

LICENSING SUB COMMITTEE - 6 DECEMBER 2013

APPLICATION FOR REVIEW OF A PREMISES LICENCE - HAVEN BAR & BISTRO, LYMINGTON YACHT HAVEN, KINGS SALTERN ROAD, LYMINGTON

1. INTRODUCTION

- 1.1 The purpose of this report is to consider an application for the review of a premises licence under Section 51 of the Licensing Act 2003.

2. APPLICATION

- 2.1 Hampshire Constabulary has made an application for the review of Haven Bar and Bistro, Lymington Yacht Haven, Kings Saltern Road, Lymington, SO41 3QD. The application is attached as **Appendix 1**.

3. REPRESENTATIONS

- 3.1 No additional representations have been received.

4. REQUIREMENTS FOR A HEARING

- 4.1 The Licensing Authority must hold a hearing to consider the review application.
- 4.2 The relevant paragraphs 11.1 - 11.11 and 11.16 - 11.28 and 11.30 of the Home Office guidance issued under Section 182 of the Licensing Act 2003 is attached as **Appendix 2**.

5. CONCLUSION

- 5.1 The Licensing Sub-Committee must, having regard to the application, consider which of the following measures are appropriate for the promotion of the licensing objectives:
- 5.2
- To modify the conditions of the licence;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding three months;
 - To revoke the licence;
 - To take no further action in this matter.

6. RECOMMENDATION

- 6.1 That the Licensing Sub-Committee determines the application.

Further Information:

Paul Weston
Licensing Services
Tel: 023 8028 5505
Email: licensing@nfdc.gov.uk

Background papers:

Appendix 1(S51 Review Application)
Appendix 2 (Home Office Guidance)



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

Page 1 of 6

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I PC 24191 Bethan Wood, on behalf of the Chief Officer of Hampshire Constabulary,
(Insert name of applicant)

Apply for the review of a premises licence.

Apply for the review of a club premises certificate.

(Select as applicable)

Make a representation about a premises licence/club premises certificate

Premises or Club Premises details

Postal address of premises:	Haven Bar & Bistro Lymington Yacht Haven Kings Saltern Road Lymington
Postcode (if known):	SO41 3QD

Name of premises licence holder or club holding club premises certificate (if known)
Mr Robert Smith

Number of premises licence or club premises certificate (if known)
624/3

Details of responsible authority applicant

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank:	PC 24191
Surname: Wood	First Names: Bethan
Current postal address:	Southampton Central Police Station Southern Road Southampton
Postcode:	SO15 1AN
Daytime telephone number:	02380 674768
E-mail address: (optional)	western.licensing@hampshire.pnn.police.uk

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



**Application for the review of / Representation in respect of a
Premises licence or Club Premises certificate
under the Licensing Act 2003**

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

- Select one or more
boxes*
- | | |
|---|-------------------------------------|
| 1) The prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) Public safety | <input type="checkbox"/> |
| 3) The prevention of public nuisance | <input type="checkbox"/> |
| 4) The protection of children from harm | <input checked="" type="checkbox"/> |

Please state the grounds for review which must be based on one or more of the licensing objectives together with supporting information:

On behalf of the Chief Officer of Hampshire Constabulary a review of the premises licence for Haven Bar & Bistro, Lymington (Item 1) is sought.

The premises has failed two test purchase operations within a 6 month period and a review of the licence is required in order to ensure the protection of children and prevention of crime and disorder.

Hampshire Constabulary first conducted a full licensing visit at the premises in August 2012 as a result of concerns from local officers that the Designated Premises Supervisor, Mr Robert Smith had been rude and appeared to be intoxicated during a visit to the premises in December 2011 (Item 2). At this time it was found that Mr Smith was not able to demonstrate the premises support of the licensing objectives and advice was given to him as to how best to ensure this. Primarily, it was recommended that he put in place formal due diligence training for his staff, that he implement an age verification policy. The consequences of not being able to demonstrate his support for the licensing objectives, especially should there be further incident at the premises, was explained to Mr Smith, who in turn assured that he would take the necessary action (Item 3).

In February 2013 Hampshire Constabulary conducted a test purchase operation at the premises. During the operation a member of staff at the premises sold alcohol to the male test purchase volunteer who was just 17 years old (Items 4-9). This is a serious offence which causes significant concern that the licensing objectives are being undermined, namely the prevention of crime and disorder, and the protection of children from harm. During the meeting which followed this incident it was established that no action had been taken by Mr Smith following the meeting a few months earlier. There had still been no formal staff training conducted, there was no age verification policy in place, Mr Smith could not demonstrate that his staff had been making challenges for ID or refusals of sale, and the CCTV system at the premises could not be operated. The licensing objectives were not being supported. Mr Smith was again provided with written advice in relation to this, including the offer of attending a training session, proof reading and providing feedback on any training package that he put together. Mr Smith was asked to produce a copy of CCTV of the test purchase failure. Once again, Mr Smith made assurances that the advice would be taken on board and that he understood the seriousness of the situation. Hampshire



**Application for the review of / Representation in respect of a
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Constabulary clearly advised Mr Smith that should there be no improvement at the premises, another test purchase failure, or other concern raised that the licensing objectives were not being supported, that a review of the premises licence would be requested (Item 10).

In June 2013 the premises did pass a test purchase operation and were notified of this (Item 11). However, the premises were tested again in August and alcohol was served to the 17 year old female test purchaser (Items 12-14). In the meeting which followed it was established that no staff training package had been put in place, that there was a refusals log running but that the content of this was questionable with significantly more content recorded following the TP failure in August, and that CCTV was still not operable. In the time between the test purchase failure on the 7th August, and the meeting on the 3rd October, Mr Smith had made a decision that the premises would only sell alcohol at the bar to people who were aged 21 or over. However, the age verification policy remained Challenge 21, subsequently leaving no margin for error in his own policy. Mr Smith was again provided with advice, the offer of attendance at a training session, and he was advised that it was likely his premises licence would now be reviewed with a view to placing conditions on the licence (Item 15).

Hampshire Constabulary are concerned that Mr Smith does not fully understand the importance of protecting children from harm by ensuring that they are unable to buy alcohol from the premises. He has repeatedly failed to take on board recommendations that are designed to ensure that he has met his obligations as a designated premises supervisor and to ensure that his premises is run responsibly. In order to ensure that the licensing objectives are promoted in the future, it is requested that the following conditions be added to the premises licence in replacement of the highlighted parts of the existing premises operating schedule (Item 1):

CCTV

The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system will be able to cope with strobe lighting (where used) and all levels of illumination throughout the premises as well as outside areas.

CCTV warning signs to be fitted in public places.

The CCTV system must be operating at all times whilst the premises are open for licensable activity. All equipment shall have a constant and accurate time and date generation.

The recording system will be able to capture a minimum of 4 frames per second and all recorded footage must be securely retained for a minimum of 28 days.

Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.

The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.

There shall be sufficient members of trained staff at the premises during operating hours to be able to provide viewable copies immediately to police on request when investigating allegations of offences or criminal activity. Any images recovered must be in a viewable format on either disc or VHS. Footage supplied in a digital format on CD or DVD will also have a copy of the CCTV system software enabled on the disc to allow playback.



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In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Western Hampshire Police Licensing Unit within 24 hours.

Incident book

An incident book will be provided and maintained at the premises. It will remain on the premises at all times and will be available to police for inspection upon request.

Any incidents that include physical altercation or disorder, physical ejection, injury, id seizure or drug misuse will be recorded in the incident book. The entry is to include an account of the incident and the identity of all person(s) involved (or descriptions of those involved if identity is not known). Should there be any physical interaction by members of staff and the public the entry will include what physical action occurred between each party. The entry shall be timed, dated and signed by the author.

If the member of staff creating the entry has difficulties reading or writing then the entry may be written by another staff member. This should however be read back to the person creating the entry and counter signed by the person who wrote the entry.

