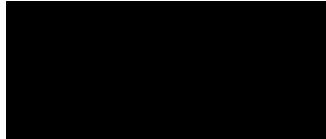


# **Appendix 1**



Mr Ashok Thakur



Place Directorate

Public Realm

Head of Environmental Health & Trading Standards:  
David Tolley



Email: [REDACTED]  
[www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk)

4 September 2020

Reference M130944

**Shop N Stop, 59 Commercial Street, London, E1 6BD**

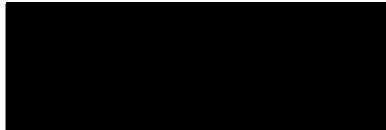
Dear Mr Thakur,

I wish to inform you that I have applied for the review of the licence for the above premises which I have submitted to the Licensing service and to the responsible authorities.

Please find attached a copy of the application.

Should you have any query please do not hesitate to contact me.

Yours sincerely,



Kevin Maple  
Consumer Services Officer  
Trading Standards Service

Enc. Application by Trading Standards for the review of the premises licence & supporting documents.



**Tower Hamlets Council**  
Town Hall  
Mulberry Place  
5 Clove Crescent  
E14 2BG



This form should be completed and forwarded to:

**London Borough of Tower Hamlets,  
Licensing Service, Mulberry Place (AH), PO BOX 55739,  
5 Clove Crescent, London E14 1BY**

**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, Kevin Maple, 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 club premises, or if none, ordnance survey map reference or description</b>	
Shop N Stop 59 Commercial Street	
<b>Post town:</b> London	<b>Post code (if known)</b> E1 6BD

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>	Mr Ashok Thakur
<b>Number of premises licence or club premises certificate (if known)</b>	127130

## Part 2 - Applicant details

Please tick  yes

I am

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

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

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal  
address if  
different from  
premises  
address

Post Town

Postcode

Daytime contact telephone number

E-mail address  
(optional)

**(B) DETAILS OF OTHER APPLICANT**

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**

**Postcode**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address

Kevin Maple  
Consumer Services Officer  
Tower Hamlets Trading Standards  
1 Ewart Place  
London  
E3 5EQ

Telephone number (if any)

E-mail (optional)

**This application to review relates to the following licensing objective(s)**  
Please tick one or more boxes

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

**Please state the ground(s) for review (please read guidance note1)**

The Trading Standards Service, as the Local Weights and Measures Authority, is designated a 'responsible authority' for the purposes of the Act and is making representations in relation to the prevention of crime & disorder, public safety, the prevention of public nuisance and the protection of children from harm.

The grounds for the review concern the visit by Trading Standards Officers to Stop N Shop, 59 Commercial Street, London, E1 6BD on the **18<sup>th</sup> September 2019** involving the sale of illicit cigarettes during a test purchase and made and a further visit on **27<sup>th</sup> September 2019** that involved the discovery and subsequent seizure of illicit non-UK tobacco products and also nitrous oxide (NOx) charger canisters.

A licence to sell alcohol for the premises has been held since **23<sup>rd</sup> August 2012**. Mr Ashok THAKUR is the current Premises Licence Holder and also the Designated Premises Supervisor since a transfer of the licence took place on **19<sup>th</sup> July 2019**. The previous premises licence holder was Mr Prem Kumar NAGARAJAN who had held the licence since 23<sup>rd</sup> August 2012 up to the date of transfer.

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

As part of a test purchase programme on **18<sup>th</sup> September 2019** an officer from Tower Hamlets carried out a test purchase of cigarettes to ascertain whether the premises was selling illicit cigarettes. Illicit cigarettes are defined as being either counterfeit, or which have been imported without duty being paid and which fail to display the correct labelling for the UK market. The visit resulted in the sale to the officer of a packet of Marlboro cigarettes which did not display the correct health warnings.

Following the sale of the cigarettes the premises was visited on **27<sup>th</sup> September 2019** as part of tobacco enforcement operation with the purpose of identifying premises involved in the sale and supply of illicit tobacco cigarettes and smokeless tobacco products. The operation used a tobacco detection dog and a qualified handler to assist in the detection of illicit tobacco products.

During the search of the premises officers found the following items:

One hundred and four (104) x twenty (20) packets (Total: 2,080 cigarettes) of various branded illicit non-UK cigarettes and forty-one (41) packets (Total: 1,840 grams) of illicit hand rolling tobacco

Twenty-four (24) boxes of Twenty-four (24) cream charger canisters containing (NOx) nitrous oxide (Total: 576 canisters)

Officers seized the tobacco products as they were non-UK and they did not display the required health warnings for the UK market. Being in possession for the supply of tobacco without the required warnings is an offence under the Tobacco & Related Products Regulations 2016. In addition, being in supply of tobacco not displayed in the specified packaging is an offence of the Standardised Packaging of Tobacco Regulations 2015. The maximum penalty for these offences is an unlimited fine and /or 2 years imprisonment.

In addition, officers seized the nitrous oxide canisters as they were of the opinion that considering the quantity of the NOx canisters (cream chargers) and their location (i.e. behind the counter) as it was highly likely the trader was supplying them to the public for recreational misuse.

