

**Name of meeting:** Licensing Panel

**Date:** Friday 10<sup>th</sup> May 2019, at 9.00am – Huddersfield Town Hall,  
Ramsden Street, Huddersfield

**Title of report:** Application for Review Hearing under S51 Licensing Act 2003 –  
Lano Mini Market, 75a Swan Lane, Lockwood, Huddersfield, HD1  
3UB

**Purpose of report:** To determine the application

<b>Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?</b>	<b>Not applicable</b> .
<b>Key Decision - Is it in the <a href="#">Council's Forward Plan (key decisions and private reports?)</a></b>	<b>Not applicable</b>
<b>The Decision - Is it eligible for call in by Scrutiny?</b>	<b>Not applicable</b>
<b>Date signed off by <u>Strategic Director</u> &amp; name</b>	<b>Russell Williams – Group Leader Licensing</b> (as agreed by Karl Battersby – Strategic Director – Economy and Infrastructure)
<b>Is it also signed off by the Service Director (Finance)?</b>	<b>Not applicable</b>
<b>Is it also signed off by the Service Director for Legal Governance and Commissioning?</b>	<b>Not applicable</b>
<b>Cabinet member <a href="#">portfolio</a></b>	<b>Cllr Naheed Mather</b>

**Electoral wards affected:** Crosland Moor & Netherton

**Ward councillors consulted:** Not Applicable

**Public or private:** Public

**GDPR Implications:**

GDPR has been considered and appropriate sections of the report have been ammended

## 1 Summary

- 1.1 On 27<sup>th</sup> March 2019 West Yorkshire Police made an application for the review of the premises licence under Section 51(1) of the Licensing Act 2003. The applicant believes that the Licensing objectives of the prevention of crime and disorder and public safety are not being achieved at the premises.
- 1.2 Full details of the grounds for the review are contained in the attached review application at **Appendix A**.

## 2 Information required to take a decision

### Background

- 2.1 On the 19<sup>th</sup> March 2019 a multi-agency visit took place at Lano Mini Market, where non-duty paid cigarettes and alcohol were found hidden in the premises. Along with the non-duty paid products, an illegal worker was also found at the premises. Furthermore, a breach of Licensing conditions appeared evident at the premises. A copy of the review application is attached at **appendix A**.
- 2.2 The current premises licence was first issued on the 12<sup>th</sup> February 2019, under premises licence number PR00013, a copy of the premises licence is attached at **appendix B**.

### Licensing Policy

Members considering the application should take note of the Authority's Statement of Licensing Policy, which provides the following guidance on how Members should approach the application and representation:

#### **1.0 – Executive Summary**

*1.2 In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Council will operate within the statements and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their merits and judged accordingly. The council will have regard to any relevant guidance issued by the Secretary of State in exercising its powers under the Act.*

#### **2.0 – Purpose and Scope of the Licensing Policy**

*2.7 The Licensing Authority recognises that each licence application must be considered on its own individual merits in the context of the four licensing objectives, and that unless relevant representations are received from responsible authority's or interested parties, there is no provision for a Licensing Authority to impose conditions on a licence other than those proposed within an application. Only conditions which have been volunteered by the applicant or which have been determined at a Licensing Panel hearing can be attached to a licence or certificate. If no relevant representations are made in respect of an application, the Licensing Authority is obliged to issue the licence on the terms sought.*

#### **Licensing Objectives.**

1. Public Safety
2. Prevention of crime & disorder
3. Prevention of public nuisance
4. Protection of children from harm

## Secretary of State Guidance

Members also need to consider statutory guidance issued, by the Secretary of State, under Section 182 of the Licensing Act 2003. As the review relates to prevention of crime and disorder and public safety, Members attention is drawn to Section 2 of this Guidance, the relevant parts of which may be found at **Appendix C**.

### **3 Implications for the Council**

#### **3.1 Working with People**

Residents of Kirklees need to be confident that under the Licensing Act 2003 licence holders under the Licensing Act 2003 are in a position to uphold the four licensing objectives. The committee is required to take appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003. This will support both the licensing objectives and support the corporate outcomes of citizens in Kirklees living in cohesive communities, feeling safe and protected from harm.

#### **3.2 Working with Partners**

The Council's licensing team work closely with partnering agencies, named 'Responsible Authorities' under the Licensing Act 2003. Responsible authorities include Planning, West Yorkshire Police, Trading Standards, Environmental Health, Fire Service, and Safe Guarding Children team.

#### **3.3 Place Based Working**

Working closely with Responsible Authorities the Licensing Authority can address issues within the districts that make up Kirklees.

