



DARLINGTON

Borough Council

Licensing Act 2003 Sub Committee Agenda

9.30 am

Thursday, 17 March 2022

Council Chamber, Town Hall, Darlington

Members of the Public are welcome to attend this Meeting.

1. Election of Chair
2. Introductions/Attendance at Meeting
3. Declarations of Interest
4. Review of The George Public House Premises Licence –
Report of the Group Director of Services
(Pages 3 - 42)
5. EXCLUSION OF THE PUBLIC AND PRESS –
To consider the exclusion of the Public and Press :-

RECOMMENDED – That pursuant to Sections 100A(4) and (5) of the Local Government Act 1972, the public be excluded from the meeting during the consideration of the ensuing items on the grounds that they involve the likely disclosure of exempt information as defined in exclusion paragraphs 1 and 7 of Part 1 of Schedule 12A of the Act



Luke Swinhoe
Assistant Director Law and Governance

Wednesday, 9 March 2022

Town Hall
Darlington.

Membership

Councillors Clarke, B Jones and K Nicholson

If you need this information in a different language or format or you have any other queries on this agenda please contact Allison Hill, Democratic Officer, during normal office hours 8.30 a.m. to 4.45 p.m. Mondays to Thursdays and 8.30 a.m. to 4.15 p.m. Fridays Email: allison.hill@darlington.gov.uk or telephone 01325 405997

FOR CHAIR AND MEMBERS
OF THE LICENSING ACT 2003 SUB COMMITTEE
FOR 17 MARCH 2022

APPLICATION TO REVIEW PREMISES LICENCE ON THE GROUNDS OF THE PREVENTATION OF CRIME AND DISORDER

Licence holder Mr George Maxwell **Ref No:** DL16/00927/VARDPS
Sowerby

Premises: THE GEORGE
107 Bondgate,
Darlington,
DL3 7LB

Licensable Activities: 1. **Sale of Alcohol** for consumption **ON & OFF** the Premises
2. **Regulated Entertainment** (recorded music)
3. **Late Night Refreshment**

Current Hours:

Sale of Alcohol:	09:30 to 00.30	Every Day
All Regulated Entertainment:	09:30 to 00.30	Every Day
Late Night Refreshment	23.00 to 00.30	Every Day

Premises opening Times 18.00 to 01.00 Every Day

Police Application Summary Review of Premises Licence on the grounds of Crime and Disorder

Notification to Responsible Authorities/Other Persons:

Notice of this application to the following:

Environmental Health	Chief Fire Officer
Durham Constabulary	Trading Standards
Planning	Public Health
The Licence Holder	The Licensing Authority
Darlington Safeguarding Partnership	

Information on the Premises 22nd February 2022
Information on Council's web site: 22nd February 2022

LEGISLATION:

1. The Licensing Act 2003 requires the Licensing Authority to carry out its functions with a view to promoting the four Licensing Objectives:
 - The Prevention of Crime and Disorder
 - Public Safety
 - The Prevention of Public Nuisance

The George Review

- The Protection of Children from Harm
- 2. The Licensing Authority must also have regard to its Licensing Policy and any guidance issued by the Secretary of State. The Licensing Authority may depart from its own Policy or the Secretary of State's Guidance if it has good cause but must be able to give full reasons for such a departure.

DESCRIPTION OF PREMISES

3. When the Premises Licence application was originally made the applicant described the premises as follows:

"The premises operates as a public house in Darlington".

PURPOSE OF REPORT

4. To invite Members to consider an application for a summary review of the Premises Licence submitted by Durham Constabulary brought under Section 53A of the Licensing Act 2003, based on the grounds that it undermines the prevention of crime and disorder objective relating to serious crime and disorder associated with the premises.
5. Members are requested to consider any appropriate action, which may include the revocation of the licence.

BACKGROUND OF THE PREMISES

6. On the 13 December 2013 the premises licence of The George (Public House), 107 Bondgate, Darlington, DL3 7LB was revoked by the Darlington Licensing Sub-committee following a number of issues involving a previous licence holder.
7. On the 3 March 2014 an application was made for the grant of a new premises licence under Section 17 of the Licensing Act 2003, by Flint Bishop Solicitors on behalf of Star Pubs & Bars Ltd.
8. On 1 April 2014 a licence was granted to Star Pubs & Bars Ltd, subject to mandatory conditions and a number of additional conditions at Annex 2 to the licence.
9. On 15 April 2015 an application was properly made to transfer the premises licence from Star Pubs & Bars Ltd, to George Maxwell Sowerby in accordance with Section 42 of the Licensing Act 2003. There were no objections to this transfer so Mr Sowerby became the new Premises Licence Holder effective from the date of application. The Designated Premises Supervisor at this time was Michael David Parks.
10. On 21 July 2015 a Licensing Enforcement Officer carried out an inspection and during the course of this inspection the Officer found that a condition to keep the CCTV recordings was not being complied with (Annex 2 condition 4). In addition, a condition that a register of training for staff covering issues such as Challenge 25, refusals register, incident book and general licensing issues was not being complied with (Annex 2 condition 10). A written warning was given to Mr Sowerby at that time requiring compliance by the next scheduled inspection.