Whilst cream chargers are a legal product when sold for their legitimate use in the catering industry the supply, or offer to supply or possession with intent to supply, such items for recreational misuse (i.e. by inhaling the nitrous oxide gas inside for its psychoactive effect) is an offence respectively under Sections 5 and 7 of the Psychoactive Substances Act 2016. The maximum penalty for supply is 7 years imprisonment and an unlimited fine.

Please find attached a witness statement from Trading Standards Officer James Grier who seized the goods.

On page 6 of Officer Grier's statement he states that during questioning Mr THAKUR confirmed that he had full knowledge he was selling foreign cigarettes at £4.00 per packet and that it was illegal to sell. Mr THAKUR further explained he was given foreign cigarettes from tourists as part of his business to accept luggage hold as payment. Further, when questioning on the possession of the nitrous oxide (NOx) charges Mr THAKUR said he was selling them to nearby coffee shops but Officer

GRIER stated that he could not clarify which local shops required them.

A check of our enforcement records (prior to the visit of 18<sup>th</sup> September 2019) indicates that six (6) visits have taken place over the last five years (excluding the visits to the premises on 18<sup>th</sup> and 27<sup>th</sup> September 2019). The details of the visits are as follows:

- Two (2) visits on 28<sup>th</sup> August 2014 & 13<sup>th</sup> April 2018 to carry out age restricted test purchases for tobacco – Trader was found to be compliant as no sales took place.
- One (1) routine tobacco visit on 23<sup>rd</sup> May 2016 found that the statutory tobacco notice and the required details of ownership were not on display. The trader was given advice and asked to rectify the situation.
- Two (2) licensing visits. One (1) on 13<sup>th</sup> September 2016 was concerned with payment of annual licensing fee but the other involved the test purchase of alcohol after the permitted trading times for the premises on **23<sup>rd</sup> September 2018**. In this instance a sale took place and **Mr THAKUR was prosecuted under Section 136 (1) of the Licensing Act 2003 for selling alcohol after the permitted licence hours. He was fined £650 + £1000 costs (& £55 victim surcharge)**.
- One (1) visit on 6<sup>th</sup> March 2019 to test purchase for illicit tobacco resulting in the sale of an illicit packet of Twenty (20) Benson & Hedges Gold that did not display the required warnings for the UK market nor did it comply with the standardised packaging requirements.

A recent routine tobacco visit was also carried out on 12<sup>th</sup> August 2020 and the premises was found to be compliant.

#### Information regarding Nitrous Oxide

Nitrous oxide (NOx) is a gas with several legitimate uses, but when inhaled it can make people feel euphoric and relaxed. This happy feeling has led to it being nicknamed ‘laughing gas’. The effects of NOx vary depending on how much has been inhaled, but they include:

- Feelings of euphoria, relaxation and calmness.
- Dizziness, difficulty in thinking straight and fits of giggles/ laughter.
- Sound distortions or even hallucinations.
- In some people, a headache can be an unwanted immediate effect.
- Unconsciousness or death from lack of oxygen. This occurs when the available oxygen for breathing is effectively pushed out by the nitrous oxide. The risk is greater if the gas is consumed in an enclosed space or if a plastic bag is used that covers both nose and mouth.

(Reference: *Nitrous Oxide – Information for Patients, Addiction Recovery Community Hillingdon*).

Nitrous oxide is most commonly found in pressurised metal canisters often known as ‘cream chargers’ and used for producing whipped cream in the catering industry.

People open the canister, transfer the gas into a container (usually a balloon), then inhale from the balloon.

Inhaling nitrous oxide directly from the canister is very dangerous because the gas is under such high pressure. It can cause a spasm of the throat muscle and stop a person breathing.

Hence shops that illegally sell nitrous oxide for recreational use will normally supply the metal canisters with balloons for inhaling.

On average five people a year die after inhaling the gas, and it caused 25 fatalities between 2010 and 2016, Office of National Statistics figures show.

(Reference: <https://www.theguardian.com/society/nitrous-oxide-laughing-gas>, 21<sup>st</sup> May 2019)

#### Tower Hamlets campaign - "No laughing matter"

No Laughing Matter is the name of a campaign by Tower Hamlets Council, Tower Hamlets Homes and Tower Hamlets Police to help tackle some of the problems caused by nitrous oxide. It follows complaints from residents that antisocial behaviour linked to the taking of nitrous oxide, otherwise known as laughing gas, has become a significant concern – particularly on housing estates, including THH estates, across the borough.

Residents have informed the Council that it can be intimidating to see groups of people taking it, it causes noise nuisance and is also a litter problem because small metal canisters containing it are often left on the floor. The police have also received reports of people taking it while behind the wheel of a car.

