



Committee: LICENSING ACT SUB-COMMITTEE

Date: TUESDAY, 16 APRIL 2019

Venue: LANCASTER TOWN HALL

Time: 10.30 A.M.

A G E N D A

1. Morecambe Off-Licence, 34 Queen Street, Morecambe (Pages 1 - 47)

Determination of Application for the Review of the Premise Licence

ADMINISTRATIVE ARRANGEMENTS

(i) Membership

Councillors Mel Guilding (Chairman), June Ashworth and Colin Hartley

(ii) Queries regarding this Agenda

Please contact Jane Glenton, Democratic Services - telephone: (01524) 582068 or email jglenton@lancaster.gov.uk.

KIERAN KEANE,
CHIEF EXECUTIVE,
TOWN HALL,
DALTON SQUARE,
LANCASTER, LA1 1PJ

Published on Monday, 8 April 2019.

LICENSING ACT SUB COMMITTEE

**Licensing Act 2003
Premise Licence Review – Morecambe Off-Licence,
34 Queen Street, Morecambe
Determination of Application for the Review of the
Premise Licence
16th April 2019**

Report of Licensing Enforcement Officer

PURPOSE OF REPORT
To enable Members to determine an application for a review of a Premise Licence under Section 51 of the Licensing Act 2003 submitted by Sam McConnell on behalf of Lancashire County Council Trading Standards Service.
The report is public

RECOMMENDATIONS

The Sub-Committee is requested to consider the application from Lancashire County Council Trading Standards Service for the review of the premise licence, and any submissions made by the premises licence holder.

In accordance with Section 52 (3) and (4) of the Licensing Act 2003, the Sub-Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- (a) to modify the conditions of the licence,
- (b) to exclude a licensable activity from the scope of the licence,
- (c) to remove the designated premises supervisor
- (d) to suspend the licence for a period not exceeding three months,
- (e) to revoke the licence

The matter for decision, therefore, is which, if any, of these steps should be taken.

1.0 Introduction

- 1.1 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.

- 1.2 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 .
- 1.3 The Principal Officer of Lancashire Trading Standards Service has submitted an application for review of a premises licence under Section 51 of the Licensing Act 2003. The application relates to Morecambe Off-Licence, 34 Queen Street, Morecambe. A copy of the application is at Appendix No. 1. The grounds for submitting the review are based on one of the four licensing objectives, namely;
- The prevention of crime and disorder
- 1.4 A copy of the premises licence for Morecambe Off-Licence is attached at Appendix No. 2. This licence was granted to the premises on 4th July 2018 and details the following licensable activity:
- Sale & Supply of Alcohol (Monday – Sunday) 07:00 hours to 23:00 hours
- 1.5 In accordance with the relevant Regulations, the parties have been given Notice of the Hearing. A copy of the Notice of Hearing is attached for Members attention at Appendix No. 3.

2.0 Legal background to Review Application

- 2.1 Under Section 51 (1) of the Licensing Act 2003, a responsible authority or other person may apply to the licensing authority for the review of a licence.

The grounds for review must relate to one or more of the licensing objectives and as Members will be aware, these are:

- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance and
 - the protection of children from harm
- 2.2 An application for review must be copied to the premises licence holder and to the responsible authorities. Once such an application is received, the licensing authority must place a notice at the premises, and there is then a period of 28 days during which representations may be made to the licensing authority.
- 2.3 A copy of the notice which was displayed at the premises during the 28 day period is attached at Appendix No. 4. Licensing Enforcement Officers made occasional checks throughout the 28 day period to satisfy that the notice was still in place.
- 2.4 Members are reminded that representations can either be in support of or against an application for review of a premises licence. The representation must relate to the likely impact of the grant of the licence in relation to one or more of the four licensing objectives, namely:
- Public Safety
 - The prevention of crime and disorder
 - The protection of children from harm
 - Prevention of public nuisance

During the 28 day statutory period a representation was received from PC2338 Andrew Taylor of Lancashire Constabulary in support of the application and this is attached at Appendix No. 5.

The Police representation concerns sales undertaken by a male known as Kareem Muhameed Mahmud who was alone in the premises at the time of their visit with Trading Standards Officers on 22nd January 2019. Mr Mahmud was not in possession of a personal alcohol licence or received authorisation to undertake alcohol sales from the Designated Premises Supervisor and denied working there even though he was in possession of keys to the Off-Licence. Similarly, he denied knowing the shop owner and Designated Premises Supervisor Mr Osman Ahmed Said when he subsequently arrived at the premises.