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11. When the premises were re-inspected on 11 November 2015 the Officer found that condition 10 was still not being complied with. Also a condition to carry out and record regular assessments of noise generated from regulated entertainment was not being complied with (Annex 2 condition 13). Mr Sowerby was issued with a written warning, which explained that further non-compliance was likely to result in legal proceedings.
12. On 18 January 2016 the premises were re-inspected where it was found to be complaint and no further action was taken.
13. On 7 June 2016 Mr Sowerby made an application to vary the premises licence to specify himself as Designated Premises Supervisor. No representations were received and a new licence was issued effective from the day the application was made.
14. On 14 December 2016, a Licensing Enforcement Officer carried out an inspection of the premises and found that it was not complying with a number of conditions to Annex 2 of the Premises Licence:
 - No incident book available
 - No register of staff training made available
 - No training of staff in relation to its drugs policy made available
 - No clear and legible signage regarding random drug searches being a condition of entry displayed at the entrance
 - No record of regular assessments of noise generated by regulated entertainment
15. A written warning was given to Mr Sowerby at that time and was compliant at the the next scheduled inspection.
16. On 18 May 2017 a Licensing Enforcement Officer carried out an inspection of the premises and found that it was not complying with the condition to carry out regular noise assessments. On the 14 July 2017, the premises were compliant with this condition.
17. On 17 July 2018, during a routine visit by an Authorised Officer it was noted that Part A of the licence was not available. The original or certified copy must be kept on the premises at all times and produced at the request of an authorised person or constable. Failing to comply is an offence under Section 57 of the Licensing Act 2003.
18. It was also found that there was no record of staff training in relation to its drugs policy and that there was no signage advising of random drug searches being a condition of entry.
19. These matters had been rectified when on the 7th September 2018, a follow up visit took place.
20. A copy of the current licence and plan is appended for Members' attention at **Appendix 1**.

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APPLICATION TO REVIEW THE PREMISES LICENCE

21. On 21 February 2022 an application was properly made by Durham Constabulary to review this premises licence under Section 53A of the Licensing Act 2003 (**Appendix 2**). An application can be made under this section where a senior police officer issues a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both) (**Appendix 3**). This review is often referred to as a summary review or an expedited review and provides a fast track process for serious incidents.
22. On receipt of this application and certificate signed by a Chief Superintendent, the licensing authority are required to consider whether it is necessary to take interim steps within 48 hours of the time of its receipt, pending determination of the review, which must take place within 28 days after the day of receipt of the application.
23. In summary, this application relates to an incident of serious large scale violent disorder that occurred during the early afternoon of Saturday 12th February, directly linked to this premises. This was football related violence where a group of Darlington football supporters gathered in The George and prepared for what was believed to be an organised fight that took place in Skinnergate involving supporters from a rival football team, where members of the pubic were going about their normal business.
24. On Wednesday 23 February 2022 and within the required time-scale a Licensing Sub-committee was convened to determine if it was necessary to take any interim steps pending the full review. This hearing was held remotely via Microsoft Teams and the following people were present:
 - Insp Phil Carter – Police
 - Sgt Caroline Dickenson – Police
 - Colin Dobson – Licensing Manager
 - Brian Murray – Assistant Licensing Manager
 - Lewis Metcalf – Manager of The George
 - Stephen Birkett – Representative of Admiral Taverns
 - Allison Hill – Democratic Officer
 - Bethany Symonds - Solicitor
25. Attempts were made to contact Mr Sowerby with no success, however the application was properly served on the premises and Mr Metcalf attended to speak on behalf of Mr Sowerby as the premises manager in his absence.
26. The premises are owned by Admiral Taverns and leased to Mr Sowerby, so Mr Birkett was in attendance on behalf of Admiral Taverns as an interested party.
27. Sgt Dickenson presented the application to Members, which included video footage and Mr Metcalf was invited to respond.
28. Mr Metcalf informed Members that the premises do not allow 'risk' football supporters in any more and challenged Sgt Dickenson by stating the police do not visit the premises when there were football matches. Sgt Dickenson informed Mr Metcalf that a record is kept of all visits and she personally last visited the premises on New Year's Day where 'risk' supporters were present.

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29. Members were requested to determine this application and the options open at this stage included:

- modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- removal of the designated premises supervisor from the licence; and
- suspension of the licence.

30. After considering the information provided by those present, the committee decided with immediate effect that:

- A) The premises licence is suspended; and
- B) Mr Sowerby is removed as the designated premises supervisor

31. Mr Sowerby was sent a letter explaining this decision and as he was not present at the hearing it was explained how he could make representations to review the interim steps (**Appendix 4**). No representations have been made by Mr Sowerby

32. This decision was pursuant to Section 53B of the Licensing Act 2003, and the reason for the decision was that with the information presented to the Sub-committee by police, Members felt it was necessary for these steps in order to promote the licensing objectives of ensuring public safety and preventing crime and disorder. The Members were particularly concerned about the safety of people visiting the town centre.

THE LICENCE HOLDER'S RESPONSE

33. The Licence Holder has been invited to attend this hearing and a notice of the application made by police has been served on him. Mr Sowerby has indicated that he is in the process of surrendering the licence and will not be attending the full review hearing.

FULL HEARING

34. The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act in that a review must take place within 28 days. It should however be emphasised that the truncated version of the hearings only applies to interim measures.

35. The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations for this hearing in relation to any of the licensing objectives, not just crime and disorder. Notice of this review was submitted to all responsible authorities within the required timescales and no representations were received.

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36. A full hearing review procedure for Licensing Sub-committees is at **Appendix 5**.

THE LICENSING POLICY

37. Members are referred to the following relevant sections of the Council's Licensing Policy which are reproduced at **Appendix 6**.