As part of the campaign, the partners are:

- providing residents with ways to report discarded canisters so they can be collected
- educating people about what the substance is and the risks to health
- urging residents to report traders selling it for human consumption so they can be tackled by trading standards and the police.
- talking to school children about the dangers of nitrous oxide

#### Recommendation

In view of the seizures of illicit non-UK tobacco and the cream charger canisters containing (NOx) nitrous oxide on 23<sup>rd</sup> September 2019 and the previous breaches of the law the Trading Standards Service are of the opinion that there are serious concerns in relation to crime & disorder, public safety, public nuisance and the safeguarding of children. According, our service has no confidence in the management of the premises and so we respectfully request that Members revoke the premises licence.

**Please tick ? yes**

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

If yes please state the date of that application

Day	Month	Year

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

No previous representations have been made by Tower Hamlets Trading Standards in relation to this premises.

**Please tick  yes**

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate

I understand that if I do not comply with the above requirements my application will be rejected

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

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

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



Signature

Date: 4<sup>th</sup> September 2020

Capacity: Consumer Services Officers – Tower Hamlets Trading Standards

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

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

**Witness Statement**

Page 1 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

URN:

--	--	--	--

**Statement of:**

James Grier

Age if under 18 (if over insert "over 18"): Over 18

Occupation:

This statement (consisting of **7** Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it

Knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Name / Signature:

Date: 26/08/2020

Tick if witness evidence is visually recorded:  (Supply witness details on last page)**Statement**

I James Grier am a Commercial Standards Officer contracted by the London Borough of Tower Hamlets Environmental Health and Trading Standards Service. I am authorised and qualified to enforce various legislation including the Tobacco & Related Products Regulations 2016, the Standardised Packaging of Tobacco Products Regulations 2015, Psychoactive Substances Act 2016 and Trade Marks Act 1994.

**Test Purchase**

On the 18<sup>th</sup> September 2019, I assisted Senior Trading Standards Officer Nazir Ali and Shahed Miah on a test purchasing of illicit (foreign) cigarettes for the purpose to establish if they were being sold in local retail outlets trading within the Borough.

At 15.00hrs officer Shahed Miah was instructed by Officer Nazir Ali to enter a small retail shop namely Stop & Shop, 59 Commercial Street. London. E1 6BD and carry out a test purchase of 1 20pack of foreign cigarettes if offered.

Signed: .....(witness)

Date: 26/08/2020

(To be completed if applicable: ..... being unable to read the above statement I, ..... of ..... read it to him/her before he/she signed it.)

Signed: ..... Date: ..... )

**Witness Statement**

Page 2 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

At 15.05hrs, Shahed Miah returned to our vehicle with a confirmed sale of 1x 20pack Marlboro cigarettes cost £8.00.I can confirm the Marlboro cigarettes did not comply with The Tobacco & Related Products Regulations 2016 as the packet had the incorrect health warnings and the Standardised Packaging of Tobacco Products Regulations 2015. The 1 x20 Marlboro cigarettes were sealed in evidence bag numbered **N06620618**

**Operation Stromboli**

On the 27<sup>th</sup> September 2019, as Lead Officer, I organised a Trading Standards enforcement Operation Stromboli; which is set up to detect and remove illicit and counterfeit tobacco products with the support of a detection dog and qualified handlers. The purpose of the trained detection dog is to locate illicit and counterfeit tobacco products from premises targeted retail premises allegedly supplying for sale illicit and counterfeit tobacco including cigarettes. I was assisted in the operation by Trading Standards officers Kristian Dalley, Nazir Ali and Bridget Rushmoor.

At approximately 12.05pm we visited convenience store namely, Stop & Shop, 59 Commercial Street. London E1 6BD. Senior Trading Standards Officer introduced himself to an IC4 male standing behind the counter who gave his name as Mr Ashok Thakur and confirmed he was the owner of the business. Officer Kristian Dalley prepared a Code B notice of powers and rights to Mr Thakur.

At 12.10pm I instructed the dog handler with detection dog to commence search of the premises. The first location (A) I proceeded to look behind the counter at the front of the shop. Stored on shelves and contained in a metal drawer were illicit tobacco products including Benson & Hedges, Rothmans and Marlboro cigarettes including Golden Virginia & Amber leaf illicit hand rolling tobacco.

Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/07/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I, ..... of ..... , read it to him/her before he/she signed it.)

Signed: ..... Date: ..... )

**Witness Statement**

Page 3 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

At the same location there was an open brown coloured box stored on the floor area behind the counter. I opened the brown box and confirmed contents were 24x24 cream chargers also known as (N02) nitrous oxide canisters. My immediate concern due to the location of the cream chargers stored behind the counter could be mistaken for the supply to another person for the psychoactive effects. Decision was to remove the cream chargers under section 43 (a) (b) of the Psychoactive Substances Act 2016.

Officer Kristian Dalley commenced recording layout of the shop floor where evidence was located in the premises search book. The second location; (B) rear store where the detection dog & handler was showing interest close proximity around a brown cardboard box. The rear store room was being used as a luggage store room. The cardboard box contained a large quantity of various illicit tobacco products including cigarettes and hand rolling tobacco.