At the close of business on each day the incident book will be checked by the manager on duty where any entries will be reviewed and signed. If incidents have occurred the duty manager will de-brief door staff at the close of business. Should there be no incidents then this will also be recorded at the close of business in the incident book.

Refusals book

A written log shall be kept of all age verifications made and refusals, including refusals to sell alcohol. The Premises Licence Holder shall ensure that the refusals log is checked, signed and dated on a weekly basis by the DPS or duty manager.

The refusals log will be kept and maintained at the premises and will be available for inspection immediately upon request by Hampshire Constabulary and any responsible authority.

The record of refusals will be retained for 12 months.

Challenge 25

There will be a Challenge 25 policy operating at the premises. Challenge 25 means that the holder of the premises licence shall ensure that every individual, who visually appears to be under 25 years of age and is seeking to purchase or be supplied with alcohol at the premises or from the premises, shall produce identification proving that individual to be 18 years of age or older.

Acceptable identification for the purposes of age verification will include a driving licence, passport, HM Forces ID card or photographic identification bearing the "PASS" logo and the persons date of birth.

If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.

'Challenge 25' posters shall be displayed in prominent positions at the premises.



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Premises licence or Club Premises certificate
under the Licensing Act 2003**

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Signature: _____ Date: 15/10/2013

Signature of Authorising Officer (Inspector or above)

Name Insp John McGonigle Collar Number: 1399

Signature: Insp 1399 Date: 15/10/2013

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Licensing Act 2003

Premises Licence

Issued under Section 24 of the above Act

Premises Licence Number	624/3
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Part 1 - Premises Details

Postal address of premises, or if none, ordinance survey map reference or description	
Haven Bar and Bistro Lymington Yacht Haven Kings Saltern Road Lymington Hampshire SO41 3QD	Map Ref (E): 433285.111273693 Map Ref (N): 94685.5558266167 UPRN: 10007465522
Telephone Number: 01590 679971	

Where the licence is time limited the dates
This licence is NOT time limited

Licensable activities authorised by the licence
E) Performance of Live Music F) Recorded Music M) Supply of Alcohol

The times the licence authorises the carrying out of licensable activities			
E) Live Music		Performance of live music may take place:	
		Indoors	
		Outdoors	
		Both	Y
Day	Start	Finish	Further details:
Mon	19:00	23:00	Live music provided by small two person band or similar, usually on every Friday night.
Tue	19:00	23:00	
Wed	19:00	23:00	
			Seasonal variations:
Thur	19:00	23:00	Live outdoor music may place in the summer months.
Fri	19:00	23:00	
			Non standard timings:
Sat	19:00	23:00	
Sun	19:00	23:00	

F) Recorded Music			Playing of recorded music may take place:	Indoors	
				Outdoors	
				Both	Y
Day	Start	Finish	Further details:		
Mon	19:00	23:00	Provision of recorded music amplified as need be may be provided on the same basis as live music. The music will be played on either Friday or Saturday night between May and September.		
Tue	19:00	23:00			
Wed	19:00	23:00			
			Seasonal variations:		
Thur	19:00	23:00	Playing music outside is to be a summer facility. It will not be carried on between September to April inclusive.		
Fri	19:00	23:00			
			Non standard timings:		
Sat	19:00	23:00			
Sun	19:00	23:00			

M) Supply of Alcohol			
Day	Start	Finish	Seasonal variations:
Mon	10:30	24:00	
Tue	10:30	24:00	
Wed	10:30	24:00	
Thur	10:30	24:00	
			Non standard timings:
Fri	10:30	24:00	On New Year's Eve permitted hours are from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31 December).
Sat	10:30	24:00	
Sun	10:30	23:00	

The opening hours of the premises			
O) Opening Hours			
Day	Start	Finish	Seasonal variations:
Mon	08:00	24:00	
Tue	08:00	24:00	
Wed	08:00	24:00	
Thur	08:00	24:00	
			Non standard timings:
Fri	08:00	24:00	
Sat	08:00	24:00	
Sun	08:00	23:00	

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Where the licence authorises supplies of alcohol whether these are on and/or off supplies:
Alcohol is supplied for consumption both ON and OFF the premises

Part 2

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

Robert Milward Smith
Sheenwood
17 Rookes Lane
Lymington
Hampshire
SO41 8FP

Telephone: _____
Email: _____

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

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

Robert Milward Smith
Sheenwood
17 Rookes Lane
Lymington
Hampshire
SO41 8FP

Telephone: _____
Email: _____

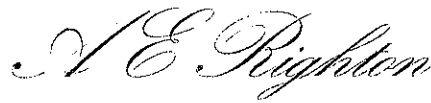
Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol
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New Forest District Council

The licence is granted by New Forest District Council, as licensing authority pursuant to the Licensing Act 2003 and regulations made thereunder.

Date licence issued: 12/04/2011

Date licence commences: 12/04/2011

Date first licence came into force: 24/11/2005



Head of Public Health & Community Safety
(Authorised Officer)

Annex 1 - Mandatory conditions

Where licence authorises door supervision:

- (1) Each individual at the premises to carry out a security activity must be licensed by the Security Industry Authority.
- (2) But nothing in subsection (1) requires this condition to be imposed:
 - (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

- (b) in respect of premises in relation to-
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section:

- (a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Where licence authorises supply of alcohol:

(1) No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(2) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

(Additional Conditions with effect from 6 April 2010)

1. (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—
 - (i) the outcome of a race, competition or other event or process, or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

(Additional Condition with effect from 1 October 2010)

4. (1) 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.
(2) 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.
5. The responsible person shall 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; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the operating schedule

Q) Proposals by the applicant in order to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

The premises manager and staff are all informed of the Licensing Act 2003 objectives and statutory requirements to comply with the relevant provisions of the Act, as well as relevant health and safety regulations which affect a premises of this nature.

b) The prevention of crime and disorder

Employees are instructed not to serve customers who are drunk, nor to allow customers who arrive in a drunken and disorderly manner to remain on the premises.

c) Public Safety

The premises complies with Health & Safety and Fire Precautions regulations. Risk assessment, preventative and control measures are in place to ensure the safety of members, guests, employees and entertainers while on the premises. The Bar is aware of its capacity limits and complies with this. Fire action notices are posted and emergency escape routes are posted.

d) The prevention of public nuisance

Prior to 23:00 hours music and noise emanating from the premises whilst audible, is so low that distinct tunes, lyrics, musical instruments and any base beat cannot be recognised at the boundary of all noise sensitive premises. The licence holder or nominated representative shall receive and respond to complaints throughout the duration of the regulated entertainment. The licence holder understands that noise sensitive premises includes premises used for residential purposes, hospitals or similar institutions, educational establishments (when in use) or places of worship during recognised times and days of worship or any premises used for any other purpose likely to be affected by the music noise.

e) The protection of children from harm

Persons under 18 are only allowed in the dining area if accompanied by an adult. All staff are instructed in the other provisions of the Licensing Act 2003 relating to alcohol and the protection of children. Signs are posted at the bar prohibiting the sale of alcohol and cigarettes or their supply to children under age 18.

**Schedule of Conditions attached to a Part A Premises Licence
Embedded Restrictions transferred from the Licensing Act 1964**

ON LICENCE

The licensee may also provide and permit:

- a) Entertainment by way of music and singing but only by the reproduction of recorded sound (this does not permit the use of Karaoke, Disc Jockeys, Comperes etc.)

Permitted Hours

Alcohol shall not be sold, supplied, consumed in or taken from the premises except during permitted hours. In this condition permitted hours means those as shown in Part 1 of this Licence and:

- g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

Annex 3 - Conditions attached after a hearing by the licensing authority

N/A

Annex 4 - Plans

This licence permits the licensable activities stated at the premises addressed above in accordance with the plan(s) attached.

