

Appendix A



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:

Top News, 55 Colne Road

Town/City: Huddersfield

Postcode: HD1 3AY

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

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

Part 2 - Applicant details

Please 'check' appropriate box(es)

15 MAY 2019

I am:

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

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

2. A responsible authority (please complete C below) [checked]

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: [checked]

Current postal address if different from premises address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

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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 owner of the shop has been found to have been tampering with the electricity supply within the shop. This is not only a criminal act but is a reckless, stupid act as it puts the owners, staff, customer and the people of Kirklees at risk of death or serious injury. Large catering knives have been found behind the counter, and the shop does not cater, the knives were not for sale but appear to there for the protection of the staff.

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

On the 9th May 2019 a partnership operation was put in place to investigate criminal activities linked to licensed premises in the Huddersfield area.

One of the shops that were visited was Top News, 55 Colne Road, Aspley, Huddersfield. It has an alcohol licence, and has the added bonus the licence is a 24 hour licence, The shop is located in a very densely populated of the town, and next to the students hall of residence that houses the students for Huddersfield University. Across the road from the shop is a pre-school that offers places 3 to 5 year olds.

Pc Steve Nichols carried out the enforcement visit to Top News and below is a statement he sent explaining what was found at the time and date of the visit.

'On examination of the electricity supply at this location I could see that there had been interference with the electricity supply. Closer inspection could see that a screw had been inserted in to the meter to stop it registering.

I have spoken to the supplier who confirmed that NORTHERN POWER did arrive last night and found substantial damage to the meter and equipment and made safe.

I have expressed by concerns over this criminal act and that they should consider revisiting and terminating this supply.

This type of behaviour is not only criminal but highly dangerous.

The shop is surrounded by student flats and other businesses that could have resulted in fire or explosion.'

On a previous visit to the shop 24th Jan 2019 Located directly underneath the shop sales counter were 3 very large chef type knives that were dirty and did not appear to be for cooking or catering. These items were in very easy reach of staff. There is no catering facilities within the shop, and there can really be no legal excuse for the knives to be in such a place within the shop.

The premise has a basement entered from the rear external area of shop. The door is heavily secured with metal bars.

~~Alcohol is stored in the basement in very bad hygienic conditions. Even though alcohol is sold in either bottles or cans, it is still a food-stuff and should be stored in a correct and hygienic manner.~~

Within the cellar there is a further large room containing a large amount of car parts. A green Audi has been dismantled and the wings and doors are present along with a grey motor vehicle. This is not a garage and it will have been very difficult to place these items in here.

Last year in the early hours of the morning the shop was the subject of an armed robbery where the person being the counter was threatened with a hand gun as well as a machete.

The premise has 4 flats above shop accessed from a rear door in the rear yard.

The shop deny involvement with flats. Police enquiries with council shows [REDACTED] the shop owner, to be the owner of the flats

The DPS [REDACTED] whilst previously owning TOP NEWS in Town centre had abstracted electric for the shop, but had sold the business before criminal procedures were brought.

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West Yorkshire police feel that this business is impacting on all four licencing objectives, and the owner has disregard to staff welfare, to customer safety, and is willing to participate in criminal activities to further [redacted] own gain.

Therefore we request that strong consideration be given to revocation of this licence.

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:

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

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



Date:

15th May 2019

Capacity:

POLICE LICENSING OFFICES

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.

Appendix B

WITNESS STATEMENT

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;
Criminal Procedure Rules, Rule 27.2)

NICHE Ref. No:	<input type="text"/>	URN:	<input type="text"/>
Statement of:	PC 58 STEVE NICHOLLS		
Date of birth:	Over 18	Occupation:	POLICE CONSTABLE
This statement (consisting of: <input type="text"/> page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.			
Signature:	<input type="text"/>	Date:	14/05/2019
Time and date statement taken: 06:40HRS 14/05/2019			

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

I am a Police Constable with West Yorkshire Police (hereafter referred to as WYP) and I currently work as a ward manager responsible for Huddersfield Town centre within the Kirklees District. As part of my role I deal with partnership working, problem solving and repeat calls for service. In addition I plan, co-ordinate and conduct planned operations dealing with neighbourhood issues with partners from other agencies.

I make this statement in relation to a planned operation conducted on the 9th May 2019 under the name of This operation was conducted with partners from HMRC, KIRKLEES COUNCIL LICENCING, IMPERIAL TOBACCO, INTERK9 and specialist officers from West Yorkshire Police.

The operation commenced at 9.30am on the morning of 9th May 2019.

At approximately 13:00hrs we attended at the premise of TOP NEWS. 55 COLNE ROAD, HUDDERSFIELD. This shop has a current premise licence issued by Kirklees council allowing the sales of alcohol.

On arrival there was one person conducting sales and stated that was called

Checks were conducted by Officers from HMRC using their powers under the Customs and excise management Act. During the search of the property for illicit / counterfeit goods It was noted that there was a number of outer wrappers from tobacco products located on the floor area behind the counter. These wrappers were from products that were not UK duty paid and were not consistent with goods that could be purchased from local wholesalers. No explanation was provided by as to why these outer wrappers were there.

No illicit tobacco products were declared to be on premises and none could be found at the time of the visit.

Signature:

Signature witnessed by:

OFFICIAL (when complete)

NICHE Ref. No:		URN:	
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Continuation Statement of **STEVE NICHOLLS**

The premise consists of a small retail shop accessed from the pavement outside on Colne Road. The sales area is over the ground floor only. The shop does not have a rear door.

To the rear of the premise is some external stone steps leading down to a cellar area. The exterior door is heavily secured with a steel door that was locked on arrival. The keys were obtained from [REDACTED] and access gained.