I concluded the tobacco products found were non-compliant of The Standardised Packaging of Tobacco Regulations 2015 and Tobacco and Related Products Regulations 2016. The Standardised Packaging of Tobacco Products Regulations 2015 lay down what shade or colour the outer packaging of packets of cigarettes and pouches of hand rolled tobacco may be. Regulation 3 states the only colour or shade permitted on the external packaging of packet of cigarettes is Pantone 448c with matt finish. The tobacco and Related Products Regulations 2016 lay out what combinations of health warnings are required on packets of cigarettes and pouches of hand rolling tobacco. Regulation 5 states that every packet of cigarettes should carry the following smoking cessation information "Get help to stop smoking at [www.nhs.gov.uk/quit](http://www.nhs.gov.uk/quit)" Regulation 11 states any combination of health warnings must be in English.

Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/08/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I, ..... of ..... , read it to him/her before he/she signed it.)

Signed: ..... Date: ..... )

**Witness Statement**

Page 4 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

**PACE QUESTIONING OF Mr Ashok Thakur**

At 12.30pm Trading Standards Officer Nazir Ali cautioned Mr Ashok Thakur and asked him questions related to the illicit tobacco products found on his premises. At the same time I helped officer Kristian Dalley and Officer Bridget Rushmoor count and place in evidence bags on all illicit tobacco products seal tobacco products. Officers Nazir Ali and Kristian Dalley presented Mr Ashok Thakur with all relevant signed documentation at 13.00hrs. We left the premises and transported all evidence to our secure store location. I took digital photographs of cream chargers and illicit tobacco products found on the premise. I produce the digital photographs as exhibits JG/1 –JG/7

On the 23<sup>rd</sup> October 2019, at our secure store location to retrieve exhibits of nitrous oxide canisters (cream chargers) taken from Stop & Shop. I opened evidence bag **LBTH012826** containing 24 x 24 (576) cream chargers (NO2) canisters. I removed 1 x 24 cream chargers resealed in evidence bag numbered **P04741389** (exhibit ref JG/S/43). I resealed 23x24(552) cream chargers in evidence bag numbered **LBTH013408** (exhibit ref JG/44) and returned to the secure store.

On the 29<sup>th</sup> October 2019, I attended the offices of the Royal Pharmaceutical Society and met by Professor Gino Martini FR Pharms, MBA. Professor Gino Martini accepted 1x24 nitrous oxide canisters in exhibit evidence bag number **P04741389**, including a transfer letter which I produce as exhibit **JG/8**. On submission I received in return an Entry/Transfer document and produce a copy as exhibit **JG/9**.

On the 10<sup>th</sup> November 2019, I attended our secure store location to retrieve reference bag number **LA041774**. On page 1 -2<sup>nd</sup> entry of premises search book a total of 64packs x 20 (1280) Marlboro cigarettes had been recorded. I can confirm on further counting only 30packs x 20 (600) were in evidence bag numbered LA041774.

Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/01/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I, ..... of ..... read it to him/her before he/she signed it.

Signed: ..... Date: ..... )

**Witness Statement**

Page 5 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

From evidence bag numbered LA041774 I removed 4x 20packs (80) Marlboro Gold cigarettes and placed them in new evidence bag numbered **P01844709 (exhibit)**. I resealed 26packs x20 (520) in evidence bag numbered **P00408810**; and returned them to the secure store.

On 11<sup>th</sup> November 2019, I processed exhibits Marlboro cigarettes in evidence bag P01844709 with accompanying letter to Marks & Clerk solicitors. I produce a copy of this letter as exhibit **JG/S/12**.

On the 5<sup>th</sup> December 2019, I sent a letter to Mr Ashok Thakur inviting him to attend a Pace interview on 12th December 2019. I note an error was made on date of interview being 12<sup>th</sup> December 2019 instead of 17<sup>th</sup> December 2019. I produce a copy of this letter as exhibit **JG/11** On the 10<sup>th</sup> December 2019, a further letter was sent to Mr Ashok Thakur, with the correct time and date of the requested interview. I produce a copy of this letter as exhibit **JG/12**

On 11<sup>th</sup> December 2019, I received notification from Chan Dhillon confirming exhibits reference P01844709 containing 4 x 20packs Marlboro cigarettes were confirmed as genuine. On the same day I visited Stop & Shop of 59 Commercial Street and introduced myself to a 1C4 male standing behind the counter. He identified himself as an assistant namely Mr Sam Priyntyha. I explained the reason of my visit to Mr Sam Priyntyha on transfer of 26x20packs of the genuine Marlboro Gold cigarettes. I produce a copy of this receipt numbered 00B 2677as exhibit **JG/13**.

On the 17<sup>th</sup> December 2019, Mr Ashok Thakur attended the council officers to be interviewed. I was assisted at the interview by Trading Standards Officer Bridget Rushmoor.

The interview of Mr Ashok Thakur commenced at 11.01am and concluded at 11.30am. Mr Ashok Thakur confirmed under caution his D.O.B as [REDACTED] and gave his home address as [REDACTED]

Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/08/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I, ..... of ..... , read it to him/her before he/she signed it.)