Plan of Premises	
Plan/Drawing No:	
Date of Plan:	Plans approved 28/03/2011

((n))

Supplementary Occurrence Report

Hampshire Constabulary

Printed: 15/10/2013 09:06 by 24191

Occurrence: 44090084079 Z Prem Licence (Management Occurrence)

Author: #3387 FORD, J.

Report time: 04/05/2012 22:44

Entered by: #3387 FORD, J.

Entered time: 04/05/2012 22:44

Remarks:

Licence check.

Report:

Myself, 3387, and 2901 attended the HAVEN at 22.13.

On entering the premises it was busy and the licensee, Robert SMITH made himself known. It was obvious from first sight that he was in drink.

He asked why we were on the premises and was told that it was routine licence check and he began to tell us how in appropriate it was doing the check on a bank holiday weekend and that he had all sorts of people on the premises, [REDACTED], the [REDACTED] and other names were dropped. He was asked if he had any other staff members on the premises and it started at 12 and worked its way down to 6. He also stated that [REDACTED] from the [REDACTED] was on the premises. SMITH was asked to show us where the premises licence was and he stated that there was no paperwork on the premises but he did have his licence card. When asked again he stated that the licence was not displayed and he also stated that there was no refusals book. SMITH was asked who was the designated licensee was for this evening and he stated that it was him.

He was very unhappy that we had visited and stated that there were lots of important people on the premises and that we should just leave.

In my opinion and 2901's opinion SMITH was very drunk. He was slurring his words and unsteady on his feet. His eyes were also very heavy.

The grounds for the visit were based on an anonymous call from a member of staff that her drink had been spiked,. There was no suggestion of an assault and when 2901 tried to follow this up calls were ignored an the matter disregarded by staff.

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Hampshire Constabulary
Chief Constable Alex Marshall

Mr R Smith
 Haven Bar & Bistro
 Lymington Yacht Haven
 Kings Saltern Road
 Lymington
 Hampshire
 SO41 3QD

Police Licensing Unit
 Southampton Central Police Station
 Southern Road
 Southampton
 Hampshire
 SO15 1AN

Telephone: 0845 045 45 45

Direct dial: 023 8067 4768

Fax No: 0845660037

Our ref: 44090084079

Your ref:

Deaf/speech impaired minicom: 01962 875000

Email: southampton.licensing@hampshire.pnn.police.uk

24th August 2012

Dear Mr Smith,

This letter is in reference to our licence meeting held on the 23rd August at Haven Bar & Bistro, Lymington Yacht Haven. At the meeting I explained to you the role of the Police Licensing Team and we discussed best practise in relation to due diligence and incident recording. I have summarised these on the attached sheet.

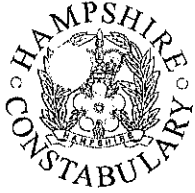
As you are aware Hampshire Constabulary are committed to working with the licensees in supporting the four licensing objectives i.e. –

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Please keep in contact with us and let us know about any new policies you are putting in place or if we can be of further assistance, especially with regard to implementing a new training package. The recommendations overleaf have been made to assist you in demonstrating your support of the licensing objectives. Should there be any incidents at the premises and you have chosen not to take on board these recommendations, or cannot evidence compliance with your licence, then we would look to take the matter further by way of review of the premises licence.

Yours sincerely,

PC 24191 WOOD
 Violent Crime Reduction & Licensing Team
 Southampton Central Police Station



Hampshire Constabulary
Chief Constable Alex Marshall

Meeting at Haven Bar & Bistro, 23rd August 2012

Training

Police: You don't currently have any formal training package for your staff. There is also nothing recorded in relation to basic staff training, or due diligence training.

In order to demonstrate due diligence, and offer yourself some protection in case of an offence being committed by your staff, you are advised to implement a training schedule. You might like to use the links below for guidance. These links were formed by conducting a simple search on the internet where there are numerous companies and literature available regarding due diligence training. It is not a recommended or definitive list, but is an example of the variety of courses available.

Service Excellence Passport (£2.50 each)

<http://www.abvtraining.co.uk/index.htm>

Flow, Licensing & social responsibility (£36.00)

<http://www.flowhospitalitytraining.co.uk/hospitality-training/licensing-training>

BIIAB Level 1 Award in Responsible Alcohol retailing training course (£55.00)

<http://www.accesstraining.co.uk/Training-Courses-And-Consultancies/Licensed-Trade-Courses/BIIAB-Level-1-Award-in-Responsible-Alcohol-Retailing/>

Act 2003 Ltd DVD & training package (£69.99)

http://www.act2003.co.uk/underage_dvd.htm

Licensing Matters Due diligence training packages (price varies)

<http://www.licensingmatters.net/duediligence.html>

We are also able to offer specific training input to run alongside any training meeting that you conduct. If you would like us to attend and offer an input, please get in touch. All training conducted should be recorded, signed, and dated by both the member of staff and yourself. If you would like to send me a copy of any draft training schedule I would be happy to take a look and provide any feedback required.

As an indication, below is an example of a training condition which is often attached to premises licences:

Staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; signs and symptoms of drunk persons, refusal of sale due to intoxication and that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records are signed and dated by the member of staff are kept of this refresher training. Records will be available for inspection by Hampshire Constabulary and the Licensing Authority. Records will be kept for a minimum period of two years.

Venue: You advised me that due to significant seasonal variations in demand you have a large number of staff, many of who only work during the summer season, but that all staff fulfil a variety



Hampshire Constabulary

Chief Constable Alex Marshall

of roles. You estimated that you have about 20 members of staff who work behind the bar at some point. You advised that you have conducted training in relation to legal age requirements and ID but that this is done verbally with no records kept of the date of the training or the content. You can see the benefit of having these records and will work with other senior staff members to put together a suitable training document.

CCTV

Police: You have a basic CCTV system installed which covers the main bar area including behind the bar, the till area, and any persons at the bar. The footage is retained for a month and is downloadable onto either USB or disc. You are unable to download the footage yourself and advised that you have a company that manage the CCTV on your behalf who you would contact to download the footage if it were required.

We discussed the practicalities of this should CCTV be required within a short time scale, for instance if a member of staff were assaulted whilst working at the bar. It is best practise that sufficient members of staff are trained in the use of the CCTV system that it could be downloaded immediately on request. However, I understand that you have never needed to download footage and that the chances of this happening are minimal. With this in mind, and wanting to ensure a proportionate but practical recommendation, I would advise you to contact the CCTV company and request that instructions be provided for the download of footage, that can be kept at the premises in order that CCTV can be downloaded if required.

Venue: Agreed that it would be sensible to have a set of instructions for the CCTV system kept at the premises and will look to implement this.

Incident/Refusals Book

Police: You have no dedicated incident or refusals book but advised that neither happen with any great frequency. You have a diarised book that is kept behind the bar where you record table bookings and notes to each other. I would suggest ensuring that any refusals made are recorded in this book for reference, and that any incidents of note are also documented. Recording these items not only evidences the effectiveness of your due diligence training, but also your support of the licensing objectives – protection of children from harm, public safety, prevention of crime and disorder, and prevention of public nuisance. It would be of additional benefit to record on each day 'nil of note' or similar should there be nothing to record, and for you, as DPS to check this book on a regular basis, which I would suggest is either weekly or fortnightly.

Venue: Agreed to record incidents of note in the diary but advised that there would be very few. You can see the benefits of recording refusals of sale and ejections, and were able to explain an incident that happened a few weeks ago which would have been good to record.



Hampshire Constabulary

Chief Constable Alex Marshall

Age Verification

Police: It is widely accepted that licensed premises should implement a 'Challenge' policy. I explained to you that the Challenge 21 policy means that if a person visually appears to be 21 or under then that person is required to show ID to prove that they are in fact 18 years or older. This is based on the theory that young persons now look older than their age, especially if they are dressing up in the knowledge that they aim to be served with alcohol. Challenge 25 is also operated in this area, meaning that anyone appearing to be under 25 is required to provide ID before being allowed entry into a premises or being served. I have attached overleaf an example of the Challenge condition that is often attached to premises licences that may be useful.

