

**Name of meeting:** Licensing Panel

**Date:** Tuesday 15th October 2019, at 10:00am – Meeting Room 2, Huddersfield Town Hall, Ramsden Street, Huddersfield

**Title of report:** Application for Review Hearing under S51 Licensing Act 2003: Chicken Hut, 20 Cross Church Street, Huddersfield, HD1 2PT

**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 <u>Council's Forward Plan (key decisions and private reports?)</u></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 <u>portfolio</u></b>	<b>Cllr Rob Walker</b>

**Electoral wards affected:** Newsome

**Ward councillors consulted:** Not Applicable

**Public or private:** Public

**GDPR Implications:** GDPR has been considered and appropriate sections of the report have been amended

## 1 Summary

1.1 On 20 August 2019, West Yorkshire Police made an application for the review of the premises licence at Chicken Hut, 20 Cross Church Street, Huddersfield, HD1 2PT under Section 51 of the Licensing Act 2003. The applicant believes that the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm 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

### 2.1 Background

2.1.1 Chicken Hut at 20 Cross Church Street, Huddersfield was visited during a joint partnership operation on Thursday 7<sup>th</sup> August 2019.

2.1.2 West Yorkshire Police, UK Border Agency and the local authority visited a number of shops in the course of this operation to ensure they were trading within the scope of their premise licence and that no illegal persons were employed in the premises.

2.1.3 One individual was found to be employed at Chicken Hut who's right to remain in the UK had expired.

2.1.4 It was also discovered that both the electric and gas supplies at the premises had been bypassed.

2.1.5 Due to the risk this caused, the electricity supply was disconnected and the shop was closed.

2.1.6 Additionally, a search revealed that the shop was also being used as a domestic property, despite it being listed only as a commercial property.

2.1.7 Full details of the review application can be found at **Appendix A**.

2.1.8 The current premises licence was first issued on 29 September 2005, under premises licence number PR(N)0179; a copy of the premises licence is attached at **Appendix B**.

2.1.9 Following the Review application, a response was received from Kirklees Council Environmental Health Service with comments relating to the findings at the premises. These comments are appended to the report at **Appendix C**.

2.1.10 Following work on the property by the owner, further comments have been received by Environmental Health. These can be found at **Appendix D**.

### 2.2 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*

### 2.3 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, the relevant parts of which may be found at **Appendix E**.

## 3 **Implications for the Council**

### 3.1 **Working with People**

Residents of Kirklees need to be confident that persons holding licences under the Licensing Act 2003 are in a position to uphold the 4 licensing objectives. Taking appropriate and necessary action against licence holders where they fall short of their duties under the Licensing Act 2003 will prevent harm to residents

### 3.2 **Working with Partners**

The Council's licensing team work closely with partnering agencies, classed as 'Responsible Authorities' under the Licensing Act 2003, these 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, 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

Consultation has taken place in accordance with the Act.

A representation in support of the review was received from the Environmental Health Service. A copy of this can be found at **Appendix C**.

Following work on the property by the owner, further comments have been received from the Environmental Health Service. These can be found at **Appendix D**.

## 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

Members of the Panel are requested to determine the application

## 7 Cabinet portfolio holder's recommendations

Not applicable

## **8 Contact officer**

Beth Jennings, Licensing Officer, Licensing Service  
Tel: 01484 221000 ext. 71609  
Email: [beth.jennings@kirklees.gov.uk](mailto:beth.jennings@kirklees.gov.uk)

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

- 9.1 Appendix A – Review Application from West Yorkshire Police
- 9.2 Appendix B – Copy of Premises Licence PR(A)0179
- 9.3 Appendix C – Comments from Kirklees Council Environmental Health
- 9.4 Appendix D – Further comments from Kirklees Environmental Health
- 9.5 Appendix E – Relevant sections of Secretary of State 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)

# Appendix A

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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:

The Chicken Hut, 20 Cross Church Street, Huddersfield

Town/City:

Postcode: **HD1 2PT**

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

Number of premises licence or club premises certificate (if known): **prn 0179**

**Part 2 – Applicant details**

Please 'check' appropriate box(es)

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)

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):

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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 take away restaurant has been found to have been abstracting electricity and gas illegally by bypassing the meters.