Section 1.2 – 1.3	Purpose
Section 6 – 7.3	Premises licence and impact of licensable activities
Section 11.3 to 11.5	Steps to address Crime and Disorder

THE GUIDANCE

38. Members are referred to the Secretary of State's Guidance (Section 182 of the Licensing Act 2003) in relation to the prevention of crime and disorder and the review process. This was last amended in April 2018 and the relevant sections of the Guidance are provided in this review pack at **Appendix 7**.

MEMBERS' OPTIONS

39. At the hearing, the licensing authority must:

- consider what steps it considers appropriate for the promotion of the licensing objectives; and
- decide which interim steps cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

40. The steps the licensing authority can take are:

- modification of the conditions of the premises licence;
- exclusion of a licensable activity from the scope of the licence;
- removal of the designated premises supervisor from the licence;
- suspension of the licence for a period not exceeding 3 months; and
- revocation of the licence.

41. Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

42. If Members are minded to add additional conditions, they must be appropriate to promote the licensing objectives outlined earlier. Members are reminded that any such conditions should not duplicate existing legislation.

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43. Members are further reminded that any party to the review who is aggrieved at the decision of the Licensing Sub Committee (i.e. Premises Licence Holder or Police) may appeal the decision to the Magistrates Courts. In the event of such appeal any determination by the Sub-committee will not take effect until the appeal is disposed of.

Contact Officer: Colin Dobson x 5988

Dave Winstanley

Director of Group Services

**For admin use only:
Sub Committee Decision:**

Date of Sub Committee:

Reasons:

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Licensing

Town Hall, Feethams, Darlington. DL1 5QT

Tel: (01325) 405888

<http://www.darlington.gov.uk>

PART A

Licensing Act 2003 Premise Licence

The George

Premises Licence Number	DL16/00927/VARDPS
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PART 1 – PREMISES DETAILS

Premises Details:	THE GEORGE 107 Bondgate, Darlington, DL3 7LB
Telephone number:	01325 481686

Licence effective from:	7 June 2016	Duration of Licence:	Indefinite
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Authorised Licensable Activities:	Authorised Hours	
Retail sale of alcohol (for consumption ON AND OFF the premises)	09:30 - 00:30	Every Day
Regulated Entertainment: Live Music	19:00 – 00:30	Every Day
Recorded Music, Films, Indoor Sporting Events	09:30 – 00:30	Every Day
Late Night Refreshment:	23:00 - 00:30	Every Day

Premises Opening hours:	09:30 - 01:00	Every Day
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<p>Non-standard/seasonal timings:</p> <p>The Sale of Alcohol will be restricted as follows: Christmas Day 12:00 to 15:00 and 19:00 to 22:30 Good Friday 12:00 to 22:30.</p> <p>The licensable activities specified in this licence may be provided from the end of the specified finish times on any day which is New Years Eve to the beginning of the start times on the following day (New Years Day).</p>

PART 2

Premises Licence Holder:	Mr George Maxwell Sowerby 107 Bondgate, Darlington. DL3 7LB
Telephone number:	07894901001

Designated Premises Supervisor:	Mr George Maxwell Sowerby
Personal Licence No:	DL12/00693/PERSON
Issuing Authority:	Darlington Borough Council

Annex 1 Mandatory Conditions:

1. Every Supply of alcohol under the premises licence must be made by or authorised by a person who holds a personal licence.
2. No supply of alcohol may be made under the premises licence:-
 - (a) at a time when there is no Designated Premises Supervisor in respect of the premises licence or
 - (b) at a time when the designated Premises Supervisor does not hold a personal licence or his personal licence is suspended.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—

 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification

policy.

- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—**
- (a) a holographic mark, or**
 - (b) an ultraviolet feature.**
- 6. The responsible person must ensure that—**
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—**
 - (i) beer or cider: ½ pint;**
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and**
 - (iii) still wine in a glass: 125 ml;**
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and**
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available**
- 7. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.**
- 8. For the purposes of the condition set out at 7 —**
- a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);**
 - b) “permitted price” is the price found by applying the formula—**
$$P = D + (D \times V) \text{ where—}$$
 - i) P is the permitted price,**
 - ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and**
 - iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;**
 - c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence—**
 - i) the holder of the premises licence,**
 - ii) the designated premises supervisor (if any) in respect of such a licence, or**
 - iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;**
 - d) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.**
- 9. Where the permitted price given by Paragraph (b) of paragraph 8 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.**
- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.**
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.**

Annex 2 Conditions consistent with the Operating Schedule and/or converted from the Original Licence(s):

- 1. This licence is subject to all the embedded conditions/restrictions inherent in the Licensing Act 1964.**
- 2. A colour digital CCTV system which meets the requirements and expectations of the Police and**