As a minimum you are required to have an age verification policy, whether this is 18, 21 or 25. I have attached for your guidance an example age verification policy.

Venue: Can see the benefits of operating a Challenge policy but prefer to use a 'common sense' approach to requesting ID from people. By this you explained that your staff know the regulars and therefore don't need to ask for ID. Your seasonal staff tend to be students and know the customers who are of a similar age to themselves and again, don't therefore need to ask for ID. You do often double check this and instruct staff to ask for ID if someone doesn't look to be 18. You advised that they are always then found to be 18. You also advised that your premises is not a place where young people come to drink due to the nature of the environment and the pricing strategy. Whilst you can see the merits of adopting a Challenge scheme you feel that your staff are using their best judgement at present with no adverse consequences and wish to spend some additional time deciding whether a Challenge scheme is appropriate, and if so which one. You understand that should any concerns be raised in relation to under age sales then the adoption of a challenge policy would demonstrate your commitment to support the licensing objectives.

Police visit on 4th May 2012

Police: It was explained to you that colleagues from the local Safer Neighbourhoods Team had visited your premises on the above date. Their report caused some concern. It advised that you were in drink, and had declined to show officers a copy of your premises licence. You were unhappy that the officers had attended and said that it was entirely inappropriate on a bank holiday weekend when you had several important, high profile guests at the premises. The report went on to say that you had no refusals log and that the you asked the officers to leave.

You have explained the situation as you saw it on that evening (below). I must remind you that it is a legal requirement that you have a copy of the licence summary on display, and that police officers are able to enter a licensed premises at any time that licensable activities are being conducted. Hampshire Constabulary are committed to working with licensees and if you were not officially 'working' on that evening and if your staff were all extremely busy you should politely advise officers of this fact. You might then expect the officers to conduct what bits of their licensing visit they are able to do before leaving the premises.

Venue: You explained that on this evening you were not officially working and were enjoying drinks with friends. The good weather and the bank holiday weekend had combined to result in an exceptionally busy evening and your staff were all working extremely hard to keep up with demand. You felt that the officers were expecting you or your staff to drop everything and assist with their



Hampshire Constabulary

Chief Constable Alex Marshall

enquiries with no regard for the premises being so busy. You are happy to work with the police and understand that it is our aim for officers to be able to visit premises in very much a reassurance capacity, and for it to be no reflection of their being any problems at the premises. You feel that a visit that requires in depth attention should be conducted at a quieter time or by appointment.



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Hampshire Constabulary Chief Constable Andy Marsh

Police Licensing Unit
Southampton Central Police Station
Southern Road
Southampton
Hampshire
SO15 1AN

Telephone: 0845 045 45 45

Direct dial: 023 8067 4768

Fax No: 0845660037

Deaf/speech impaired minicom: 01962 875000

Email: western.licensing@hampshire.pnn.police.uk

Dear Licensee,

As a responsible licensee of a licensed premises, you will be aware of the importance to ensure that your staff have received adequate training regarding due diligence in order to prevent the sale of alcohol to under age persons.

Due diligence training, keeping refusals logs, and ensuring that you have an up to date age verification policy all promote the licensing objectives and help you to ensure your staff are not serving people who are drunk or under 18 years old.

Hampshire Constabulary are committed to working with the licensees in promoting the four licensing objectives i.e. –

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

You will find enclosed a new leaflet created by Hampshire Constabulary to assist licensees in following an age verification policy. If you require any additional posters these can be provided free of charge. You can request these via email or telephone (details above). Furthermore, if you would like a licensing officer to attend any training session that you run then please contact us to arrange a suitable date and time.

Please be advised that due to the seasonal rise in anti-social behaviour over the Summer months, regular test purchasing operations will be conducted. Ensure your staff are trained to effectively utilise your age verification policy, and record any refusals made.

Yours faithfully

PC 24191 Wood
Violent Crime Reduction & Licensing Team,
Southampton Central Police Station

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of: Jason Eastwood URN
Age if under 18: 0'18 (if over 18 insert 'over 18') Occupation: Police Officer

This statement (consisting of 2 page(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.

Signature: (witness) Date: 20 February 2013

Tick if witness evidence is visually recorded (supply witness details on rear)

I am PC 2901 JASON EASTWOOD of Hampshire Constabulary currently stationed at LYMINGTON.

I am a Safer Neighbourhood Officer and have a responsibility within my policing area to ensure that the Licensed Premises are promoting and upholding the four licensing objectives.

These are as follows:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

A method used to ensure that the four licensing objectives are being met is to conduct Test Purchase Operations.

Section 149 and 152 of the Licensing Act 2003 allows for the purchase or attempted purchase of alcohol in licensed premises by young persons under the age of 18 years at the request of a Police Officer acting in the course of their duty. It further allows a Police Officer in the course of their duty to send a young person under the age of 18 years to obtain alcohol into licensed premises to purchase or attempt to purchase alcohol without an offence being committed.

It is an offence contrary to section 146(1) and (7) of The Licensing Act 2003 to sell alcohol to a person under the age of 18 years old.

On Friday 8 February 2013 from 1800 hrs I participated in a test purchase operation with two test purchasers. Test purchaser one was a female aged 17 years old, and test purchaser two was a male aged 16 years old.

Signature: Signature witnessed by:

The operation involved 2 plain clothes officers, PS 18 PLASCOTT, PS 2117 WOOD. Their role in the operation was to monitor the test purchaser at all times, ensure their safety and give evidence in relation to any offences committed. My role was to ensure the safety of the test purchaser and to deal with any offences committed by the premises.

At approximately 1945 hrs I attended The HAVEN BAR, LYMINGTON YAGHT HAVEN, LYMINGTON. I was advised by PS PLASCOTT that a sale had been made at the premises to test purchaser 2 and she identified the staff member who had committed the offence.

I spoke with the staff member who gave their full name and date of birth as

At 1950 hrs I reported [redacted] for the offence of selling alcohol to someone under the age of 18 contrary to S146(1) and (7) of The Licensing Act 2003. [redacted] was cautioned to which she made no reply. [redacted] was issued with a fixed penalty notice in relation to the offence, the reference for which is 2027615 0.

Signature: Signature witnessed by:

Signature: Signature witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of: Christine Ann Plascott URN
Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Sergeant

This statement (consisting of page(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.

Signature: (witness) Date: 13/02/13

Tick if witness evidence is visually recorded (supply witness details on rear)

I am PS 18 Christine Plascott of Hampshire Constabulary currently stationed at Southampton Central Police Station.

I am a Licensing Officer and have a responsibility within my policing area to ensure that the Licensed Premises are promoting and upholding the four licensing objectives.

These are as follows:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

A method used to ensure that the four licensing objectives are being met is to conduct Test Purchase Operations.

Section 149 and 152 of the Licensing Act 2003 allows for the purchase or attempted purchase of alcohol in licensed premises by young persons under the age of 18 years at the request of a Police Officer acting in the course of their duty. It further allows a Police Officer in the course of their duty to send a young person under the age of 18 years to obtain alcohol into licensed premises to purchase or attempt to purchase alcohol without an offence being committed.

It an offence contrary to section 146(1) and (7) of The Licensing Act 2003 to sell alcohol to a person under the age of 18 years old.

On Friday 8th February 2013 from 1730 hours I participated in a test purchase operation with two test purchasers. Test purchaser one was a female aged 17 years old, and test purchaser two was

Signature: ... Signature witnessed by:

a male aged 17 years old.

I was in plain clothes together with PC 22237 CONWAY and PS 2117 WOOD. Our role in the operation was to monitor the test purchasers at all times, ensure their safety and give evidence in relation to any offences committed. Pc 2901 EASTWOOD was in a uniformed role to deal with any offences committed by the premises.