Inside the cellar was an amount of goods that were being stored and were to be sold including tins of alcohol. It was immediately apparent that this cellar area was damp, dirty and not consistent with keeping goods in storage for sale at a later time. The cellar was open to access by rodents that could contaminate the goods .

At the rear of the cellar area was a separate room that had numerous chopped up car parts and appeared to comprise of two vehicles.

Within this area was also a large adult size mountain bike that was red in colour.

I could see that the electricity supply was located here and upon closer inspection of the supply I could see that the meter was not going round.

The numeric dials on the meter were remaining static and were not moving in a manner that I would expect to see. Closer inspection showed that there had been a screw inserted in to the bottom of the electricity meter causing it to stop registering. I could also see damage to the electricity service fuse holder that had a large crack across it. The paper seals applied to the meter itself appeared to have been broken at some time and gave the impression someone had interfered with the apparatus.

I called the police operator to request that NORTHERN POWER GRID attend to inspect and make safe the electricity supply.

The premise is located within an area densely populated by students and businesses and the property itself has a number of flats above. Tampering with the electricity supply is not only a criminal matter but a highly dangerous situation when tampering has occurred by an unqualified person.

The premise operates 7 days per week and open nearly 24 hours per day. The loss of revenue to the supplier is vast bearing in mind the premise has a large number of chilled display counters that will consume vast amounts of electricity.

Signature: STEVEN NICHOLLS

Signature Witnessed by:

MG11a

OFFICIAL (when complete)

(Revised 1.9.11)

NICHE Ref. No:	[REDACTED]	URN:	[REDACTED]
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Continuation Statement of **STEVE NICHOLLS**

This criminal act can only have been done by a person who had access to the cellar area that was secured by a lock and the person in possession of the key at the time of our arrival was [REDACTED]

The property itself and business is believed to be owned by a [REDACTED] called [REDACTED]

At approximately 22:00hrs – 23:00hrs electrical engineers arrived from NORTHERN POWER GRID and examined the electricity supply and meters and confirmed damage had been caused to the supply and associated measuring equipment. The equipment was made safe and a new meter installed. The original equipment has been recovered by NORTHERN POWER GRID and I believe secured as evidence.

On the 10th May 2019 I contacted a [REDACTED] from ENGIE.COM on [REDACTED] to clarify the situation regarding the supply and a report of the incident. [REDACTED] confirmed engineers did attend and a full report can be obtained from [REDACTED] when [REDACTED] has received it from NORTHERN POWER GRID who attended on their behalf.

Signature [REDACTED]

MG11a

Signature Witnessed by:

OFFICIAL (when complete)

Appendix C



ENGIE Power Limited - Theft of Electricity

This statement is to confirm that ENGIE Power Limited are the current supplier of electricity to MPAN: [REDACTED] for customer [REDACTED] of 55 Colne Road, Huddersfield, HD1 3AY since 1st December 2015.

We were made aware by West Yorkshire Police on 9th May 2019, that the customer had fully by-passed the meter at the property, using a screwdriver to stop the dials turning. We estimate the theft occurred between the period of 1st November 2018 and 9th May 2019, based off the last actual read we received from the customer.

Using the DCUSA energy theft calculator, which is generally accepted across the industry, the kWh energy stolen over the by-pass period and the relative monetary loss to ENGIE Power Limited were derived.

This calculation provided an estimated consumption over the theft period of 30,106.9 kWh, minus 23,121.9 kWh of consumption already invoiced for, leaving an estimated total theft of 6,985 kWh. This consumption was multiplied by the customer contracted unit rate of 14.33 p/kwh to equal £1000.90

Appendix D



PREMISES LICENCE

Licensing Act 2003

PR(A)1070**THIS LICENCE IS ISSUED BY**

LICENSING
 Flint Street Depot
 Flint Street
 Fartown
 Huddersfield
 HD1 6LG

Tel: 01484 456868
 Email: licensing@kirklees.gov.uk

POSTAL ADDRESS OF PREMISES

Top Shop Newsagents
Top News, 55 Colne Road, Huddersfield, HD1 3AY,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol

Day(s)	From - To
Monday to Sunday	00:00 - 23:59 24 Hours A Day

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	00:00	23:59

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

██████████
 ██
 ██████████ ████████████████████
 ██████████ ████████████████████

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

[REDACTED]

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:	
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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

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE Alcohol shall not be sold or supplied except during permitted hours as shown on the licence. General: none Those specified within the application.

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:

Date Commences/Varied:



Head of Public Protection Service

PREMISES LICENCE SUMMARY

Licensing Act 2003

PR(A)1070**THIS LICENCE IS ISSUED BY**

LICENSING
 Flint Street Depot
 Flint Street
 Fartown
 Huddersfield
 HD1 6LG

Tel: 01484 456868
 Email: licensing@kirklees.gov.uk

POSTAL ADDRESS OF PREMISES

Top Shop Newsagents
Top News, 55 Colne Road, Huddersfield, HD1 3AY,

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

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THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol

Day(s)	From - To
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THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday to Sunday	00:00	23:59

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**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****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:

Date Commences/Varied:

A handwritten signature in black ink, appearing to read "J. Blakely". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Head of Public Protection Service

Appendix E

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 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*
- 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 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.

2.14 *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.*

Public nuisance

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

2.16 *Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

2.17 *Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.*

2.18 *As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.*

2.19 *Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the morning.*

2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:

- adult entertainment is provided;*
- a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);*
- it is known that unaccompanied children have been allowed access;*
- there is a known association with drug taking or dealing; or*
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.*

2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to

consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.

2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;*
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;*
- restrictions on the parts of the premises to which children may have access;*
- age restrictions (below 18);*
- restrictions or exclusions when certain activities are taking place;*
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult);*
- full exclusion of people under 18 from the premises when any licensable activities are taking place.*

2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons

under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.

2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.