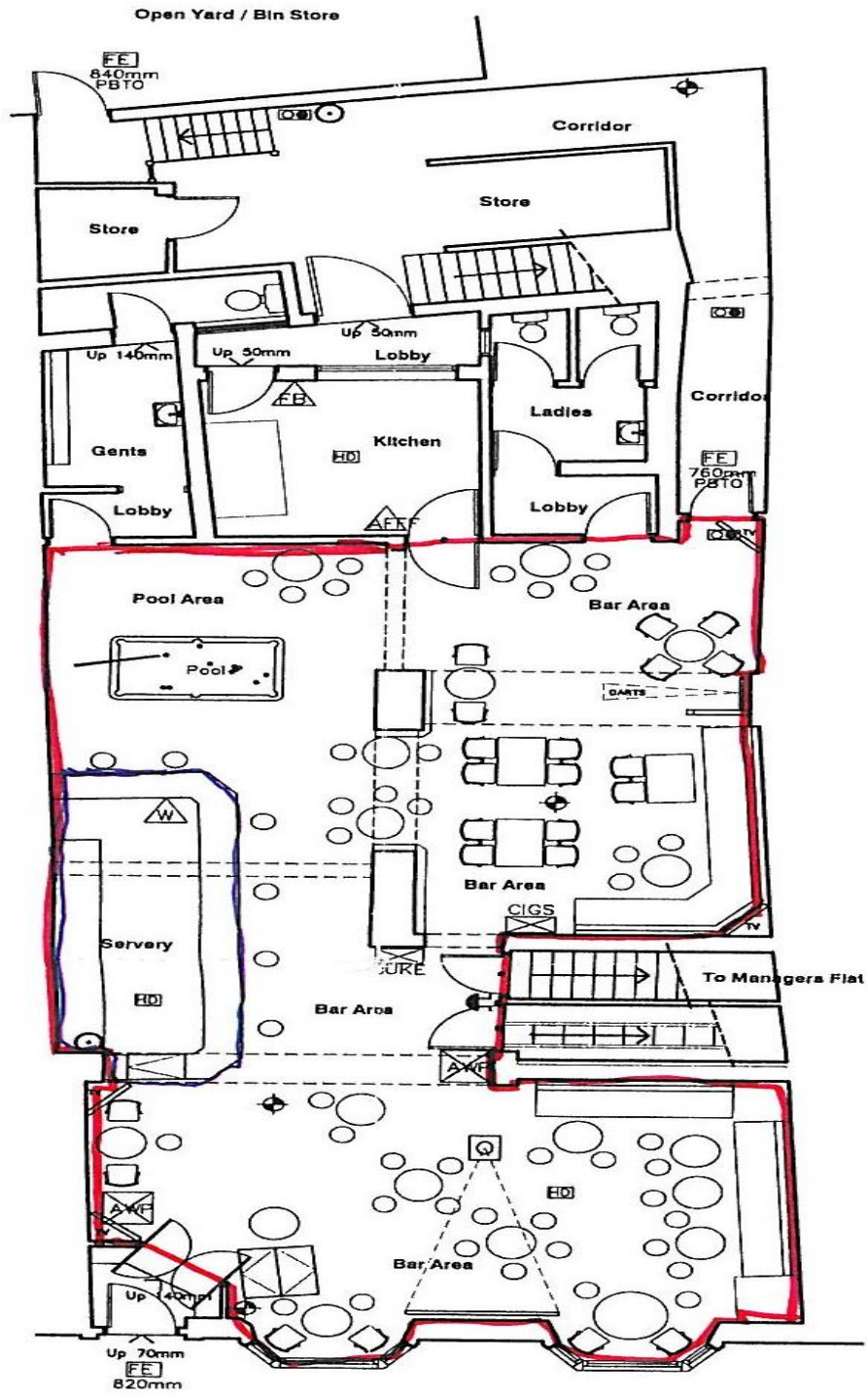
Licensing Authority shall be installed and in operation at all times the premises are being used for licensable activities. It must be operated by properly trained staff.

3. The system shall as a minimum cover the public entrance (to facial recognition standard) in addition to any points of sale and other areas where the public have access, with particular regard to those areas which may not be visible from the bar area.
4. Recordings must be kept secure where they cannot be tampered with and retained for a period of no less than 28 days. Recordings must be available on request to the Licensing Authority or Durham Constabulary and be provided within 7 days of any such request.
5. The Premises Licence Holder and/or Designated Premises Supervisor must report any technical failures/faults of the CCTV system to Darlington Alcohol Harm Reduction Unit along with details of steps taken to remedy the faults, within 24 hours of the fault occurring.
6. The premise shall operate the Challenge 25 scheme. As part of such a scheme a register of refusals shall be maintained and kept up to date. This register shall be available for immediate inspection by the Police or authorised officers of the council.
7. Children under the age of 18 shall not be permitted on the premises after 18:00hrs.
8. On Friday's and Saturday's there shall be a minimum of 2 SIA registered door staff from 8pm to the closure of the premise.
9. The premise shall maintain an incident book which shall be made available to the Police or an authorised officer of the Local Authority upon request.
10. Staff training shall be provided to all new staff and refresher training given a minimum of quarterly, covering such issues as the Challenge 25 scheme, refusals register, incident book and general licensing issues. Such training will be recorded in a register. The register shall be made available to the Police or an authorised officer of the council upon request.
11. All members of staff shall also be provided training in respect of a premises drugs policy. Such training shall be documented and produced on request to the Police or an authorised officer of the council upon request.
12. There shall be clear and legible signage at the entrance point advising that random drug searches may be conducted and that any person refusing to be searched shall be refused entry to the premises.
13. The Designated Premises Supervisor or their representative shall conduct regular assessments of the noise coming from the premises on every occasion the premises are used for noise generating regulated entertainment and shall take steps to reduce the level of noise where it is likely to cause a disturbance to local residents. A written record shall be made of those assessments in a log book kept for that purpose and shall include the time and date of the checks, the person making them and the results including any remedial action. (Noise is likely to cause a disturbance to local residents if it is clearly audible and recognisable as coming from the Licensed premises at or beyond the boundary of any nearby noise sensitive property).
14. Doors and windows shall remain closed except for access purposes when regulated entertainment takes place.