At approximately 1945 hours I attended The Haven Bar and Bistro, Lymington Yacht Haven, Kings Saltern Road, Lymington, SO41 3QD. I entered the premises with PS 2117 WOOD he purchased two drinks, one half pint of Amstel lager and one half pint of bitter. There were two staff members serving behind the bar, a male and a female. Once we had been served myself and PS WOOD continued to stand at the bar which at this time was busy with a number of people stood near the bar and in the space between the bar and the front door. I could hear background music playing in the bar, this was not very loud but the music couple with the people made the bar fairly noisy.

I then saw test purchaser 1 and test purchaser 2 enter the venue. They both approached the bar counter and stood waiting to be served approximately 2 metres from my position. From my position I could see both test purchasers however they both had their backs to me and there were approximately two people in between my position and the Test Purchasers. I was not able to fully hear the Test Purchasers due to the background music and the chatter of persons around me. Test purchaser 2 was served by the female staff member behind the bar, I clearly saw this staff member gesture towards Test Purchaser 2 offering her service. I could see that Test Purchaser 2 asked for a drink. The female bar tender turned and selected a bottle of Smirnoff Ice from behind the bar, she opened this bottle and then placed this on the bar directly in front of Test Purchaser 2 who handed the female money to pay for this drink. I would describe the bar tender as aged approximately early 20's, she had blond long hair, fair complexion. This bar tender did not at any stage request Test Purchaser 2 to produce identification. When Test purchaser 2 had paid for the drink he turned and walked away from the bar and stood near to myself and PS WOOD

I took possession of the bottle of Smirnoff Ice and left the pub with both Test Purchaser 1 and 2. Ps WOOD remained within the premises and I had no further dealings.

Ps 18 Christine Plascott

Signature: ...

Signature witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of: PC BETHAN WOOD	URN <input style="width: 100%;" type="text"/>
Age if under 18: Over 18 (if over 18 insert 'over 18')	Occupation: Constable 24191
<p>This statement (consisting of <u>2</u> page(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.</p>	
Signature <u>Bethan Wood</u> PC BETHAN WOOD	(witness) Date: 11/02/2013

I am PC 24191 Bethan Wood of Hampshire Constabulary currently stationed at Southampton Central Police Station with the Violent Crime Reduction and Licensing Team.

I am a Licensing Officer and have a responsibility within my policing area to ensure that the Licensed Premises are promoting and upholding the four licensing objectives.

These are as follows:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

A method used to ensure that the four licensing objectives are being met is to conduct Test Purchase Operations.

Sections 149 and 152 of the Licensing Act 2003 allow for the purchase or attempted purchase of alcohol in licensed premises by young persons under the age of 18 years at the request of a police officer acting in the course of their duty. It further allows a police officer in the course of their duty to send a young person under the age of 18 years into licensed premises to purchase or attempt to purchase alcohol without an offence being committed.

It an offence contrary to section 146(1) and (7) of The Licensing Act 2003 to sell alcohol to a person under the age of 18 years old.

On 8th February from 1730hrs I co-ordinated a test purchase operation with two test purchasers. Test purchaser one was a female aged 17 years old, and test purchaser two was a male aged 17 years old.

The operation involved three plain clothes officers, PS 2117 Wood, PS 18 Plascott, and PC 22237 Conway. Their role in the operation was to monitor the test purchasers at all times, ensure their safety and give evidence in relation to any offences committed.

At approximately 1950hrs we attended Haven Bar & Bistro, Lymington. At about 1955hrs I was advised by PC Conway that a sale had been made at the premises. On meeting PC Conway she showed me the bottle of Smirnoff Ice that had been sold to the male test

Signed _____ Signature witnessed by: _____

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Continuation of Statement of: PC BETHAN WOOD

purchaser. I produce a photo of this item as evidence bearing exhibit reference BW/Haven/01.

On entering the premises, PS Wood identified the staff member who had authorised the sale, explaining that absolutely no challenge for identification had been made by the member of staff despite having looked several times at the test purchasers.

PC 2901 Eastwood spoke with the female member of staff who gave their name and date of birth as L . The member of staff was reported for summons and issued with a fixed penalty notice.

Signed: _____

PC BETHAN WOOD

Signature witnessed by: _____

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44130051030/526805



Notice

HUNTER TIER

URN

ENTERED HERE TO CAUTION

Part 1

Penalty Amount

£80

2027615 0

None

9

Penalty Details / Address

Last Name: [Redacted]
First Name: [Redacted]

DOB: [Redacted] Age: [Redacted] PNC Check Y/N
Self Classification (16+1) Code (b): [Redacted]

Visual ID Code (a): F EC

Place of Birth: SOUTHAMPTON

Occupation: WAITRESS

Flat No.: [Redacted] House No./Name: 30

Street/Road: [Redacted]

Area/Town: [Redacted]

Post Code: [Redacted]

Offences and location details

Flat No.: [Redacted] House No./Name: MAVEN BAR

Street/Road: LYMINSTON TOWN GREEN

Area/Town: LYMINSTON SOUTHAMPTON

CU/Beat: 3 NL 08 Offences Committed Code: 2A 18

Offence Date & Time: 080213 1950 Date of Issue: 080213



HAPNDF2M

Copyright Geoff Smith Associates

Offence Particulars in Brief

SALE OF ALCOHOL UNLAWFULLY TO PERSONS UNDER 18

Sec 146(1) LICENSING ACT 2003

Street = S Custody = C 5 Third Party Witness Available Y/N Statement Obtained Y/N

Reporting Officers Details: [Redacted] Rank: PL Station Code: NL

I acknowledge receipt of this Penalty Notice Signed: [Redacted]

Supervisors Collar No.: [Redacted]

Occurrence Number: 441300441

Supervisors Section (PPP 00403 refers): S1030

Are all Mandatory Fields been completed? Y/N

PNC descriptives complete on rear? Y/N

Is Officers Statement attached and is the evidence sufficient to prove the Offence subject to the PND issue? Y/N

Force Policy and National Guidance been adhered to? Y/N

If NO, this PND issue will be referred automatically by the system on scanning to the DDM for review and decision to approve or withdraw. You may also enter NO(N) if you wish a DDM to review this submission.

Signature: [Redacted] Rank: Station Code:

At Time 2000 On (date) 080213

OFFENDER DESCRIPTION

PNC description details. See codes on covers.

Height (f) [Redacted] Build (c) [Redacted] Eye Colour (d) [Redacted] Glasses Worn (e) [Redacted]
Hair Type (f) [Redacted] Hair Colour (g) [Redacted] Hair Feature (h) [Redacted] Facial Hair (i) [Redacted]
Accent (j) [Redacted] Handedness (k) [Redacted]

Marks / Scars / Tattoos

1 Type (l) location on body (m) Position (n)

Description

2 Type (l) location on body (m) Position (n)

Description

Identification Documents Seen eg. DL - Passport - ID Card - Utility Bill

Specify

Document Number

If AS number obtained via RMB custody, enter number below

AS Number 000000

Part 4 Victim Details

Is the Victim the "STATE" Y/N If NO, complete Victim Details

Victim Details Company Y/N If NO, enter Title Title (o)

Last Name /Company

First Name

DOB

or Estimated Age

Gender M/F/U

Visual ID Code (a)

Self Classification (16+1) Code (b)

Occupation

Address different to offence location Y/N

Flat No.

House No./Name

Street/Road

Area/Town

Post Code

Telephone Home

After completion of PND and OIC Statement attached, forward for supervisors approval.

PND to be deposited at scan site location for scanning onto ICR.

2027615 0

J. Act 1967, 5.0.M.C Act 1980, ss5A (3)(a) & 6B, M.C. Rules 1981, r.70

1st name EASTWOOD

2nd name JASON

DOB 27 01 1971

Occupation POLICE OFFICER

This statement 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 I know to be false or do not believe to be true.