#### **3.4 Improving outcomes for children**

A key objective of the Licensing Act is the protection of children from harm, and any decision made by the Council, in its capacity as Licensing Authority, will have to have regard to this objective.

#### **3.5 Other (e.g. Legal/Financial or Human Resources)**

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of State's Guidance. The applicant or any other person who made relevant representations in relation to the application have a right of appeal to the Magistrates' court.

### **4 Consultees and their opinions**

4.1 Consultation has taken place in accordance with the Act, and no further representations have been received.

### **5 Next steps and timelines**

5.1 When determining the review application Members, having had regard to the information in the application, may take any of the following steps as they consider appropriate:

- a) 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;

- b) 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)
- c) Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- d) Suspend the licence for a period not exceeding three months;
- e) Revoke the licence.

5.2 Findings on any issues of fact should be on the balance of probability.

5.3 In arriving at a decision Members must have regard to the relevant provisions of statutory guidance and the licensing policy statement and reasons must be given for any departure.

5.4 The decision should be based on the individual merits of the application.

## **6 Officer recommendations and reasons**

6.1 Members of the Panel are requested to determine the application

## **7 Cabinet portfolio holder's recommendations**

7.1 Not applicable

## **8 Contact officer**

8.1 Russell Williams  
Group Leader – Licensing  
01484 221000  
[russell.williams@kirklees.gov.uk](mailto:russell.williams@kirklees.gov.uk)

## **9 Background Papers and History of Decisions**

9.1 Appendix A – Review Application

9.2 Appendix B – Copy of Premises Licence

9.3 Appendix C – Secretary of States Guidance

## **10 Strategic Director responsible**

Karl Battersby – Strategic Director Economy and Infrastructure  
Tel: 01484 221000  
Email: [karl.battersby@kirklees.gov.uk](mailto:karl.battersby@kirklees.gov.uk)

RESTRICTED



**APPLICATION FOR THE REVIEW OF A PREMISES  
LICENCE OR CLUB PREMISES CERTIFICATE  
UNDER THE LICENSING ACT 2003**

**Please read the following instructions first**

Before completing this form, please read the guidance notes at the end of the form. If you are completing this form by hand, please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I, (insert name of applicant) Richard Woodhead

- **Apply for the review of a Premises Licence under Section 51**
- **Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or Club Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description:

Lano Mini Market 75a Swan Lane, Lockwood

Town/City: Huddersfield

Postcode: HD1 3UB

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

Number of premises licence or club premises certificate (if known): PER00013

**Part 2 – Applicant details**

Please 'check' appropriate box(es)

I am:

1. An interested party (please complete A or B below)

27 MAR 2029

(a) a person living in the vicinity of the premises

(b) a body representing persons living in the vicinity of the premises

(c) a person involved in business in the vicinity of the premises

(d) a body representing persons involved in business in the vicinity of the premises

2. A responsible authority (please complete C below)

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

**A – Details of individual applicant**

Mr

Surname:

Forename(s):

I am 18 years old or over:

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

**B – Details of other applicant**

Surname: \_\_\_\_\_ Forename(s): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_ Town/City: \_\_\_\_\_ Postcode: \_\_\_\_\_  
 Daytime contact telephone number: \_\_\_\_\_  
 E-mail address (optional): \_\_\_\_\_

**C – Details of responsible authority applicant**

Other title, e.g. R Mr \_\_\_\_\_  
 Surname: Woodhead Forename(s): Richard  
 Address: West Yorkshire Police Licensing, Flint Steet  
 \_\_\_\_\_ Town/City: Huddersfield Postcode: HD1 6LG  
 Daytime contact telephone number: \_\_\_\_\_  
 E-mail address (optional): \_\_\_\_\_

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

(a) The prevention of crime and disorder   
 (b) Public Safety   
 (c) The prevention of public nuisance   
 (d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

The licence for this shop had been granted on the 12th Feb 2019, less than 60 days before the request for the review has been requested.  
 A series of complaints and intelligence had been received by West Yorkshire Police, that the mini market was selling none duty paid products, both alcohol and tobacco.  
 A joint operation was put in place between trading standards and West Yorkshire police on the 19th of March.  
 None duty paid products were found inside the premise for sale along with an illegal employee who was the only person in the shop at the time of the visit. There were also breaches in the licence conditions.  
 We are calling for the review on grounds due to the following licensing objectives have been impacted upon.

1) Crime and Disorder  
 2) Public Safety.

LANO MINI MARKET at SWAN LANE, This is a very newly opened licenced premise run as an eastern European type shop selling alcohol and cigarettes. We had intelligence coming in about the sales of non-duty or counterfeit cigarettes, as well as none duty paid alcohol. Before the multi-agency visit the shop had been inspected 3 times prior to the licence being granted, and the staff had been informed about selling illegal products from a licensed premises.