Signed: ..... Date: ..... )

## Witness Statement

Page 6 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

In summary Mr Ashok confirmed during questioning he had full knowledge he was selling foreign cigarettes at £4.00 per packet and that it was illegal to sell. Mr Ashok further explained he was given foreign cigarettes from tourists as part of his business to accept luggage hold as payment. Mr Ashok when questioned on possession of cream charges stated he was selling them to nearby coffee shops. However Mr Ashok Thakur could not clarify local shops requiring cream chargers. I produce as exhibit **JG/14** transcript of Mr Ashok Thakur interview, and has been checked by me for its accuracy taken from the working copy of pace cd recording. I produce as exhibit **SS/J/1** working CD recording copy of the interview with Mr Ashok.

On 22<sup>nd</sup> April 2020, I went to the secure store location to examine the illicit cigarettes to confirm authenticity .I produce as exhibit **JG/15** table of non- compliance. I produce as exhibits **JG/16 – JG/23** detailed digital photographs of brand cigarettes and hand rolling tobacco as evidence to support table of non-compliance.

I produce as exhibit **JG/24** report dated 19<sup>th</sup> January 2020 from Dr Amira Guirguis on Analysis and Identification of Nitrous Oxide on exhibited cream chargers (nitrous oxide canisters.)

On 10<sup>th</sup> June 2020 I sent a letter and seizure notice on nitrous oxide canisters seized in accordance with section 43 (a) (b) of the Psychoactive Substances Act 2016. I produce a copy of the letter and seizure notice as exhibits **JG/25 & JG/26**. On the 25<sup>th</sup> June 2020, I received the completed signed seizure notice from Mr Thakur. I produce this notice as exhibit **JG/27**.

On 21<sup>st</sup> July 2020, I sent a letter with questions to Mr Prem Kumar Nagarajan to establish association with the business and Mr Ashok Thakur. I produce a copy of this letter as exhibit **JG/28**

Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/07/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I,  
..... of ..... , read it to him/her before he/she signed it.

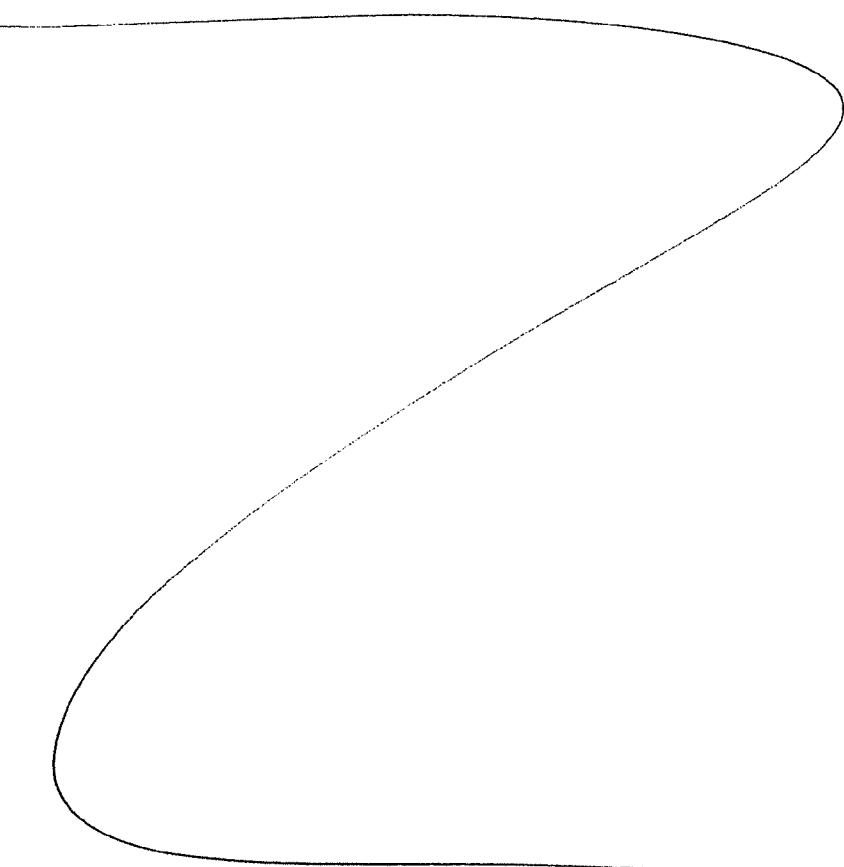
Signed: ..... Date: ..... )

**Witness Statement**

Page 7 of 7

(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)

On 28<sup>th</sup> July 2020, I received a signed copy of seizure notice related to evidence number LBTH012826 containing 24x24 nitrous oxide canisters. I produce the signed seizure notice as exhibit **JG/29**



Signed: ..... [REDACTED] .....(witness)

Date: ..... 26/07/2020 .....

(To be completed if applicable: ..... being unable to read the above statement I,  
..... of ..... , read it to him/her before he/she signed it.