Annex 3 Conditions attached after Licensing Authority Hearing:

None

Annex 4 Premise Plan



GROUND FLOOR PLAN

In accordance with the application to vary the designated premises supervisor.

.....
Authorised Officer
Date of Issue: 9 June 2016

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FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Darlington Borough Council

Town Hall

Feethams

Darlington

DL1 5 QT

Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)

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 the 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.**

I Sgt 484 Caroline Dickenson [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**THE GEORGE
107 BONDGATE
DARLINGTON
COUNTY DURHAM
DL3 7LB**

Post town: Darlington

Post code (if known): **DL3 7LB**

2. Premises licence details:

Name of premises licence holder (if known): George Maxwell SOWERBY

Number of premises licence holder (if known): DL16/00927/VARDPS

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

On Saturday 12th February 2022 at 12:05hrs numerous 999 calls were received reporting a group of over 40 persons were fighting in the street. The people involved were described as being dressed in black, wearing face coverings / balaclava's.

Callers also reported seeing those involved with glass bottles and weapons. Callers reported some of these weapons as snooker balls and pool cues and others reported people being kicked in the head, punched and that some had blood on them.

This violent incident has taken place in Darlington Town Centre on a busy Saturday dinner time whilst families, elderly and others were out enjoying the day and going about their buisness.

Due to the calls that came in to the Police, officers were sent to the scene and an investigation is ongoing. Officers were aware that there was a Darlington Football match on and there was information to suggest 'risk supporters' were attending the game.

A risk supporter is -

- A person, known or not, who can be regarded as posing a possible risk to public order or antisocial behaviour, whether planned or spontaneous, at or in connection with a football event**

Within Durham Police we have a football liaison team and it is well documented that these risk supporters frequent THE GEORGE public house. Council CCTV supported this enquiry as it is clear that supporters come from THE GEORGE public house and walk up SKINNERGATE.

Members of the beat team requested CCTV from THE GEORGE public house for the date and time before, during and after the incident. However the premises only provided one camera for this whole day which covered the pool table. Officers have had to request further footage which was only received on the evening of 18th February 2022 so this has hindered the investigation and delayed arrests of the people responsible.

Once all the CCTV footage was obtained officers have viewed it and found the following -

- Group of risk football supporters seen to enter THE GEORGE at 11:03hrs**

without face masks / face coverings.

- The group drink alcohol within the premises and are the only large group within, they have no face coverings / balaclava's / hoods up,

- A member of the group is seen to remove 2 x pool balls from the pool table and place them into his coat pockets.

- The CCTV shows members of the group at a table which is in clear site of the bar. They remove face coverings / balaclavas from a bag and put them on.

- Bar maid is seen to walk through the group collecting glasses as the males seem to be preparing / limbering up for a fight.

- CCTV captures a male showing pool balls from his pockets to others in the group. The group appear to be animated

- Some of the group collect their empty glasses and walk towards the exit of the premises

- 12:06hrs 21 of the supporters leave the premises and walk up SKINNERGATE. Some wearing face coverings and some putting them on whilst they leave. Some of this group are seen to still have the glasses from the premises in their hands.

Darlington Borough Council CCTV captures the incident of violence including these persons that leave from THE GEORGE public house.

- The GEORGE CCTV then shows the same males returning to the premises between 12:14hrs and 12:24hrs

At no time do Police receive any calls from staff at THE GEORGE public house. The group were in the public house for a long period of time and staff would have had sufficient time to call / alert Police to what was occurring or being prepared in order to prevent large scale disorder and serious crimes being committed.

If staff had been fearful of this activity they could have contacted Police once the group had left however did not, and in fact welcomed the group back into the bar.

This crime has been recorded as a violent disorder of which on indictment can carry a term in prison of up to 5 years.

We as the Police service require information from persons to inform us of certain incidents so we can prevent certain crimes from occurring, this is an example of where if we had been informed of what was occurring in THE GEORGE public house we may have been able to prevent it rather than reacting to the scenes of violence afterwards.

Due to the serious nature of the incident the Police believe there is significant risk of future crime and disorder associated to this group and this premises. Other powers available to us are not sufficient to protecting the public and addressing the concerns we have around this premises.

The application of the review of a premises licence under section 53a of the licencing act 2003 is justified and we will be asking for immediate suspension of the license and removal of the designated premises supervisor.

Signature of applicant: Caroline Dickenson
Date: 21/02/2022
Capacity: Licensing Sgt

Contact details for matters concerning this application:
Address: **Durham County Council, Licensing Services**
St Johns Road North, Meadowfield,
DH7 8RS

Telephone number(s): 0191 3752351

Email: caroline.dickenson@durham.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

Durham Constabulary
Force HQ
Aykley Heads
DH1 5TT

CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003

I hereby certify that in my opinion of the premise described below are associated with both serious crime and serious disorder.

Premises:

THE GEORGE
107 BONDGATE
DARLINGTON
COUNTY DURHAM
DL3 7LB

Premise licence no: DL16/00927/VARDPS

Name of Premises licence holder: George Maxwell SOWBERY

I am a Chief Superintendent in Durham Constabulary.

I am giving this certificate because I am of the opinion that the other procedures under the licencing Act 2003 are inappropriate in this case, and that it is proportionate in the circumstance for the reasons below.

Several incidents were reported to Durham Constabulary on Saturday 12th FEBRUARY 2022 of serious disorder and violence in Darlington Town Centre. During the investigation it has been established that this licensed premises has failed to take any action which could have prevented the incident occurring.