No representations were received in support of the Licence Holder.

3.0 **Background information provided by Licensing Authority**

The application for review of the premise licence submitted by Lancashire County Council Trading Standards Service is on the grounds that the licensing objective relating to the prevention of crime and disorder is not being observed at Morecambe Off-Licence, 34 Queen Street, Morecambe.

The Trading Standards Service received numerous complaints in relation to the sale and supply of illicit tobacco products from the premises. Three separate test purchase operations of illicit tobacco products were conducted in November and December 2018. Consequently an inspection to the premises under warrant was conducted on 22nd January 2019 by Trading Standards Officers along with Lancashire Constabulary Licensing Officers where illicit tobacco products were seized.

CCTV at the premises was in operation at the time although the male behind the shop counter, Mr Mahmud, claimed not to know how to work it or anything about the refusal book or underage sales. Officers searched behind the counter but were unable to find any records whatsoever relating to the underage sale of alcohol such as training records, refusals book or a relevant policy document which is a breach of the conditions attached to the premises licence.

Mr Mahmud refused to disclose the details of the owner of the premises and the CCTV was duly seized. Lancaster Police Licensing Officer PC Andy Taylor advised Mr Mahmud that no alcohol could be sold at the premises until new CCTV had been obtained and installed.

During the inspection the owner of the premises Mr Said arrived but similarly was unable to produce any documentation in respect of underage sales or training records which again is a clear breach of his premise licence conditions.

A quantity of illicit tobacco was discovered at the premises and subsequently seized.

Further visits were then undertaken at the premises within the following week where alcohol was sold despite implicit instruction from Police not to do so without functioning CCTV. Additionally counterfeit cigarettes were sold and supplied.

On 5th February 2019 a further visit to the premises occurred with representatives from Trading Standards, Lancashire Constabulary and Lancaster City Council, where new CCTV was found to have been installed although the shop still did not have a

refusals book or any training records available. However, there were no infringing tobacco products found at the premises on this occasion.

A copy of the Community Impact Statement received from the Police is attached at Appendix No. 6 to this report.

3.1 **Government Guidance under Section 182 of the Licensing Act 2003 in relation to a review hearing following a representation involving Crime and Disorder**

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.

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music which does considerable damage to the industries affected;
- for 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 or storage of smuggled tobacco and alcohol.

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.

3.2 Government Guidance under Section 182 of the Licensing Act 2003 in relation to the Prevention of Crime and Disorder is attached at Appendix No. 7 to this report.

3.3 The relevant parts of the Council's Statement of Licensing Policy are set out at Appendix No. 8.

3.4 **Natural Justice and Human Rights**

Members are reminded that they must follow the rules of natural justice, and must also consider human rights implications.

In particular, in accordance with Article 6, all parties are entitled to a fair hearing.

Consideration also needs to be given to the right to respect for private and family life and home, contained within Article 8, although this is a qualified right, and interference is permitted where this is in accordance with the law, or is necessary in a democratic society in the interests of public safety or the prevention of crime and Protocol provides that every person is entitled to the peaceful enjoyment of his possessions, although again this right is qualified in the public interest.

4.0 **Conclusion**

The management of Morecambe Off-Licence have displayed scant regard to the conditions imposed on the premises licence and been evasive when questioned by Authorised Officers about the running of the business and subsequently ignored clear instructions given following their Multi-Agency visit.

Moreover, counterfeit cigarettes were sold to officers from Lancashire Trading Standards Service on several occasions during test purchase operations and a large number of illicit tobacco products were discovered and seized at the premises during their visit on 22nd January 2019. Alarming, further sales of counterfeit cigarettes were made to Officers on a subsequent test purchase operation.

Members should consider the application for review of the premises licence and any steps they consider necessary for the promotion of the licensing objectives.