Signed: ..... Date: ..... )

# **Appendix 2**



Lic No:  
**127130**

**(Stop N Shop)**  
59 Commercial Street  
London  
E1 6BD

**Licensable activities authorised by the licence**

The sale by retail of alcohol

**See the attached licence for the licence conditions**

Signed by

**David Tolley** \_\_\_\_\_  
Head of Environmental Health & Trading Standards

**Date: 23<sup>rd</sup> August 2012**

Minor variation 23/4/20

OFFICE USE	Receipt No: 183-53576	Paid:£89	Date: 6/3/20
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TOWER HAMLETS

LICENSING ACT 2003

### Part A - Format of premises licence

Premises licence number

127130

### Part 1 - Premises details

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

(Stop N Shop)  
59 Commercial Street

<b>Post town</b> London	<b>Post code</b> E1 6BD
----------------------------	----------------------------

**Telephone number**  
[REDACTED]

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

The sale by retail of alcohol

**The times the licence authorises the carrying out of licensable activities**

**The sale by retail of alcohol**

- Sunday to Thursday, from 08:00 hours to 23:30 hours
- Friday and Saturday, from 08:00 hours to midnight

**The opening hours of the premises**

- Monday to Sunday, from 08:00 hours to 02:00 hours

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

Off sales only

**Part 2**

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

Mr Ashok Thakur

[REDACTED]

[REDACTED]

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

Not applicable

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

Mr Ashok Thakur  
[REDACTED]  
[REDACTED]  
[REDACTED]

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

Personal Licence Number: [REDACTED]

Issuing Authority: [REDACTED]

**Annex 1 - Mandatory conditions**

1. No supply of alcohol may be made under the premises licence-
  - a) at a time where there is no designated premises supervisor in respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence
3. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
4. 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 a holographic mark.

**Annex 2 - Conditions consistent with the operating Schedule**

1. No nudity or semi nudity permitted.

**Annex 3 - Conditions attached after a hearing by the licensing authority**  
Conditions attached following the Licensing Subcommittee hearing on the 23<sup>rd</sup> August 2012:

1. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of 31 days.
  - a. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained.
  - b. The system shall comply with other essential legislation, and all signs as required will be clearly displayed.
  - c. The system shall be maintained and fully operational throughout the hours that the premises are open for any licensable activity.
  - d. There must also be someone on the premises, who can download the images and present them on request by a police officer or other responsible authority,
  - e. One camera is to be placed o/s the entrance and on entry
2. The premise shall not sell any beer, lager or cider that exceeds the strength of 5.6 % abv or higher.”
3. The licence holder shall refrain from promotional sales of alcohol.
4. An incident book shall be maintained and kept at the premises to log any untoward events.
5. A “Challenge 25” scheme shall be operated
6. Outside of licensed hours for the sale of alcohol, the premises licence holder must ensure that customers are made aware that alcohol must not be sold outside those hours by;
  - (a) removing alcohol from view
  - (b) locking the beer and wine fridge
  - (c) ensuring no alcohol is available for self-service; and
  - (d) displaying notices prominently within the premises advising customers that alcohol must not be purchased outside licensed hours.

## **Annex 4 - Plans**

The plans are those submitted to the licensing authority on the following date:

21 June 2012 - Ground floor  
(Basement - storage only)





Licensing Act 2003

### Part B - Premises licence summary

Premises licence number

127130

#### Premises details

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

(Stop N Shop)  
59 Commercial Street

**Post town**  
London

**Post code**  
E1 6BD

**Telephone number**  
[REDACTED]

Where the licence is time limited the dates

N/A

Licisable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol

- Sunday to Thursday, from 08:00 hours to 23:30 hours
- Friday and Saturday, from 08:00 hours to midnight

The opening hours of the premises

- Monday to Sunday, from 08:00 hours to 02:00 hours

Name, (registered) address of holder of premises licence

Ashok Thakur  
[REDACTED]

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

Off sales only

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

N/A

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

Ashok Thakur

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

No restrictions

# **Appendix 3**





# **Appendix 4**



**HT - Tower Hamlets Borough**

Tom Lewis  
Head of Licensing  
Tower Hamlets Council

Licensing Office  
Stoke Newington Police Station  
33 Stoke Newington High Street

Email: [REDACTED]  
[www.met.police.uk](http://www.met.police.uk)

26<sup>th</sup> September 2020

Dear Sir,

Central East Police Licensing formally support the review of Stop and Shop 59 Commercial Street E1 6BD. We believe that the premises has failed to uphold the Licensing Objective of Preventing Crime and Disorder and Public Safety.

Some of the concerning things about this is that the Premises License Holder Mr Thakur admitted in interview that he was knowingly breaking the law by selling illicit cigarettes. Such disregard for the law makes it difficult to believe that Mr Thakur will obey the conditions on his license or uphold the licensing objectives.

It is also concerning that there were so many cigarettes 2080 and over 1000 grams of rolling tobacco seized by officers. This is a large amount of illicit tobacco and leads us to believe that this is more than just some tobacco given to Mr Thakur by people he was holding luggage for.