Signature

Dated the 08 Day of February 20 13

I am PC 2901 Jason Eastwood of Hampshire Constabulary stationed at Lymington Police Station. On the 8 February 2013 whilst in full uniform I entered the HAVEN Ark at Lymington Yacht Haven. At 2000hrs I issued ticket no: 027615 0 to [redacted] [redacted] after caution. No recordable reply was made. The offence of being a member of the public under the age of 18 yrs was recorded by BS 2117 Wood

Continue on rear of page as necessary

1/10





Hampshire Constabulary

Chief Constable Andy Marsh

Southampton Central
Police Station
Southern Road
Southampton
Hampshire
SO15 1AN

10

Mr R Smith
Haven Bar & Bistro
Lymington Yacht Haven
Kings Saltern Road
Lymington
Hampshire
SO41 3QD

Telephone: 101
Direct dial: 02380 674768
Fax number: 023 8067 4397
Minicom TextRelay: 18001 101
Email: western.licensing@hampshire.pnn.police.uk

22nd February 2013

Dear Mr Smith,

This letter is in reference to the licence visit that took place on the 22nd February 2013 at Haven Bar & Bistro. The meeting was arranged to discuss the test purchase failure at your premises on 8th February and to offer you advice and guidance to prevent any further sales of alcohol to underage persons.

As you are aware Hampshire Constabulary are committed to working with licensees in supporting the four licensing objectives i.e.-

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The sale of alcohol to a person under 18 years old is a serious matter and undermines the licensing objectives. Numerous recommendations have been made today, most of which were also discussed in August 2012. I encourage you to take these on-board as soon as possible as should there be any further incident at your premises and these matters not addressed then we may look to take the matter further by way of review of your premises licence.

If you have any queries, or if I can be of any assistance please do not hesitate to contact me.

Yours sincerely,

PC 24191 WOOD
Violent Crime Reduction & Licensing Team
Southampton Central Police Station



Hampshire Constabulary

Chief Constable Andy Marsh

Meeting at Haven Bar & Bistro 22/02/2013

Test Purchase Failure 08/02/13

Premises: You advised that the member of staff who made the sale, believed the male test purchaser to be old enough. However you also advised that the test purchaser did look younger than your average clientele, who you feel are approximately 30 years old, and that all staff had said that he looked to be 20 years old. You accepted that the incident has identified flaws in your operating practises that need to be addressed and are keen to do so.

Police: The failure is a serious matter and it was disappointing to learn that no formal staff training had been completed, and that there was still no Challenge policy in place. The premises accepted a fixed penalty notice for the offence on the night and once this has been settled should face no further action regarding the matter. However, I remind you that an offence remains under S147 licensing act 2003 of 'Persistent sales of alcohol to children'. You will be re-tested within 3 months of the original offence and should you fail on a second occasion then Hampshire Constabulary would look to raise a prosecution or issue a closure notice to deal with the offence of persistent sales.

Training

Police: There has been verbal training only with staff despite the recommendations made in August 2012. In order to demonstrate due diligence, and offer yourself some protection in case of an offence being committed by your staff, you are advised to implement a training schedule. You might like to use the links below for guidance. These links were formed by conducting a simple search on the internet where there are numerous companies and literature available regarding due diligence training. It is not a recommended or definitive list, but is an example of the variety of courses available.

Service Excellence Passport (£2.50 each)

<http://www.abvtraining.co.uk/index.htm>

Flow, Licensing & social responsibility (£36.00)

<http://www.flowhospitalitytraining.co.uk/hospitality-training/licensing-training>

BIIAB Level 1 Award in Responsible Alcohol retailing training course (£55.00)

<http://www.accesstraining.co.uk/Training-Courses-And-Consultancies/Licensed-Trade-Courses/BIIAB-Level-1-Award-in-Responsible-Alcohol-Retailing/>

Act 2003 Ltd DVD & training package (£69.99)

http://www.act2003.co.uk/underage_dvd.htm

Licensing Matters Due diligence training packages (price varies)

<http://www.licensingmatters.net/duediligence.html>



Hampshire Constabulary

Chief Constable Andy Marsh

We are also able to offer specific training input to run alongside any training meeting that you conduct. If you would like us to attend and offer an input, please get in touch. I maintain that although training packages can be purchased, it is entirely possible to create your own, and for it to therefore be bespoke and truly reflective of your desired operating practises. All training conducted should be recorded, signed, and dated by both the member of staff and yourself. If you would like to send me a copy of any draft training schedule I would be happy to take a look and provide any feedback required.

As an indication, below is an example of a training condition which is often attached to premises licences:

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session.

All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

If you would like to email me a draft of any training package that you put together then please do so. I am willing to proof read it and provide feedback.

Premises: Suggested that a letter would be sent to all staff with their payslips next week advising of the new Challenge 21 policy to be operated. A formal training package will be put together and staff will sign to verify that they have completed this.

Age Verification Policy

Police: You had previously advised that you operated a common sense approach to requesting ID. However, it has been proven through the test purchase operation that this does not offer you or your staff sufficient margin for error when estimating someone's age. I recommended that you adopt either Challenge 21 or 25 and that staff receive thorough training in this. I have enclosed plenty of Challenge posters, a leaflet on how to operate the policy and a new age verification policy for you to complete.

Premises: Agreed that it would now be wise to operate a Challenge 21 policy and requested materials to support this. All staff will receive formal training regarding this.



Hampshire Constabulary

Chief Constable Andy Marsh

Incidents/Refusals Book

Police: You advise that you would record incidents in your daily diary had there been any, however, the test purchase failure was not recorded. We would suggest that any licensed premises keeps a log book in the form of a diary. This can be used to record any challenges for ID, refusals of sale (for both age and drunkenness), and any incidents. Recording these items not only evidences the effectiveness of your due diligence training, but also your support of the licensing objectives – protection of children from harm, public safety, prevention of crime and disorder, and prevention of public nuisance. You should ensure that the log is checked regularly by yourself, and that where there are no incidents of note, that this is recorded on the day.

Premises: Will ensure that any challenges for ID and refusals are recorded from now on within the daily diary.

CCTV

Police: You previously advised that you would aim to get a set of instructions for the CCTV system, which you have done. However you advised that you would need to refresh your memory as to how this works. I have requested CCTV footage of the test purchase failure and that you email me to advise when it is ready for collection.

Premises: Will re-familiarise yourself with the system and download the footage as requested.



Hampshire Constabulary
Chief Constable Alex Marshall

Robert Smith
Haven Bar & Bistro
Kings Saltern Road
Lymington
Hampshire
SO41 3QD

Police Licensing Unit
Southampton Central Police Station
Southern Road
Southampton
Hampshire
SO15 1AN

Our ref: 44090084079
Your ref:

Telephone: 0845 045 45 45
Direct dial: 023 8067 4768
Fax No: 0845660037

Deaf/speech impaired minicom: 01962 875000
Email: southampton.licensing@hampshire.pnn.police.uk

11th June 2013

Dear Mr Smith,

As you are aware Southampton Police are committed to working with the licensees in supporting the four licensing objectives i.e. –

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

In order to ensure that the licensing objectives are upheld the Licensing Team regularly conduct test purchase operations.

I am pleased to inform you that your premises was subjected to a test purchase operation during June 2013 and that you passed. I may visit in due course to view your refusals book in relation to this.

If you have any queries in the meantime then please do not hesitate to contact me.

Yours sincerely,

PC 24191 WOOD
Violent Crime Reduction & Licensing Team
Southampton Central Police Station

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of: PC 20942 DAVIES URN
Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police constable

This statement (consisting of page(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.

Signature: _____ (witness) Date: 12/8/13

Tick if witness evidence is visually recorded (supply witness details on rear)

I am PC 20942 DAVIES of Hampshire Constabulary, currently stationed at Lymington Police Station.

I am a Safer Neighbourhood Officer and have a responsibility within my policing area to ensure that the Licensed Premises are promoting and upholding the four licensing objectives.

These are as follows:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

A method used to ensure that the four licensing objectives are being met is to conduct Test Purchase Operations.