CCTV footage at the premises shows several persons entering the venue prior to the incident. These persons entering the premise are identified as Darlington Football Club risk supporters of which are known to regularly attend The George public house.

These persons are not wearing face coverings / masks to cover their identities upon entering the premises. The group drink in the pub and then prior to leaving they put on face coverings and balaclavas to hide their identity. They also take with them a number of glasses, bottles and pool balls. A member of bar staff is seen collecting glasses around the group during this time.

Once the persons have left the premises there is a large-scale disturbance within Darlington Town centre where these persons have been involved.

If the bar staff / management had intervened, then the disturbance may not have occurred in front of members of the public including the elderly and young families.

This is the only proportionate action available at the time to prevent any further crime and disorder at the premises in the future.

Signed

Dated: 21st FEBRUARY 2022

A handwritten signature in black ink, appearing to read 'Adrian Green', with a stylized initial 'A' and a wavy line extending to the right.

Print Name: Adrian GREEN

Title: Chief Superintendent 193



DARLINGTON
Borough Council

OPERATIONS GROUP
Law & Governance Division
Town Hall, Darlington DL1 5QT
DX69280 Darlington 6

(01325) 405468
Bethany.Symonds@darlington.gov.uk
23 February 2022

Mr George Maxwell Sowerby
The George
107 Bondgate
Darlington
DL3 7LB

Our ref: Legal/BS
Please ask for: Beth Symonds

Cc: Mr Lewis Metcalf
Mr Stephen Birkett
Durham Constabulary

Dear Mr Sowerby

Meeting of Licensing Act 2003 Sub-Committee on 23rd February 2022
Review of premises licence for The George, 107 Bondgate, Darlington DL3 7LB

On 21st February 2021, the Council received an application by Durham Constabulary for a review of the premises licence for the above venue which the police consider is associated with serious crime / disorder. The application was submitted under section 53A of the Licensing Act 2003 which means that the Council were obliged to review the police's application, and the licence, within 48 hours of the application and determine whether any interim steps are necessary pending a full review of the licence.

The Licensing Act 2003 sub-committee met at 9.30am on 23rd February 2022 via Microsoft Teams to discuss the matter. You were not at the meeting, and it is understood that this is because you were on holiday abroad, however the following people were present and all presented information and spoke to the members about the issues outlined in the police's application:

- Colin Dobson – Licensing Manager at Darlington Borough Council
- Sgt Caroline Dickenson – Durham Constabulary
- Stephen Birkett – Admiral Taverns
- Lewis Metcalf – Manager at The George

After considering the information provided by the people listed above, the committee decided with immediate effect that:

- A) The premises licence is suspended; and
- B) You are removed as the designated premises supervisor

This decision was pursuant to Section 53B of the Licensing Act 2003, and the reason for the decision was that the information presented to the sub-committee members suggested that these steps was necessary to promote the licensing objectives of ensuring public safety and preventing crime and disorder. The members were particularly concerned about the safety of people visiting the town centre.

Although Mr Metcalf and Mr Birkett were present to speak on your behalf, you as the premises licence holder have the right to make representations about the interim steps taken by the committee today. Should you wish to do so, another hearing will be held within 48 hours to review the decision in light of your representations. You will be invited to attend this, however if you fail to attend then the meeting will go ahead in your absence.

In any event, a full review of the licence will take place during the week commencing 14th March 2022. Once the day, time and location are confirmed you will be notified and invited to attend. The purpose of this hearing will be for the committee to review the interim steps, and consider appropriate measures to ensure the promotion of the licensing objectives. You are invited to attend this meeting, and you must make any representations no later than 7th March 2022. You must let us know no later than two days before the hearing if you are planning to attend or if you would consider that any other interested parties should be invited to attend the hearing.

Copies of this letter will be sent to Durham Constabulary, Mr Metcalf and Mr Birkett.

Yours sincerely



Beth Symonds
Solicitor
Darlington Borough Council

APPENDIX 5

LICENSING SUB COMMITTEES

FULL HEARING PROCEDURE FOR APPLICATIONS FOR REVIEWS OF PREMISES LICENCES/CLUB PREMISES CERTIFICATES WHERE RELEVANT REPRESENTATIONS HAVE BEEN RECEIVED

1. The Chair will welcome all parties who are present and introduce the Members. The Chair will explain to the parties at the beginning of a hearing the procedure that it is proposed to follow. The hearing will take the form of a discussion. Cross-examination will not be permitted without the consent of the Chair.

Any Members who know the Premises Licence holder or any of the objectors will declare this fact and not take part in the hearing of the application. This is in addition to the declaration of any personal or prejudicial interest.

(NB. The Secretariat will endeavour to ensure that Ward Members and Members that are personally known to the applicant are not included on the Sub Committee.)

All hearings will usually be in public. The Sub Committee may however exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

The Licensing Manager will outline the application.

2. **The Application for the Review**

NB: Where the application comes from Interested Parties, i.e. local residents or businesses within the vicinity of the premises, the Sub Committee will expect that wherever possible a spokesperson be elected to speak on behalf of the group. This person will make the application. At the conclusion of the application the Chair will ask the group if there is any information which is additional to the application made by the spokesperson and if so will permit this information to be given.