CONCLUSION OF IMPACT ASSESSMENT (including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing) None.	
FINANCIAL IMPLICATIONS Financial Services have not been consulted as there are no financial implications.	
LEGAL IMPLICATIONS Legal implications are contained within the report, In accordance with Section 181 and Schedule 5 of the Licensing Act 2003, the parties have a right of appeal to the magistrates court within 21 days	
BACKGROUND PAPERS None	Contact Officer: David Eglin Telephone: 01524 582387 E-mail: deglin@lancaster.gov.uk Ref: DWE

Document is Restricted



Lancaster City Council
Licensing Section
Morecambe Town Hall
Marine Road
Morecambe
LA4 5AF



Tel: (01524) 582033
email: licensing@lancaster.gov.uk

Premises Licence

LAPLWA0721

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Morecambe Off Licence

34 Queen Street, Morecambe, LA4 5EG.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- the supply of alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
J. Supply of alcohol for consumption OFF the premises only	Monday - Sunday	07:00	23:00

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday - Sunday	07:00	23:00

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption OFF the premises only

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Morecambe Off Licence Limited
34 Queen Street, Morecambe, LA4 5EG.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Morecambe Off Licence Limited

11357147





Lancaster City Council
Licensing Section
Morecambe Town Hall
Marine Road
Morecambe
LA4 5AF



Tel: (01524) 582033
email: licensing@lancaster.gov.uk

Premises Licence

LAPLWA0721

NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Osman Ahmed SAID
4 Green Street, Morecambe, LA4 5HJ.
Telephone 01524 582033

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA3247

Issued by Lancaster



Lancaster City Council
Licensing Section
Morecambe Town Hall
Marine Road
Morecambe
LA4 5AF



Tel: (01524) 582033
email: licensing@lancaster.gov.uk

Premises Licence

LAPLWA0721

ANNEXES

Mandatory Conditions where the licence authorises the sale of alcohol

- 1 No supply of alcohol may be made under the premise licence -
 - (a) at a time when there is no designated premise supervisor in respect of the licence , or
 - (b) at a time when the designated premise supervisor does not hold a personal licence, or his licence has been suspended.
- 2 The supply of alcohol under a premises licence must be made or authorised by a person who holds a personal licence.

Age Verification Policy - Mandatory Condition

5. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

Alcohol Pricing

- (a) s the price found by applying the formula -

$$P=D + (D \times V)$$

Where-

- (i) P is the permitted price
- (ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added



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Premises Licence

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tax were charged on the date of the sale or supply of the alcohol;

(b) "relevant person" means, in relation to premises in respect of which there is in force a premise licence -

- (i) The holder of the premise licence
- (ii) The designated premise supervisor (if any) in respect of such a licence, or
- (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence.

(c) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question: and

(d) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994

1. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
2. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph (2) on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

Conditions consistent with operating schedule

CCTV cameras must be positioned internally and externally in prominent positions as detailed on the plan. External cameras will cover the immediate external area in front of the store.

The CCTV system must be maintained in good working order in accordance with the manufacturers' instructions.

Images will be held on digital media for a minimum period of 30 days and will be made available upon request by a Responsible Authority.



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The premises must comply with the Regulatory Reform Fire Safety Order 2005.

Staff will regularly monitor the external area of the premises and ensure that it is free from litter and also ensure there are no youths gathering outside in respect of the premises.

The Proof of Age Standards Scheme (PASS) must be actively promoted at the premises by the display of Challenge 25 posters bearing the PASS logo.

A PASS accredited holographic proof of age card will be the main identification document accepted at the premises as proof of age. A PASS card must be accepted as proof of age if a purchaser possesses one. Where a purchaser does not possess a PASS accredited proof of age card, only the following alternative forms of identification will be acceptable:-

- Photo driving licence
- Passport
- Her Majesty's Forces Warrant Card

Customers who appear to look under the age of 25 must be asked for I.D. prior to the sale of an age restricted product.

To utilise and fully record any refused sales or challenges made to patrons and such records must be kept in an appropriate form and be made available for inspection by the police or other authorised agency.

All staff involved with the provision of alcohol will successfully complete on-site training in age related products.