Section 149 and 152 of the Licensing Act 2003 allows for the purchase or attempted purchase of alcohol in licensed premises by young persons under the age of 18 years at the request of a Police Officer acting in the course of their duty. It further allows a Police Officer in the course of their duty to send a young person under the age of 18 years to obtain alcohol into licensed premises to purchase or attempt to purchase alcohol without an offence being committed.

It is an offence contrary to section 146(1) and (7) of The Licensing Act 2003 to sell alcohol to a person under the age of 18 years old.

On Thursday 8th August 2013 from 5.55pm I participated in a test purchase operation with two test purchasers. Test purchaser one was a female aged 17 years old, and test purchaser two was a female aged 17 years old.

Signature: Signature witnessed by:

The operation involved 8 number officers, PC 2901 EASTWOOD, PC 20241 CLARK, SC 98570 PIMENTA, PCSO 14475 CLARKE, PCSO 14215 PRESSEY, PCSO 13346 MITCHENER, PC 22106 WILLIAMS & myself. Their role in the operation was to monitor the test purchaser at all times, ensure their safety and give evidence in relation to any offences committed. My role was to ensure the safety of the test purchaser and to deal with any offences committed by the premises.

At approximately 6.55pm I attended The Yacht Haven licensed premises in King's Saltern Road Lymington. I was advised by SC 98570 PIMENTA that a sale had been made at the premises to test purchaser 1 and she identified the staff member who had committed the offence.

I spoke with the staff member who gave their full name and date of birth as (

At 6.55pm I reported for the offence of selling alcohol to someone under the age of 18 contrary to S146(1) and (7) of The Licensing Act 2003. was cautioned to which he made no reply. was issued with a fixed penalty notice in relation to the offence, the reference for which is 5010863 8.

Signature: Signature witnessed by:

Signature: Signature witnessed by:

WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Statement of: Sarah Pimenta URN
Age if under 18: (if over 18 insert 'over 18') Occupation: Special Constable, Hampshire Constabulary

This statement (consisting of 2 page(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.

Signature: (witness) Date: 08/08/2013

Tick if witness evidence is visually recorded (supply witness details on rear)

I am Special Constable Sarah Pimenta of Hampshire Constabulary currently stationed at New Milton Police Station.

I am a Safer Neighbourhood Officer and have a responsibility within my policing area to ensure that the Licensed Premises are promoting and upholding the four licensing objectives.

These are as follows:

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

A method used to ensure that the four licensing objectives are being met is to conduct Test Purchase Operations.

Section 149 and 152 of the Licensing Act 2003 allows for the purchase or attempted purchase of alcohol in licensed premises by young persons under the age of 18 years at the request of a Police Officer acting in the course of their duty. It further allows a Police Officer in the course of their duty to send a young person under the age of 18 years to obtain alcohol into licensed premises to purchase or attempt to purchase alcohol without an offence being committed.

It is an offence contrary to section 146(1) and (7) of The Licensing Act 2003 to sell alcohol to a person under the age of 18 years old.

On 08/08/2013 from 1700 hours, I participated in a test purchase operation with two test purchasers. Both test purchasers were females aged 17 years old.

Signature: Signature witnessed by:

I was in plain clothes together with PC's Jason EASTWOOD and Ben CLARK, and PCSO's Vicki PRESSEY, Gary CLARKE and James MITCHENER. Our role in the operation was to monitor the test purchasers at all times, ensure their safety and give evidence in relation to any offences committed. PC's Bronwen DAVIES and Morgan WILLIAMS were in a uniformed role to deal with any offences committed by the premises.

At approximately 1850 hrs I attended THE HAVEN, Lymington Yacht Haven, King's Saltern Rd, Lymington, SO41 3QD. I entered the premises with PCSO GLARKE and went to the bar where we were served a pint and a lemonade for myself. We then moved slightly back from the bar and stood next to an upright barrel which was being used as a table for resting drinks on. There were quite a few people in the bar and around 5 people serving behind the bar.

I then saw the test purchaser enter the venue. She approached the bar counter and we were in a position to see her being served clearly as we were approximately 2 metres away. The test purchaser asked what bottles of cider they had and the barman who was tall with dark hair and was wearing a grey tshirt named a couple of drinks without asking her to show him any form of identification. I heard the test purchaser make a choice from the list of ciders and the barman handed over a bottle of Aspall stating "THAT IS £5.95". The test purchaser paid for the drink and was also given a pint glass. The sale took place at 1855 hours. She gave us the alcohol at a table just outside of the bar area which she followed us out to as soon as the sale had taken place. The test purchaser then left.

PC EASTWOOD entered the venue and took possession of the bottle of Aspall which was photographed as evidence. PCSO CLARKE then left the pub whilst I remained.

PC's WILLIAMS AND DAVIES, who were in full police uniform, entered the venue. I pointed out the barman that had served the test purchaser the alcohol.

Signature

Signature witnessed by:



Hampshire Police

Fixed Penalty Notice for Disorder

19

PART 1 - POLICE COPY

Penalty Code	£90 18	Amount £90.00
Please tick ✓	£60 12	

Force Code	Notice Type	Source Code	Ticket Number	Penalty Code
044	80	3	5010863 8	18
PNC checked?		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Pentip checked?
		Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Yes <input type="checkbox"/>
		Previous PND issued to this offender		Yes <input type="checkbox"/>
				No <input checked="" type="checkbox"/>
		Previous Cannabis Warning		Yes <input type="checkbox"/>
				No <input checked="" type="checkbox"/>

Offender Details Title Mr Date of Birth 08/08/13

Surname PIERS
 Forenames DAVID
 Address YACHT HAVEN
LYMINGTON
 Postcode SO18 1LH Telephone 01703 29119
 Email

PNC ID CODE W1 Self-Defined Ethnicity 1 Gender (circle) M

Occupation BIAR PIER
 On 08/08/2013 at 1855 hours
 At YACHT HAVEN
LYMINGTON

Offence Code 14303004

Offence Wording SALE OF ALCOHOL ANYWHERE TO A PERSON UNDER 18

Contrary to Act LICENSING

Place of Issue YACHT HAVEN Street Custody

Issuing Officer (PRINT NAME) DAVID

Signed DAVID No. 209142

Station LYMINGTON Station Code NL

Force 44 Date 08/08/13

I acknowledge receipt of this Penalty Notice

Signature

ID CHECKS MUST BE COMPLETED
 ID CHECKS MADE (details section must be filled in)
 Driver's Licence Passport Bank / Credit Card Mobile Data
 Travel / Photo Card National Insurance

Other (specify)

ID Document No. 4413102917919

A/S No.
 OCC No. 4413102917919

39



Hampshire Constabulary

Chief Constable Andy Marsh

Southampton Central
Police Station
Southern Road
Southampton
Hampshire
SO15 1AN

Mr R Smith
Haven Bar & Bistro
Lymington Yacht Haven
Kings Saltern Road
Lymington
Hampshire
SO41 3QD

Telephone: 101
Direct dial: 02380 674768
Fax number: 023 8067 4397
Minicom TextRelay: 18001 101
Email: western.licensing@hampshire.pnn.police.uk

4th October 2013

Dear Mr Smith,

This letter is in reference to the licence visit that took place on the 3rd October 2013 at Haven Bar & Bistro. The meeting was arranged to discuss the test purchase failure at your premises on 8th August.

As you are aware Hampshire Constabulary are committed to working with licensees in supporting the four licensing objectives i.e.-

- The prevention of crime & disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

This is the second test purchase failure at your premises within 6 months. The sale of alcohol to a person under 18 years old is a serious matter and undermines the licensing objectives. Numerous recommendations were made following the test purchase failure in February and it was disappointing to find that most of these have not been acted upon. This is a matter which will result in a review of your premises licence in order to ensure that alcohol is not sold to people under 18 and to assist you in promoting the licensing objectives.

