assertions and express that they do not represent the views of this community.

Please do let me know if there's anything further I can do to formalise my contestation of their claims.

Many thanks,  
Anna Feltham

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## Daniel Lines

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**From:** John MacIntyre <[REDACTED]@mail.com>  
**Sent:** 14 September 2020 13:24  
**To:** CE Licensing  
**Subject:** Review of Premises Licence - The Schooner, South Shore Road, Gateshead

Dear Sirs

I write in relation to the notice of the review of the premises licence of The Schooner, South Shore Road, Gateshead.

First, I wish to say that I am perturbed by the language in the notice which I saw posted outside the The Schooner - in particular this sentence: "Throughout the lockdown the owners have continually shown a disregard for the coronavirus and other safety legislation." Given that I would assume, using the principles of natural justice, that your job is to gather evidence and consider it carefully, the language you have used seems to suggest that you have already made a judgement - or at least that your position is biased against the proprietors. This is inappropriate and unfair, and I would ask why you have taken such a stance.

Secondly, the allegation that the proprietors have "shown a disregard for the coronavirus and other safety legislation" is itself a subjective statement and, as I will set out below, incorrect. To say that they have done so "throughout lockdown" also seems to be language suggesting a bias against the proprietors and inconsistent with the facts.

As a regular customer of The Schooner, I can say with confidence that far from "showing a disregard" to the coronavirus, the proprietors have implemented various measures around social distancing, limiting the number of customers inside the pub, hand sanitisation, and other controls. To me, they have actually shown a continuous and diligent REGARD for the issues around coronavirus, rather than any disregard - and have done so throughout the development of the pandemic, with increased measures when they were necessary.

The notice refers to an event where people congregated on the public highway. Whilst it is true that people have stood outside listening to music, it is also true that the proprietors have taken various measures to try to prevent this, including signage, and direct interventions asking people to clear the highway. Furthermore, they asked customers regularly to observe social distancing - more than I have seen in many other pubs and restaurants that I have used in recent months. The proprietors actually should be commended for their efforts. I understand that photographs were taken by a resident of St Peter's Basin, using strange camera angles, to attempt to show that social distancing was not being observed; however the pub's CCTV footage may well show this not to be an accurate account of what happened. I would also note that the residents of St Peter's Basin have made complaints about noise from the music outdoors, suggesting that they had another agenda when taking these photographs.

On the subject of the noise from the outdoor music, I believe the complaints are based on exaggerated reported noise levels in excess of 100dBA, which are clearly false. I have personally checked the noise levels at St Peter's Basin on several occasions when live music was being played outdoors at The Schooner, and the levels were within acceptable limits and way below the alleged levels.

Finally, I believe that The Schooner, as a local business supporting local jobs and creating opportunities for local musicians to make a living, as well as being a valued venue for good food, drink, and live music, should be seen by Gateshead Council as an asset to the town, rather than a liability to be persecuted. The very nature of the wording of your notice raises questions about fairness of treatment, bias, and due process. The proprietors of The Schooner are good people trying to run a good business in a way that brings enjoyment to many, whilst being compliant with regulations and public health and safety. They have my full support and I would ask the Council to reconsider its approach to this valuable local business.

Regards



## Daniel Lines

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**From:** Michelle Dalby <[REDACTED]@mail.com>  
**Sent:** 14 September 2020 16:16  
**To:** CE Licensing  
**Subject:** The Schooner, South Shore Road, Gateshead, Tyne and Wear, NE8 3AF

Dear Sirs

I write in relation to the notice of the review of the premises licence of The Schooner, South Shore Road, Gateshead, NE8 3AF.

Upon reading the notice I was very surprised at the tone of the language and the assumption made by yourselves that the owners have "continually shown a disregard for the coronavirus and other safety legislation". I do not know how you can make such a statement given I have attended the Schooner after the rules of lockdown allowed it and can honestly say that I have at no time seen anything but a complete regard for the safety of their staff and their customers.

I also visited the Schooner on several occasions throughout lockdown to collect takeaway food and saw no evidence to corroborate your statement that "throughout the lockdown the owners have continually shown a disregard for the coronavirus and other safety legislation". I was asked to wait outside on one occasion as another member of the public was inside collecting their food and drinks.