At the time of the visit an illegal person was found to be working within the premises.



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

On the 7<sup>th</sup> Aug 2019 a joint partnership operation was put in place to check licensed take away restaurants within Huddersfield town centre.

The partners involved were West Yorkshire police, Kirklees licensing and the immigration services.

The chicken hut was visited where an illegal worker was found to be working. ■ was an illegal over stayer and was arrested by immigration officers. At the time of arrest it was confirmed by PC Nichols that ■ was working within the shop preparing food.

The shop was then searched where it was discovered that both the electricity and gas supplies had been bypassed causing great risk to both staff, customers, and the general public. Because of the serious risk this caused the electricity supply was disconnected and the shop was closed.

When a search was carried out above the shop, it became apparent it was being used as a domestic property, with full bath room facilities in place, a number of beds were in place, as well as a general living area. Checks were carried out with the local authority and it became apparent that no one should have been living in the premises as it was only listed as a commercial property.

Due to the serious nature of these offences, the illegal worker and the abstract electricity and gas West Yorkshire police requests the removal of the late night refreshment licence.

The owner is ■ has sole responsibility for the day to day running of the restaurant. Checks on the police systems shows that ■ has been working here since around 2013, and reported a criminal damage occurrence to West Yorkshire police in 2014.

~~The owner has no regard for customer safety, employment law, or the safety of the people in Huddersfield, tampering with gas and electricity supplies can cause cataclysmic damage. We therefore request the licence be removed.~~

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:

[Empty box for representations]


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: 19<sup>th</sup> Aug 2010  
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):

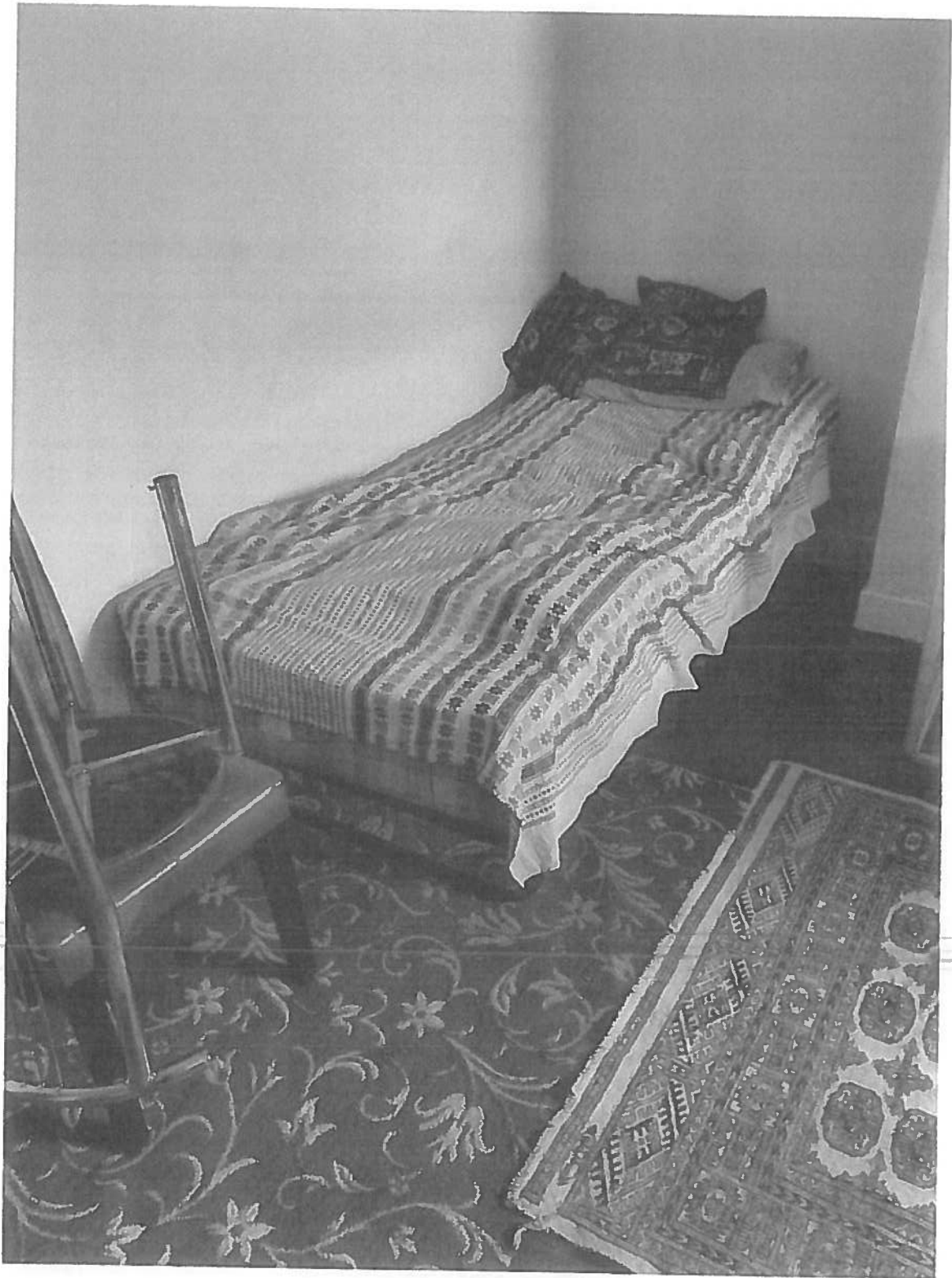
If you would prefer us to correspond with you using an e-mail address, please state your e-mail address (optional):