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LA4 5AF

LANCASTER
CITY COUNCIL

Tel: (01524) 582033
email: licensing@lancaster.gov.uk

Premises Licence Summary

LAPLWA0721

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

Morecambe Off Licence

34 Queen Street, Morecambe, LA4 5EG.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

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REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Morecambe Off Licence Limited

11357147

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Osman Ahmed SAID





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Premises Licence Summary

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STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Appendix 3

LANCASTER CITY COUNCIL

**LICENSING ACT 2003 AND THE LICENSING ACT 2003 (HEARINGS)
REGULATIONS 2005**

NOTICE OF HEARING

To: The Applicant: **Sam McConnell (LCC Trading Standards Service)**

The Licence Holder: **Morecambe Off-Licence Limited**

Responsible Authority: **PC 2338 Andrew Taylor Lancashire Constabulary**

THE LANCASTER CITY COUNCIL, AS LICENSING AUTHORITY, HEREBY GIVES YOU NOTICE that a hearing before a Sub-Committee of the Licensing Act Committee to consider a request for a review of the licence under Section 51 of the Licensing Act 2003 in respect of premises known as **Morecambe Off-Licence, 34 Queen Street, Morecambe, LA4 5EG**, will take place on the **16th April 2019** at **Lancaster Town Hall**, commencing at. **10.30 a.m.**

AND TAKE NOTICE THAT each party as listed above is required to give to the Licensing Authority by no later than five working days before the day of the hearing a notice in writing stating whether that party intends to attend or be represented at the hearing, and whether he or she considers a hearing to be unnecessary.

AND TAKE NOTICE THAT if a party wishes any other person (other than the person he/she intends to represent him at the hearing) to appear at the hearing, the notice given by that party and referred to in the preceding paragraph must contain a request for permission for such other person to appear at the hearing, and must set out details of the name of that person and a brief description of the point or points on which that person may be able to assist in connection with the matter to be considered by the Sub-Committee.

GIVEN this 29th day of March 2019 by the Lancaster City Council as Licensing Authority.

Whilst the date of this Hearing is being held slightly outside the 20 working days legal requirement it is believed to be in the public interest to undertake it on the notified date to ensure availability of all interested parties.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

1. Right of attendance, assistance and representation

A party may attend the hearing and may be assisted or be represented by any person, whether or not that person is legally qualified.

The hearing will generally take place in public. However, the Sub-Committee may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking part in public. In such circumstances, a party and any person assisting or representing a party may be treated as a member of the public. The Sub-Committee will exclude the public (and the parties and their representatives) during the decision making process.

The Sub-Committee may require any person attending the hearing who in its opinion is behaving in a disruptive manner to leave the hearing, and may refuse to permit that person to return, or permit him to return only on such conditions as the Sub-Committee may specify. However, such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which he would have been entitled to give orally had he not been required to leave.

2. Representations and Supporting Information

At the hearing a party shall be entitled to:

- (a) Give further information as applicable in response to a point upon which notice has been given to that party that clarification is required. (Note – if such clarification is required from a party this will have been indicated in the Notice of Hearing).
- (b) Question any other party, but only if given permission by the Sub-Committee; and
- (c) Address the Sub-Committee

3. Failure of Parties to attend the Hearing

If a party has given notice that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing, the Sub-Committee may, where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or hold the hearing in the party's absence. If the hearing proceeds in a party's absence, the Sub-Committee will consider and give appropriate weight to the application, representation or notice given by that party in their absence.

4. Representations and Evidence

A party who wishes to rely on information or documentary evidence that has not been submitted in advance of the issue of the Notice of Hearing should ensure that such information or evidence, together with sufficient copies for all the parties, is submitted to the Licensing Manager at least **7 days before** the day of the hearing.

Parties are reminded that documentary or other information submitted on the day of the hearing may only be taken into account with the consent of all the other parties.

A party who wishes to produce audio/visual evidence should make such evidence available as soon as practical, and should give a minimum of two clear working days notice to the Licensing Manager to facilitate arrangements for the appropriate equipment to be available at the hearing.

5. Procedure

A summary of the procedure that will normally be followed at the hearing is enclosed.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all hearings.

However, depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to):

- Whether to proceed in the absence of a party
- Whether to admit new documents/information submitted at the hearing
- Whether it is in the public interest to exclude members of the public from the hearing or any part of the hearing (other than the decision making process)
- Whether any party wished to withdraw representations previously submitted

6. Special Needs

Any person who intends to attend a hearing and who has special needs, for example in connection with access, language, hearing or vision, should inform the Licensing Manager as soon as practical prior to the day of the hearing, so that appropriate provision or arrangements may be made.