On arrival there was one member of staff sat behind the counter conducting sales.

██████████ was found to be an ██████████ national who claimed initially that ██████████ was not staff and was not working. Checks with the immigration centre revealed the ██████████ was known to Immigration services and was an asylum seeking in the UK with NO RIGHT TO WORK. ██████████ was in accommodation provided by Immigration services and had no public funds entitlement. The person present working and conducting sales clearly was working under the direction and designation of the DPS and had received no training and upon questioning did not know of any objectives under the licencing Act.

██████████ was unsure of age restrictions and was not aware the premise had a challenge 25 policy in place.

There was no signage up about challenge 25 as per the licence conditions.

The staff member had no knowledge about use of the CCTV or downloading footage which is a licence condition.

Checks of the premise immediately reveal an amount of counterfeit /non duty paid cigarettes in a rear storage area immediately behind the counter. These were in a carrier type bag immediately accessible to persons present and were not concealed. They were not in the salespersons personal bag and ██████████ denied any knowledge of these items. There were 33 packets of none duty paid cigarettes, with an approximate retail value of £300.

The premise although small had excessive amounts of super strength foreign labelled alcohol beers stacked up behind the till area. The same beers were also on sale within the fridges in the sales area. The prices of these individually marked tins was at such a low price that they could not have had the UK DUTY paid.

The owner of the business was contacted by phone and ██████████ stated ██████████ was not available to attend at shop and was on ██████████ way to Manchester. ██████████ was asked about the alcohol located within the store and if ██████████ could provide the invoices for such goods. ██████████ could not provide any and as such was informed that WYP would seize the goods under the S139 CUSTOMS AND EXCISE MANAGEMENT ACT on behalf of HMRC as it was believed that duty had not been paid.

41 CASES containing 24 tins was seized by WYP. There was no invoices or receipts available for this alcohol. These were seized and have been surrendered to H.M.R.C.

The DPS and premises licence holder has a blatant disregard for criminal law, employment law and licensing law. Illegal cigarettes were found on site, none duty paid alcohol was found on site, an illegal person was found working who could not work the CCTV and did not have a basic grasp of the most simplest of licensing law or conditions.

Therefore, West Yorkshire Police respectfully request the panel give strong consideration to revoking this licence.

RESTRICTED

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

no

Please 'check' appropriate box(es)

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements, my application will be rejected

It is an offence, liable on conviction to a fine up to Level 5 on the standard scale, under Section 158 of the Licensing Act 2003, to make a false statement in, or in connection with this application

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

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

Signature

[Redacted Signature]

Date:

27<sup>th</sup> March 19

Capacity:

Police Licensing Officer

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

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):

If you would prefer us to correspond with you using an e-mail address, please state your e-mail address (optional):

**Notes for Guidance**

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



## PREMISES LICENCE

Licensing Act 2003

## PR00013

### THIS LICENCE IS ISSUED BY



LICENSING  
 Flint Street Depot  
 Flint Street  
 Fartown  
 Huddersfield  
 HD1 6LG

Tel: 01484 456868  
 Email: [licensing@kirklees.gov.uk](mailto:licensing@kirklees.gov.uk)

### POSTAL ADDRESS OF PREMISES

**Lano Mini Market**  
**75A Swan Lane, Lockwood, Huddersfield, Kirklees, HD1 3UB,**

### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

**Sale of Alcohol** (Indoors)

Day(s)	From - To
Monday to Sunday	07:00 - 23:00

### THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Friday	07:00	23:00
Monday	07:00	23:00
Saturday	07:00	23:00
Sunday	07:00	23:00
Thursday	07:00	23:00
Tuesday	07:00	23:00
Wednesday	07:00	23:00

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

Alcohol is supplied for consumption off the Premises

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

[Redacted Name and Address]

Mobile Number [Redacted]

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

**NAME, ADDRESS OF THE DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

**PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OR PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR (WHERE THE PREMISES AUTHORISES THE SUPPLY OF ALCOHOL)**

PERSONAL LICENCE NUMBER:  
LICENSING AUTHORITY:

██████████  
Kirklees Council

**ANNEXES****ANNEX 1 – MANDATORY CONDITIONS**

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.
3. (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.
4. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.  
  
For the purposes of this condition -
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula –  
  
$$P = D + (D \times V)$$
  
  
where -
    - (i) P is the permitted price,
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
    - (i) the holder of the premises licence,
    - (ii) the designated premises supervisor (if any) in respect of such a licence, or
    - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
  - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
  - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
5. Where the permitted price 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.
6. (1) Sub-paragraph (2) applies where the permitted price on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.