- [1] The Applicant for the review or their representative will give their reasons for making the application.
- [2] The Applicant for the review or their representative will then call any witnesses and/or give reasons for their objection.
- [3] The Premises Licence Holder or his/her representative may then question the Applicant for the review [if they have given evidence] and any witnesses.
- [4] The Chair or any member of the Licensing Sub Committee, through the Chair, may ask questions of the Applicant for the Review and any witnesses.

If several applications/representations have been received and the Applicants for the Review have not agreed to present the case jointly, this procedure will normally be repeated for each individual Applicant.

3. **The Premise Licence holder's (PLH) Case**

- [1] The PLH or their representative presents their response to the application for review.
- [2] The PLH or their representative will then call any witnesses and/or give evidence in support of his/her response.
- [3] The Applicant(s) for the Review may then question the PLH if they have given evidence] and any witnesses.
- [4] The Chair or any Member of the Licensing Sub Committee through the Chair will ask questions of the PLH and any witnesses.
- [5] The PLH or their representative will then be given a final opportunity of asking any further questions of any witnesses to clear up any points raised in the earlier questioning.

4. The PLH will be asked by the Chair of the Sub Committee whether, in the light of the information heard in relation to the review, they wish to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions, as when they retire, Members will consider only the information before them at that time.

If the PLH wishes to amend the operating schedule, change the designated premises supervisor (Premises Licences only) or offer additional conditions the Applicant(s) for the Review will be given the opportunity to comment on the proposal.

5. **Closing Statement or Summary**

- [1] **By or on behalf of the Applicant(s) for the Review.** The Applicant(s) for the review may summarise any points they wish to make and comment briefly on the Applicant's replies to questions. They cannot introduce new issues.
- [2] **By or on behalf of the PLH.** The PLH will be invited to summarise any points they wish to make and comment briefly on the Applicant for the Review's replies to questions. They cannot introduce new issues

6. **Conclusion**

All decisions will be made in private.

The Legal Officer will repeat, in summary form, any legal advice given to Members when the public is re-admitted.

Once a decision has been reached, the press and public will be re-admitted to the meeting together with the Premises Licence Holder, Responsible Authorities and Other Persons. At this stage, the Chair will announce the Sub Committee's decision, will give reasons for the decision and advise all parties of rights of appeal. The decision will subsequently be formally notified to the Applicant(s), Responsible Authorities and Other Persons in writing, including their rights of appeal as soon as possible after the Hearing.

EXTRACTS FROM DARLINGTON COUNCIL'S LICENSING POLICY

(Effective FROM 01 January 2021)

1.2 The Licensing Act 2003 supports a number of other key aims and purposes.

These include:

- a) Providing the Police and the Council with powers to effectively manage and police the night-time economy and take action against any premises that are causing problems.
- b) Protecting local residents and visitors to Darlington from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises.
- c) Recognising the important role which pubs and other licensed premises play in the local economy by reducing, where possible the regulatory burden on businesses and supporting responsible premises.
- d) Providing a regulatory framework for alcohol which enables the Council to make and enforce appropriate decisions about the most appropriate licensing strategies for the borough of Darlington; and
- e) Encouraging greater involvement in licensing decisions by local residents the opportunity in respect of licensing decisions which may affect them.

1.3 In addition this Policy also aims to:

- promote more responsible attitudes to alcohol and responsible drinking.
- raise awareness of the level of alcohol related health problems.
- protect children and residents from the negative impact of alcohol.
- reduce the rate of alcohol related crime and disorder and anti-social behaviour.
- promote a responsible licensed trade.

6.0 PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

NB This Policy concentrates on premises that provide multiple licensable activities. Further information is provided at Section 12.7 - 12.8 in respect of premises to which many parts of this Policy do not fully apply.

In many cases it may be helpful to all concerned for applicants and/or their advisers to discuss with Licensing Authority Officers the draft-operating schedule before it is formally submitted. This will help to ensure it properly addresses all issues of concern to the Licensing Authority (see glossary of terms in respect of “grandfather rights” for current licensees).

6.1 Policy: Applicants for Premises Licences will be expected to address the licensing objectives. It may assist to consider Local Crime Prevention Strategies, Planning and Transportation Policies and Tourism and Cultural Strategies when determining their operating schedule.

The Licensing Authority will expect the operating schedule to have regard to the nature of the area in which the premises are located, the type of premises, the licensable activities to be provided, the hours of operation, impact on the locality and the needs of the local community.

In this respect the Licensing Authority will expect the applicant to demonstrate how the premises will be a “good neighbour” both to residents and other venues and businesses. The applicant will be required to demonstrate that he/she has satisfactorily addressed each of the licensing objectives as part of any application to vary the operation of the premises.

Reason: To comply with the legislative requirements of the Licensing Act 2003.

7.0 THE IMPACT OF LICENSABLE ACTIVITIES

7.1 Policy: When considering whether a licensable activity should be approved the Licensing Authority will, if relevant representations are received, assess the likelihood of it contributing to unacceptable, adverse impact in terms of crime and disorder and public nuisance, in particular to local residents and businesses.