The notice refers to an event where people congregated on the public highway. I note that it is true that people do stand outside to listen to music, and have done so for a very long time – including with the previous owners. I also note that the current owners have been very clear with us as customers that this is not acceptable and we have been asked to move off the highway, which we have done immediately. They also implemented a ticket only system which restricted the number of guests seeing the live music. For you to say that they have continually shown a disregard for the coronavirus is not true in my experience.

The Schooner is a great local business which not only supports local jobs within the pub serving behind the bar, cleaning and working in the kitchen, but also the jobs of local musicians by ensuring that they have live music on wherever possible, most likely at a loss on some occasions. The words used in your notice have made me believe there is some underlying agenda, which is extremely unfair and, in my opinion as a regular customer, biased.

I fully support The Schooner, the proprietors are really doing their best in a very difficult time – and for you to take such a negative and biased approach is at the least unfair, and at the most calls into question your integrity as a local council. The very nature of the wording on the notice has made me feel this way – surely you are investigating potential issues, rather than making an assumption that there are issues and provoking negative responses. The tone of your notice has made an assumption of guilt on the proprietors.

I am very happy to discuss this further should this be required, please contact me via email and I can arrange a mutually convenient time. However, I would also like a response to my comments regardless.

I sincerely hope that common sense prevails and that The Schooner is allowed to continue to make a valuable contribution to the local economy.

Regards

Susan Michelle Dalby

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## **STATEMENT OF LICENSING POLICY**

**Licensing Act 2003**

**7 January 2016 - 6 January 2021**

- 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.

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#### 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](http://www.portmangroup.org.uk/docs/default-source/code-of-practice/7609_por02_code_of_practice_final.pdf)

### Pubwatch

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

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

#### Regional and national working

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

### **6. General Principles of the Policy**

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

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

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

## 7. Licensing Objectives

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

### Prevention of Crime and Disorder

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

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

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

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

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

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

#### Public Safety

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

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

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

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

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

### Prevention of Public Nuisance

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

- last admission time

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

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

#### Protection of Children from Harm

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

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

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

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

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

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

### Adult entertainment

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

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

#### Film classification

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

#### Alcohol sales

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

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

8.20 It is also expected that applicants will:

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

#### Petrol stations / garages

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

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

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

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

#### Takeaways

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

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

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

## **11. Designated Premises Supervisor**

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

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

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

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

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

## **12. Conditions**

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

12.2 There are three types of condition:

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

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/350507/2014-08-29 MC Guidance v1 0.pdf](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

- 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:

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

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

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Home Office

**Revised Guidance issued  
under section 182 of the  
Licensing Act 2003**

April 2018

# 1. Introduction

## The Licensing Act 2003

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

## Licensing objectives and aims

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

## **The guidance**

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

## **Purpose**

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

## **Legal status**

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

## **Licensing policies**

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

## **Licensable activities**

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

Further explanation of these terms is provided in Chapter 3.

## **Authorisations or permissions**

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

## **General principles**

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

## **Licence conditions – general principles**

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

## **Each application on its own merits**

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

## **Additional guidance**

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

## **Other relevant legislation**

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

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

## 2. The licensing objectives

### Crime and disorder

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

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## **Public safety**

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

## **Ensuring safe departure of those using the premises**

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

## **Maintenance and repair**

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

## **Safe capacities**

- 2.12 "Safe capacities" should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, 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

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<sup>1</sup> 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.

## 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)

## 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.

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)<sup>6</sup> 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

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<sup>6</sup> 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.

## **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 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the [www.legislation.gov.uk](http://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, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. 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.

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- 9.32 Responsible authorities should try to conclude any discussions with the applicant in good time before the hearing. The 2005 Hearings Regulations permit licensing authorities to extend a time limit provided for by those Regulations for a specified period where it considers this to be necessary in the public interest. For example, 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. Where the authority has extended a time limit it must forthwith give a notice to the parties involved stating the period of the extension and the reasons for it.
- 9.33 The 2005 Hearings Regulations 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 and others, such as local residents, who may be affected by the application 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 and should be allowed sufficient time to do so, within reasonable and practicable limits.
- 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.

# 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.

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- 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 repetitious. 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](http://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)<sup>10</sup>;
- 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.

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<sup>10</sup> 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 or illegal working compliance 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 an illegal working compliance order under 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**

11.29 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.

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# The Schooner

Not Set



## Legend

Scale: 0 0.005 0.01 0.02 KM

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Organisation	Gateshead Council
Department	Development and Public Protection
Comments	Not Set
Date	29/09/2020
MSA Number	SLA

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