PROCEDURE TO BE FOLLOWED AT HEARINGS TO WHICH THE LICENSING ACT 2003 (HEARINGS) REGULATIONS 2005 APPLY

1. The Chairman will introduce the Members and the Legal Adviser and Democratic Support Officer.
2. The Chairman will ask the parties to introduce themselves and any persons with them.
3. The Chairman will confirm that there is no reason why any of the three sub-committee Members should not participate in this matter.
4. The Chairman will confirm that this is a discussion led by the authority that any questions should generally be put through the Chairman, and that cross-examination will only be permitted if the Sub-Committee considers that it is necessary.
5. The Chairman will ask the parties if they have any requests to cross-examine, and such requests will be considered by the Sub-Committee.
6. The Sub-Committee will consider any requests from the parties for permission for another person to appear at the hearing.
7. The Chairman will explain to the parties that the procedure to be followed will be the published one (unless the circumstances of the case require the normal procedures to be varied) – that is,
 - that the Licensing Manager (or his representative) will introduce the details of the application, the reason for the hearing, and the documentation,
 - that each party making representations will address the sub-committee in turn and will call other persons where permission has been given
 - that the applicant/licence holder will present his case and will call other persons where permission has been given
 - that Members may ask questions of all parties and persons
 - that questions from the parties must be directed through the Chairman unless cross-examination has been permitted under 4 above
 - that all parties will have the opportunity to make a closing statement, with the applicant/licence holder having the final word
 - that the Sub-Committee will withdraw to make its decision and formulate the reasons for the decision in private, and will ask its Legal Adviser and the Democratic Support Officer to join it in order to assist in documenting the decision and the reasons, or to provide clarification on any point. The decision will be announced in public and confirmed in writing. (In certain circumstances, the decision may not be made on the same day as the hearing). In the event that the Legal Adviser has been asked for clarification on any point then the point raised and the advice given will be declared to all parties.
8. The Chairman will indicate the maximum period of time each party will be allowed in which to present their case, and will seek comments from the parties before the Sub-Committee makes its final indication on this point.
9. The hearing will then proceed following the procedure in 7 above. The Chairman will arrange for reasonable comfort breaks throughout the hearing.

**NOTICE OF AN APPLICATION FOR A REVIEW OF
PREMISES LICENCE FOR:**

Premises: Morecambe Off Licence, 34 Queen Street
Morecambe LA4 5EG

**TAKE NOTICE THAT the Lancashire County Council
Trading Standards Service** has applied to Lancaster City
Council (The Licensing Authority), for a **Review of the
Premises Licence** in respect of the above premises.

The grounds of the application for review as stated by the
Trading Standards Service are offences under the Licensing
Act 2003.

The review relates to the following licensing objective:

Crime and Disorder

Any interested parties or responsible authorities may make
representations on this application to the Licensing Authority,
and any such representations should be submitted in writing by
the **17th March 2019** to:

The Licensing Manager, Morecambe Town Hall, Morecambe,
LA4 5AF or by email to licensing@lancaster.gov.uk.

The full application may be viewed at Town Hall Dalton Square
Lancaster **or** Morecambe Town Hall Marine Road East
Morecambe between 10.00 – 12.00 and 14.00 and 16.00
Monday – Friday.

IT IS AN OFFENCE, to knowingly or recklessly make a false
statement in connection with an application, and the maximum
fine for which a person is liable on summary conviction for the
offence is £5000.

Dated this 18th day of February 2019

Jennifer Curtis, Licensing Manager, Morecambe Town Hall, Morecambe
LA4 5AF

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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2. The licensing objectives

Crime and disorder

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

Public safety

- 2.6 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.7 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.11-2.12, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.8 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.33-8.41), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

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

Maintenance and repair

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

Safe capacities

- 2.11 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.12 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.
- 2.13 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be

¹ S 177 of the 2003 Act now only applies to performances of dance.

disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;