If you have any queries, or if I can be of any assistance please do not hesitate to contact me.

Yours sincerely,

PC 24191 WOOD
Violent Crime Reduction & Licensing Team
Southampton Central Police Station

Hampshire Constabulary

Chief Constable Andy Marsh

Meeting at Haven Bar & Bistro 03/10/2013

Test Purchase Failure 08/08/13

Premises: You explained that you believed test purchasing to be entrapment. However, following this test purchase failure you have introduced an O21's policy at the bar. By this you mean that only people aged 21 and over will be sold alcohol at the bar. There are some exceptions to this, such as people eating in the restaurant.

Police: The second test purchase failure demonstrates that young people are still able to purchase alcohol at your premises. This undermines the licensing objectives and is an offence which, had it occurred within three months of the first failure could have led to a 14 day suspension of your licence to sell alcohol or a £20,000 fine. Whilst it is positive that you have identified action to take as a result of this failure I am concerned that operating an O21's policy still relies on your staff diligently challenging someone's age, and that there is now no margin for error built into your challenging as you continue to operate Challenge 21. You had no records of training conducted with the member of staff who failed the test purchase operation and could not demonstrate that you had told the member of staff that there was a Challenge 21 policy in place that he was responsible for implementing.

Training

Police: In August 2012 and February 2013 I recommended that you conduct thorough due diligence training with your staff and ensured that written records were kept of this. In February 2013 I provided you with a list of internet sites where you could purchase training packages, offered to attend any training sessions that you ran, and offered to proof read any training document that was created. I had no contact from you regarding these and there are still no records of training conducted you're your staff.

The offer to attend training and provide feed back on any package you create still stands and I continue to encourage you to make best use of this. Whilst we will not conduct a training session for you we will offer you support, ensure that the training provided is sufficient to demonstrate due diligence, and advise your staff of the legal consequences of further test purchase failures. You may still like to use the links below for guidance. These links were formed by conducting a simple search on the internet where there are numerous companies and literature available regarding due diligence training. It is not a recommended or definitive list, but is an example of the variety of courses available.

Service Excellence Passport (£2.50 each)

<http://www.abvtraining.co.uk/index.htm>

Flow, Licensing & social responsibility (£36.00)

<http://www.flowhospitalitytraining.co.uk/hospitality-training/licensing-training>

BHAB Level 1 Award in Responsible Alcohol retailing training course (£55.00)

<http://www.accesstraining.co.uk/Training-Courses-And-Consultancies/Licensed-Trade-Courses/BHAB-Level-1-Award-in-Responsible-Alcohol-Retailing/>

Hampshire Constabulary

Chief Constable Andy Marsh

Act 2003 Ltd DVD & training package (£69.99)
http://www.act2003.co.uk/underage_dvd.htm

Licensing Matters Due diligence training packages (price varies)
<http://www.licensingmatters.net/duediligence.html>

All training conducted should be recorded, signed, and dated by both the member of staff and yourself. If you would like to send me a copy of any draft training schedule I would be happy to take a look and provide any feedback required.

Below is an example of a training condition which it is likely I will apply to have attached to your premises licence:

Staff will be trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18, the signs and symptoms of drunk persons and the refusal of sale due to intoxication. Records will be kept of such training which must be signed and dated by the member of staff who has received that training.

All staff will receive refresher training every six months as a minimum and records are to be kept of this refresher training which should be signed and dated by the member of staff who received that training.

In addition to their training a written test related to the training given will be conducted before the staff member is permitted to sell or authorise alcohol. The test will consist of a minimum of ten questions of which the pass rate is 80%. Anyone who fails to reach the prescribed pass rate will be retrained and re-tested. Anyone not attaining the pass rate will not be permitted to sell or authorise the sale of alcohol until the pass rate is attained. There will be a minimum of two sets of questions to be used in the training which will be rotated upon each subsequent six month training session.

All training records will be made immediately available for inspection by Hampshire Constabulary and any responsible Authority upon request. Training records will be kept for a minimum period of two years. Training records will be kept on the licensed premises to which they relate to.

Premises: You initially stated that staff all have access to a facebook page where the O21's policy is clearly documented, and that you believed that to be sufficient training for them. You later agreed that a training meeting would be held and agreed that Police attendance at this would be beneficial. You also suggested that another member of your staff, Helen Haines, may be put through her personal licence examination in order to offer you some support.

Age Verification Policy

Police: You had agreed in February to operate a Challenge 21 policy. Although you passed a test purchase operation in June 2013, the failure in August demonstrates that the policy was not being consistently implemented, or that standards had slipped. Hampshire Constabulary would now recommend that the most sensible policy to be implemented at your premises would be Challenge 25. Not only does this offer you the greatest margin for error, but since your introduction of an O21's at the bar policy, Challenge 21 offers no margin for error.

Premises: Declined to operate Challenge 25 and feel that the O21's policy is sufficient to ensure that the licensing objectives are promoted.

Hampshire Constabulary

Chief Constable Andy Marsh

Incidents/Refusals Book

Police: You had previously agreed to record any incidents of note in the daily diary and it had been recommended that if nothing had occurred of any note on a day, that this was recorded, and that the book be signed off by yourself on a regular basis. Today you have shown me a book used to record incidents. This book is not diarised. There had been approximately one record made per month throughout the summer (nothing recorded for February, March, April) and several more entries since August when the test purchase failure occurred. The test purchase pass on 7th June was not recorded. The entries made did not detail which member of staff was involved or the time at which any refusal was made. As this was not in diary format there was nothing recorded for days with nothing of note, and there was no record of the book being checked regularly. It is positive that over the summer you have begun recording incidents however I recommend that you do give consideration to a diarised book and that you train your staff to record their own refusals or challenges, allowing you to monitor which members of staff are successfully implementing your age verification policy. It also demonstrates due diligence on your part to check and sign off this book on a regular basis (I suggest weekly).

Premises: Agreed that staff would be able to make their own entries but that this may wait until after they had received suitable training. You will ensure that entries are attributable to a member of staff and timed. You will give consideration to utilising a diarised book.

CCTV

Police: You advised in August 2012 that you would get a set of instructions for the CCTV system. In February 2013 you advised that you had done this but that you needed to refresh your memory as to how the system worked. I requested CCTV footage of the test purchase failure in February which you never produced for me. It became clear during our meeting on the 3rd October that you still have no access to the CCTV system. You advised me that the software company no longer existed and that you were unable to get instructions. As a result of this you have been unable to watch footage of either test purchase failure yourself, and have not been able to provide this as evidence of a crime to the police. Having CCTV at a premises assists you in supporting the licensing objectives, particularly the prevention of crime and disorder. In light of the test purchase failures and your continued lack of support for the licensing objectives, as discussed, I will be requesting a review of your premises licence with a view to ensuring that you have CCTV coverage of your premises. This not only provides Hampshire Constabulary with the reassurance that incidents at your premises are captured on CCTV which is excellent evidence, but also provides you and your staff with protection should any allegations be made against them.

Premises: You could see the benefit of having CCTV at the bar, and potentially covering the entrance to your premises but were not keen to have it covering the dining area. You agreed to look into fixing the existing system but I advised you not to commit to any big expenditure on this as I would be

Hampshire Constabulary

Chief Constable Andy Marsh

seeking to ensure, by means of review of the premises licence, that all public areas of the premises were covered by CCTV. This may or may not be agreed by the Licensing Sub-Committee but you ought to give this due consideration when either adapting your existing system or installing any new one.

Home Office

AMENDED GUIDANCE ISSUED UNDER SECTION 182 OF THE LICENSING ACT 2003

October 2012

11. 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. 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 13 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 written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 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).

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 promote 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.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- to 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;
 - to 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);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to 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.
- 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. 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. 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, or the sale of firearms. 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 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 Class A drugs 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 knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police 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 PERSISTENT SALES OF ALCOHOL TO CHILDREN

11.30 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether 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 outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.