Applicants should therefore consider the following when making an application:

- a) The proposed hours and days of operation and how often an activity occurs.**
- b) The location of the premises, particularly in relation to residential properties and such places as hospitals, hospices and places of worship.**
- c) The number and type of current and future customers.**
- d) The means of access and egress to the premises which should have public access on principal pedestrian routes.**

- e) **The availability of public transport for patrons arriving at and leaving the premises compared to the anticipated level of private transport usage.**
- f) **The likely effect of car parking demand on both principal roads and residential streets and the impact this may have on local residents and emergency access.**
- g) **The need for provision of portable toilet facilities outside of the premises.**
- h) **The cumulative impact of licensed premises within the area and the scope for mitigating such impact.**
- i) **Waste disposal arrangements including bin storage and the collection and containment of litter from the vicinity of the premises.**
- j) **Public nuisance caused by unauthorised advertising and fly-posting**

and, in considering any application from premises which are currently licensed, the Licensing Authority will, if relevant representations are received, take into account any evidence of:

- k) **Past demonstrable adverse impact from the activity, particularly on local residents and businesses; or**
- l) **If adverse impact has been caused, that appropriate measures have been agreed and put into place to address any future adverse impact. If measures are to be put into effect or alternatively if there has been insufficient time to assess their usefulness a licence may be granted for a limited period only.**

7.2 **Reason:** To achieve the licensing objective of preventing public nuisance. To promote this objective the Licensing Authority, in considering the likelihood of adverse impact, will take into account, among other matters:

- The precise nature of the activity, particularly in terms of entertainment, as this may impact in terms of the age of patrons and their behaviour.
- Noise levels and type of noise, which may be acceptable during daytime hours but may have greater impact at times when ambient noise levels are much lower.
- The impact of patrons arriving, queuing and exiting which should take place on main pedestrian routes rather than through residential areas.
- The impact of other sources of nuisance from smells, smoke, refuse storage, vermin and other similar causes of nuisance.

NB Where steps can be taken to mitigate adverse impact and such steps are reliable, practical and robust then an activity may be licensed.

7.3 **Additional Information:**

The Licensing Authority will focus on matters within the control of the individual licensee and the steps they can take to achieve the licensing objectives.

In making its decisions the Licensing Authority accepts the difficulties that licence holders face in preventing anti-social behaviour once patrons are beyond the direct control of the licensee. However, the licensing objective of preventing public nuisance will not be achieved if patrons from licensed premises regularly behave in an anti-social way which impacts on local residents and/or businesses.

The Licensing Authority recognises a the Council's responsibility under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder. The aim of this Policy therefore is to achieve a balanced approach to these difficult issues.

11.3 Steps to be taken by Licensees to Address Crime and Disorder Issues

Policy: The Licensing Authority will expect the applicant to indicate in his operating schedule the steps proposed to prevent crime and disorder on and in the vicinity of their premises and/or events

Reason: Prevention of crime and disorder is both an objective of the Licensing Act 2003 and a responsibility of the Licensing Authority under the Crime and Disorder Act 1998. It is important, therefore, that the applicant be able to demonstrate to the Licensing Authority the practical steps that will be taken to further this objective in the operating schedule. The factors that impact on crime and disorder may include:

- a) Underage drinking.
- b) Drunkenness on premises.
- c) Public drunkenness.
- d) Drugs.
- e) Violent behaviour.
- f) Anti-social behaviour.

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

- a) Effective and responsible management of premises.
- b) Training and supervision of staff.
- c) Adoption of best practice guidance (eg Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other Voluntary Codes of Practice, including those relating to drinks promotions eg The Point of Sale Promotions published by BBPA, Security in Design published by BBPA and Drugs and Pubs, published by BBPA).
- d) Acceptance of accredited means of age identification eg DVLA photo driving licence or 'proof of age' cards.
- e) Provision of effective digital CCTV in and around premises.
- f) Employment of Security Industry Authority licensed door-staff.
- g) Provision of plastic or shatter resistant glasses.
- h) Provision of secure, deposit boxes for confiscated items.
- i) Procedures for assessing risk associated with promotions and events such as "happy hours" for the potential to cause crime and disorder and plans for minimising such risks.
- j) Measures to prevent the use or supply of illegal drugs.
- k) Employment of licensed door supervisors and other appropriately trained staff.
- l) Installation of non-retrievable bottle bins at exits and ensuring that patrons do not leave with bottles or glasses (on licence sales).
- m) Provision of litterbins and other security measures, such as lighting, outside premises.
- n) Membership of Darlington 'PubWatch' scheme.

11.4 The Licensing Authority will expect the operating plan to include a risk assessment into the use of door-staff, in terms of the actual need for such a service and also the ratio of such personnel to patrons based on capacity of the premises.

11.5 Policy: The Licensing Authority will normally require a Personal Licence holder to be on the premises at all times when alcohol is being sold.

Reason: It is important that there is an accountable, responsible person present at all times when alcohol is being sold. This is to ensure that alcohol is not sold to persons who have had too much to drink and to ensure that alcohol is only sold to persons over the age of 18 years. In terms of crime and disorder, there is a need for an identified person with whom the Licensing Authority and Police can discuss any problems/issues arising from the licensable activities offered on the premises.

**GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003
(REVISED APRIL 2018)**

PURPOSE

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

Legal status

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

Licence conditions – general principles

- 1.16 Conditions on a premises licence or club premises certificate are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. Licence conditions:
- must be appropriate for the promotion of the licensing objectives.
 - must be precise and enforceable.
 - must be unambiguous and clear in what they intend to achieve.

- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation.
- must be tailored to the individual type, location and characteristics of the premises and events concerned.
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- should not replicate offences set out in the 2003 Act or other legislation.
- should be proportionate, justifiable and be capable of being met.
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- should be written in a prescriptive format.

Each application on its own merits

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

Other relevant legislation

- 1.19 While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation.

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.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder.

A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

The 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 the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. 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.

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)
- 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.

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.