The seizure of over 500 Nitrous Oxide canisters that were stored behind the counter is a very worrying. We have seen in other cases where licensed premises have been supplying selling Nitrous Oxide to people to use for its psycho active substances, that the canisters have been stored behind the front counter in an effort to conceal them from authorities and to enable sales to customers.

Mr Thakur's explanation for his possession of these canisters were for local coffee shops, is seriously undermined by the fact that he could not identify these shops.

After considering all the evidence Tower Hamlets Police Licensing have no option to support this review and ask for the revocation of the license. The management have displayed a total disregard for the law, and peoples safety by selling dangerous products

that can be harmful to people who use them. In our opinion the management cannot be trusted to uphold any of the Licensing Objectives or any conditions placed upon his license.

Kind Regards

Mark



PC Mark Perry  
Central East Licensing Unit  
Metropolitan Police Service (MPS)  
[REDACTED]  
A: Licensing Office, 2nd Floor Stoke Newington Police Station

# **Appendix 5**

# 11. Reviews

## The review process

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

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

# **Appendix 6**

# **Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003**

Updated April 2018

## **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.

# **Appendix 7**

## Licensing Policy, updated November 2018

### Crime and Disorder

- 7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems and to store prescribed information.
- 7.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder licensing objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where the Metropolitan Police, acting as a responsible authority, makes recommendations in respect of an application relating to the licensing objectives the Licensing Authority would expect the applicant to incorporate these into their operating schedule.
- 7.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 7.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has duties under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough and to share prescribed information.
- 7.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in the Secretary of State's Guidance.
- 7.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.

7.7 **Touting** – This is soliciting for custom. There has been a historic problem with Touting in the borough, mainly in relation to restaurants, and as such in 2006 the Council introduced a byelaw under Section 235 of the Local Government Act 1972 for the good rule and government of the London Borough of Tower Hamlets and for the prevention and suppression of nuisances.

As a result, in relation to premises where there is intelligence that touting is, or has been carried out, the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-

- 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.( marked as Appendix -)
- 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

7.8 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group Code of Practice. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make in promoting the licensing objectives and is committed to working with them.

Model Pool Conditions can be found in the Secretary of State's Guidance.

7.9 **Criminal Activity** - There is certain criminal activity that may arise in connection with licensed premises which the Licensing Authority will treat 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.

The Secretary State's Guidance states that 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 this 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.

- 7.10 In particular the Licensing Authority is mindful of the Secretary of State's Guidance "Reviews arising in connection with crime".
- 7.11 From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database which will be available from April 2017. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at: <https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>.

## **Smuggled goods**

- 7.12 The Licensing Authority will exercise its discretion to add a standard condition as follows:-
- 1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery to provide traceability.
  - 2) The premises licence holder shall ensure that all receipts for goods bought include the following details:
    - i. Seller's name and address
    - ii. Seller's company details, if applicable
    - iii. Seller's VAT details, if applicable
    - iv. Vehicle registration detail, if applicable
  - 3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request.
  - 4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid.
  - 5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

## **Olympic Park – Football Ground**

- 7.13 Premises where Police intelligence shows that football supporters congregate within the borough should consider in their application form the following conditions:
- 1) On Match Days for premises licensed for the supply of alcohol for consumption on the premises:
    - a) Drinks shall only be supplied in polypropylene or similar plastic and all bottled drinks shall be poured into such drinking vessels before being handed to the customer. These should be made of recyclable materials.
    - b) Registered door staff shall be employed to control the entry and exits to the premises and to manage any licensed outside area(s).

# **Appendix 8**

# **Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003**

Updated April 2018

## **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.

# **Appendix 9**

## Prevention of Public Nuisance

- 9.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 9.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 9.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in Section 18 of this Policy (Special Cumulative Impact Policy for the Brick Lane and Bethnal Green Area), and these may include conditions drawn from the Model Pool of Conditions found in the Secretary of States Guidance.
- 9.4 **Street Furniture** – placing of street furniture, which includes advertising boards, on the highway can cause a public nuisance by way of obstruction, or encourage consumption of alcohol on an unlicensed area. The Licensing Authority expects applicants to have ensured that they fully comply with the Councils rules relating to authorisation of obstructions on the highway, and that the required authorisations are obtained prior to submitting a licence application. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street furniture, including on private land.
- 9.5 **Fly Posting** – The Council has experienced problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it proportionate and appropriate, and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.

# **Appendix 10**

## **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.

# **Appendix 11**

## Public Safety

- 8.1 The 2003 Act covers a wide range of premises that require a licence, and so such premises present a mixture of risks to users and should be constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 8.2 The Licensing Authority will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health (Health & Safety) Officers and the London Fire Brigade before preparing their plans and Schedules.
- 8.3 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps that will be taken to ensure public safety. This needs to take into account any unique characteristics that arise in connection with the licensable activity, any requirements that are specific to the premises.
- 8.4 One of the Council's Community Safety Partnership Priorities is tackling violence against women and girls. As a result the Licensing Authority expects Licence holders to take a proactive approach to customer safety including the following:
  - Making provisions to ensure that customers safely leave their premises, for example providing information on licensed taxi companies, adequate lighting outside the premises,
  - Training of staff in spotting signs of harassment, and how to intervene where safe and appropriate to do so, and/or reporting such harassment to management/emergency services.
- 8.5 The Licensing Authority, where its discretion is engaged, will consider attaching proportionate and appropriate Conditions to licences and permissions to promote safety, and these may include Conditions drawn from a the Model Pool of Conditions found in the Secretary of States Guidance.
- 8.6 The Licensing Authority will impose conditions that relate to its licensing objectives, and in a way that is proportionate to the individual circumstances of the premises seeking a licence.