14.0 The prevention of crime and disorder

- 14.1 The central concerns of licensing in relation to law and order are acts of violence and vandalism brought about by consumption of alcohol and the use of licensed premises as part of a distribution network for illegal drugs.
- 14.2 It is not the function of licensing to impose good practice in the adoption of wider crime reduction measures, such as those for securing premises outside of trading hours. It is also not a purpose of licensing to require that measures be put in place to enhance the opportunities for gathering evidence in relation to crime of a general nature. However, the Licensing Authority recognises that CCTV cameras at premises have an important role in preventing crime and disorder.
- 14.3 The Licensing Authority's starting point is to seek a reduction in crime and disorder throughout the area, consistent with its statutory duty under section 17 of the Crime and Disorder Act 1998. Licences may be granted if applicants can demonstrate that a positive reduction in crime and disorder will result, or that it will not increase, as a result of the application being granted.
- 14.4 Where there are relevant representations, the Licensing Authority will generally not grant a licence where it is likely that the premises will be used for unlawful purposes or where it is considered that the use of the premises is likely to cause an increase in crime and disorder in the area or the premises and this cannot be prevented by the imposition of conditions. When addressing crime and disorder, the applicant should identify any particular issues which are likely to adversely affect the promotion of the objective to prevent crime and disorder, taking account the location, size and likely clientele of the premises, and the type of entertainment (if any) to be provided. Such steps as are required to deal with these issues should be included within the applicant's operating schedule, and may include:
- Use of CCTV inside and outside the premises. The Lancashire Constabulary has produced suggested minimum requirements for CCTV and these are available from the Lancashire Constabulary or from the Licensing Authority's administrative staff
 - Use of metal detection or other search equipment or procedures
 - Crime and disorder risk assessment in relation to the proposed activities
 - Measures to prevent the use or supply of illegal drugs and procedures for searching customers
 - Ensuring that all staff are appropriately trained
 - Ensuring that all staff involved in the management of the premises have the capability, responsibility and training to supervise other staff and to ensure that the premises are operated in such a manner as to prevent crime and disorder
 - Employment of sufficient security staff where appropriate, controlling admission, monitoring capacity within the premises as a whole and in separate rooms/levels and patrolling the interior and exterior of the premises (any such staff must be licensed by the Security Industry Authority). The Licensing Authority recognises that there is a greater need for security staff in some premises than in others. For example there will be a greater need for security staff in a town centre nightclub than in a village pub. It will be for the applicant to consider the appropriate number of doorstaff required for the particular premises.
 - Ensuring that a register of door staff and their working times is maintained

- Participation in Pub Watch, Best Bar None or other relevant schemes and using radio links/pages as a means of connecting to other licensed premises.
 - Use of plastic or polycarbonate glasses and bottles, where appropriate, or toughened glass. Applicants are advised that the Government believes that a risk-based, rather than blanket, approach to requiring licensed premises to use safer alternatives is the best way to tackle the problem of glass-related injuries
 - Wherever possible, agreed protocols with police and other organisations and a commitment to co-operate and provide such evidence as the Police require.
 - Adopting the “Night Safe Initiative” and “Safer Clubbing Guide” as statements of best practice
 - Following the trade codes of practice, for example BBPA and Portman Group, and not carrying out any irresponsible drinks promotions
 - Providing a suitable environment for customers having regard to the activities going on in the premises, in particular appropriate levels of seating
 - Ensuring that there are sufficient transport facilities available to ensure that customers can leave the premises safely and swiftly.
 - Maintaining an incident log
 - The steps the applicant has taken to prevent crime and disorder issues from occurring in any open air parts of the premises, beer gardens, smoking shelters or areas that are used on an ad-hoc basis by patrons with the management consent for smoking, due to location, control within and management of such areas.
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- Glasses and glass bottles can be dangerous weapons. As such the Licensing Authority would encourage the use of polycarbonate glasses, in premises. Where a particular issue has been hi-lighted, particularly if the premises has been brought to review by a responsible authority, a condition to this effect may be imposed.
 - It is important that that glasses and bottles are frequently collected to ensure that empty containers do not accumulate in or around the licensed premises. Staff also must prevent the removal of bottles or glasses from the curtilage and grounds of licensed premises, to prevent them being used to cause harm.

It should be noted that this list is not intended to be exhaustive. It may be appropriate for the applicant to consider other steps. Equally, the Licensing Authority recognises that not all the items in the list will be applicable to all premises.

- 14.5 Following the receipt of relevant representations, the Licensing Authority will not normally allow a person to be specified as a designated premises supervisor where that is likely to undermine the prevention of crime and disorder by reason of that person's known past conduct. A person is likely to be considered unsuitable if he has previous unspent convictions for a relevant offence, notwithstanding that he may have been granted a personal licence. However, each case would be considered on its own merits in the light of representations received.