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

## **ANNEX 2 – CONDITIONS CONSISTANT WITH THE OPERATING SCHEDULE**

A tamper-proof digital colour CCTV system must be installed and maintained at the premises.

The system must run and record continuously 24/7 and recorded footage must be stored for a minimum of 28 days.

The system must provide a clear head and shoulders view to an evidential quality on every entry/exit route and within any other vulnerable areas.

Recorded footage must be provided to a representative of any responsible authority on request, in an immediately viewable format, and must include any software etc. which is required to view the footage.

Any storage media onto which footage is transferred must be provided by the premises and sufficient stock of such storage media must be kept on the premises at all times.

The DPS must ensure that the CCTV system is checked at least once a week by a suitably trained member of staff. This check must include the operation of the cameras, the recording facilities, the facilities for providing footage and the accuracy of the time & date.

A written record of these checks must be kept, including a signature of the person carrying out the check. This record must be kept on the premises at all times and made available to a representative of any responsible authority on request.

The premises are secured with roller shutters at the front when closed.

Spirits of high ABV will be sold behind the counter.

When the DPS is not on duty, a contact telephone number will be available at all times.

An incident book, with sequentially numbered pages, must be kept on the premises and made available for inspection by responsible authorities. This must record the following:

Any incident of violence or disorder on or immediately outside the premises

Any other crime or criminal activity on the premises

Any refusal to serve alcohol to persons who are drunk

Any refusal to serve alcohol to under 18s or anyone who appears to be under 18

Any call for police assistance to the premises

Any ejection from the premises

Any first aid/other care given to a customer

A refusals book must be kept at the premises and used to record all refusals to sell alcohol for any reason, or any refusal to sell any age restricted products to underage persons or persons who appear to be underage. The book must be made available for inspection by responsible authorities on request, and the details recorded must be as follows:

Time, day and date of refusal,

Item refused,

Name & address of customer (if given),

Description of customer,

Details of ID offered (if shown)

Quiet Notices will be displayed asking customers to leave the area quickly and quietly.

A Challenge 25 policy shall be operated at the premises at all times.

Signage for Challenge 25 scheme shall be displayed at the premises.

A documented training programme shall be introduced for all staff in a position to sell alcohol and shall be made available for inspection at the request of Trading Standards, Licensing Authority Officers and Police.

A written record shall be kept of the content of the training.

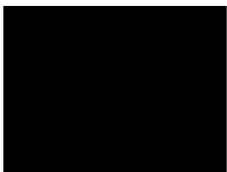
## **ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

### **ANNEX 4 – PLANS OF PREMISE**

As outlined in the operating schedule and attached plan

**Date Granted: 12 February 2019**

**Date Commences/Varied: 12 February 2019**



Head of Public Protection Service

# PREMISES LICENCE SUMMARY

Licensing Act 2003

# PR00013

## THIS LICENCE IS ISSUED BY



LICENSING  
Flint Street Depot  
Flint Street  
Fartown  
Huddersfield  
HD1 6LG

Tel: 01484 456868  
Email: [licensing@kirklees.gov.uk](mailto:licensing@kirklees.gov.uk)

## POSTAL ADDRESS OF PREMISES

**Lano Mini Market**  
**75A Swan Lane, Lockwood, Huddersfield, Kirklees, HD1 3UB,**

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

## THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

**Sale of Alcohol** (Indoors)

Day(s)	From - To
Monday to Sunday	07:00 - 23:00

## THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Friday	07:00	23:00
Monday	07:00	23:00
Saturday	07:00	23:00
Sunday	07:00	23:00
Thursday	07:00	23:00
Tuesday	07:00	23:00
Wednesday	07:00	23:00

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

Alcohol is supplied for consumption off the Premises

## NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

[REDACTED]

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

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

[REDACTED]

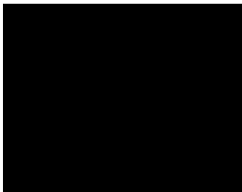
**STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED**

As per Licensing Act 2003

Any conditions applicable to these premises are attached to the licence

**Date Granted: 12 February 2019**

**Date Commences/Varied: 12 February 2019**



Head of Public Protection Service

# **Appendix C**

## **Relevant Sections of Secretary of State Guidance – Under Section 182 of Licensing Act 2003**

### **Crime and disorder**

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

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

## **Appendix C**

where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

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

### **Public safety**

2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

2.8 A number of matters should be considered in relation to public safety. These may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and



## Appendix C

- Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).

2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

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

2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of those premises should be.

## **Appendix C**

2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.