# **Appendix 12**

# **Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003**

Updated April 2018

## **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.

<b>Table of relevant offences under the 2003 Act Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 148	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

# **Appendix 13**

## **Protection of children from harm**

- 10.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment. 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). Home Office Guidance also expects Licensing authorities to consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 10.2 Tackling Child Sexual Exploitation (CSE) is a key target both locally and nationally as such the Licensing Authority expects Licence Holders to:
  - Understand that there are criminal offences in relation to sexual exploitation of a child,
  - Ensure that they and their employees have a basic awareness of the signs of CSE and how to report it;
  - Report any concerns to the appropriate authorities or to the Licensing Authority can advise them of the appropriate authority to report concerns to.
- 10.3 Applicants are to consult with the Responsible Authority designated for Child Protection listed in appendix 1 - List of Responsible Authorities of this who this Licensing Authority recognises to be competent body to advise on the protection of children from harm.
- 10.4 The Act does not prohibit children from having access to any licensed premises; the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 10.5 The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises. The following are examples of premises that will raise concern:-
  - Where there have been convictions, Fixed Penalty Notices (FPNs) or formal cautions for serving alcohol to minors or with a reputation for underage drinking

- With a known association with drug taking or dealing
  - Where there is a strong element of gambling on the premises
  - Where entertainment of an adult or sexual nature is provided
  - Where irresponsible drinking is encouraged or permitted.
- 10.6 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present,
  - Limitations on ages below 18,
  - Limitations or exclusion when certain activities are taking place,
  - Requirements for an accompanying adult,
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 10.7 No conditions will be imposed requiring that children must be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 10.8 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 10.9 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin by which the Portman Group informs licensed retailers, which products have been found to be in breach of the code, and should be removed from sale.
- 10.10 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm. This will require operating plans to specify these measures and management controls taking into account paragraph 10.1 and 10.2 above. Where appropriate a written childcare policy should be available and be incorporated in the induction of staff.

10.11 The Licensing Authority will take appropriate and proportionate action where there are serious concerns in relation to the safe guarding of children in connection with a licensed premises, which may include consideration of applying for a review of the licence where there is significant evidence of undermining the licensing objective of the protection of children from harm.

10.12 The sale of alcohol to a minor is a criminal offence and Trading Standards will conduct appropriate covert test purchasing exercises and will take account of any complaints and intelligence received. The Act permits the use of children under the age of 18 to undertake test purchases.

10.13 Where there are age restrictions imposed by the Act on the licensable activities in respect of children below a certain age, then the licensee will be required to demonstrate that they have age verification systems in place. This Licensing Authority believes that Licensed Premises should have age verification policies to require individuals who appear to the person serving alcohol to be under the age of 25 years of age to produce on request appropriate identification. This is commonly referred to as the "Challenge 25 Scheme". The rationale for this is because it can often be difficult to judge how old teenagers are and "Challenge 25 age verification system" would provide licensed premises with margin of error to prevent underage sales. Thus Challenge 25 can help to empower staff to challenge customers where there is doubt about their age. In turn this is likely to reduce the risk of the owner, or the seller of the alcohol, committing an offence.

10.14 Training in age verification systems should be given to all persons who might be in a position to serve or refuse the sale of alcohol to children. The training should include a basic understanding of the law, seeking proof of age, verifying the authenticity of proof of age cards and handling and recording refusals.

10.15 Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose the following standard conditions in relation to age verification systems:

- 1) All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
- 2) A Challenge 25 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
- 3) A record shall be kept detailing all refused sales of alcohol. The record should include the date and time of the refused sale and the name of the member of staff who refused the sale. The record

shall be available for inspection at the premises by the police or an authorised officer at all times whilst the premises is open.

- 4) All staff whose duties include the serving of alcohol must be trained in the requirements of this scheme including the importance of recording any refusals.

## 11 Access to Cinemas

- 11.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 11.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 11.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

## 12 Children and Public Entertainment

- 12.1 Many children go to see and / or take part in an entertainment arranged substantially for them. Consequently additional arrangements are required to safeguard them at such times.
- 12.2 Where 10.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-
  - An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof,
  - No child unless accompanied by an adult to be permitted in the front row of any balcony,
  - No standing to be permitted in any part of the auditorium during the Performance.
- 12.3 Where children are taking part in any regulated entertainment, and its

discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.

- 12.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions that can be found in the Secretary of State's Guidance.