Notes for Guidance

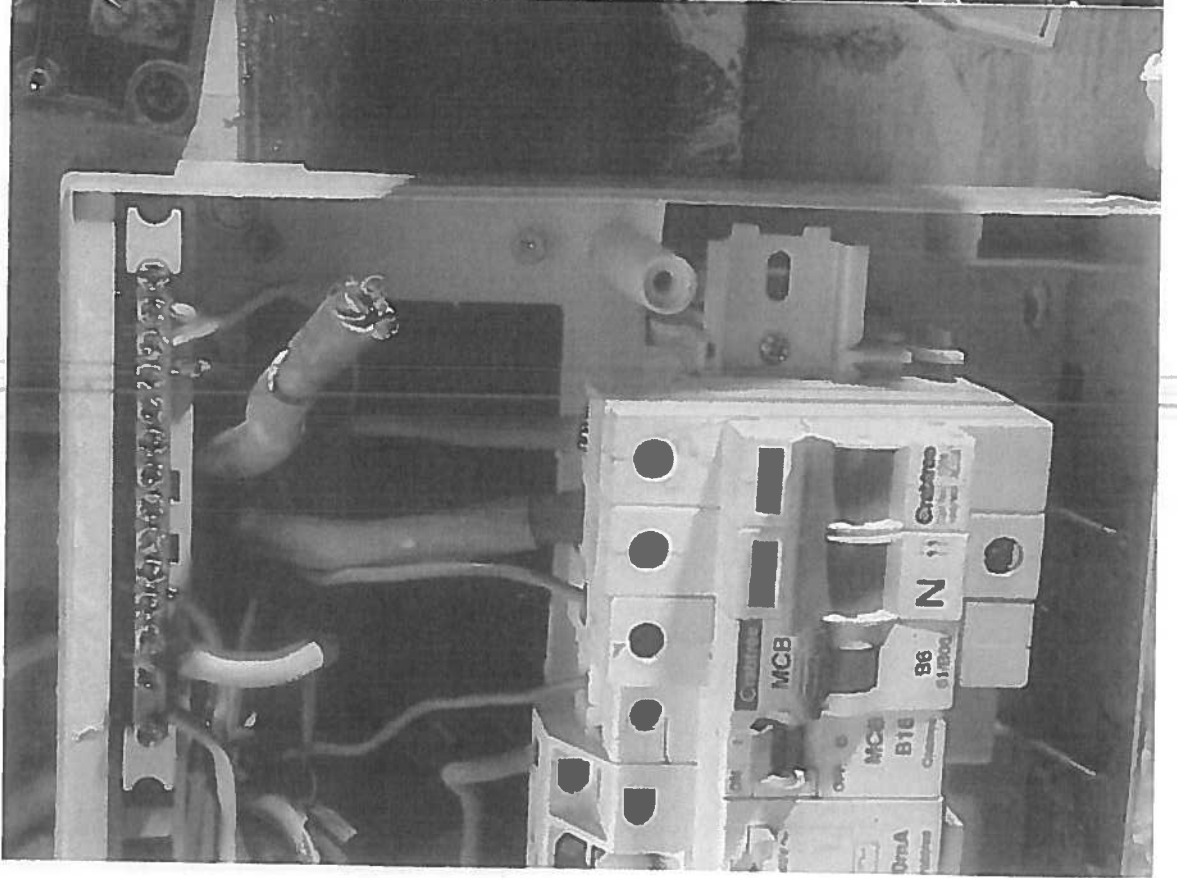
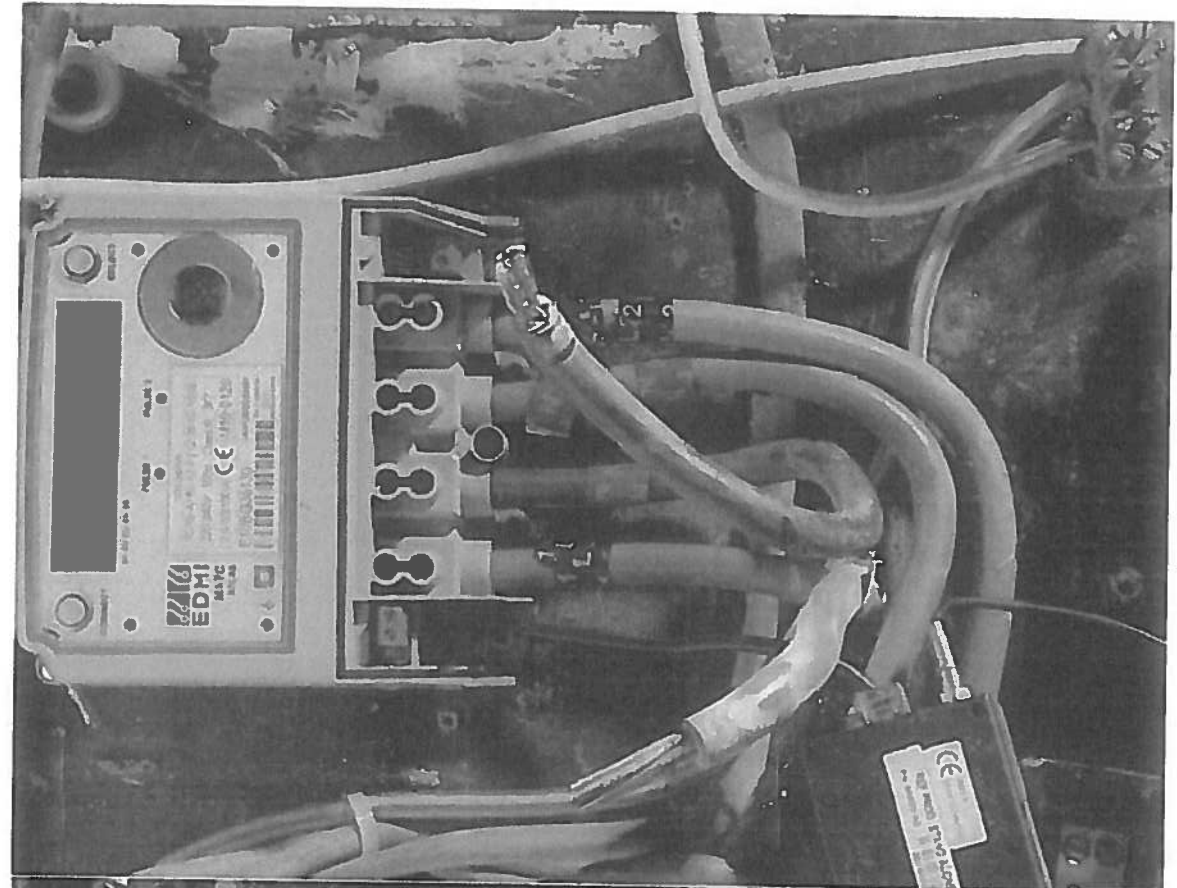
- The ground(s) for review must be based on one of the licensing objectives.
- Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
- The application form must be signed.
- An applicant's agent (for example solicitor)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

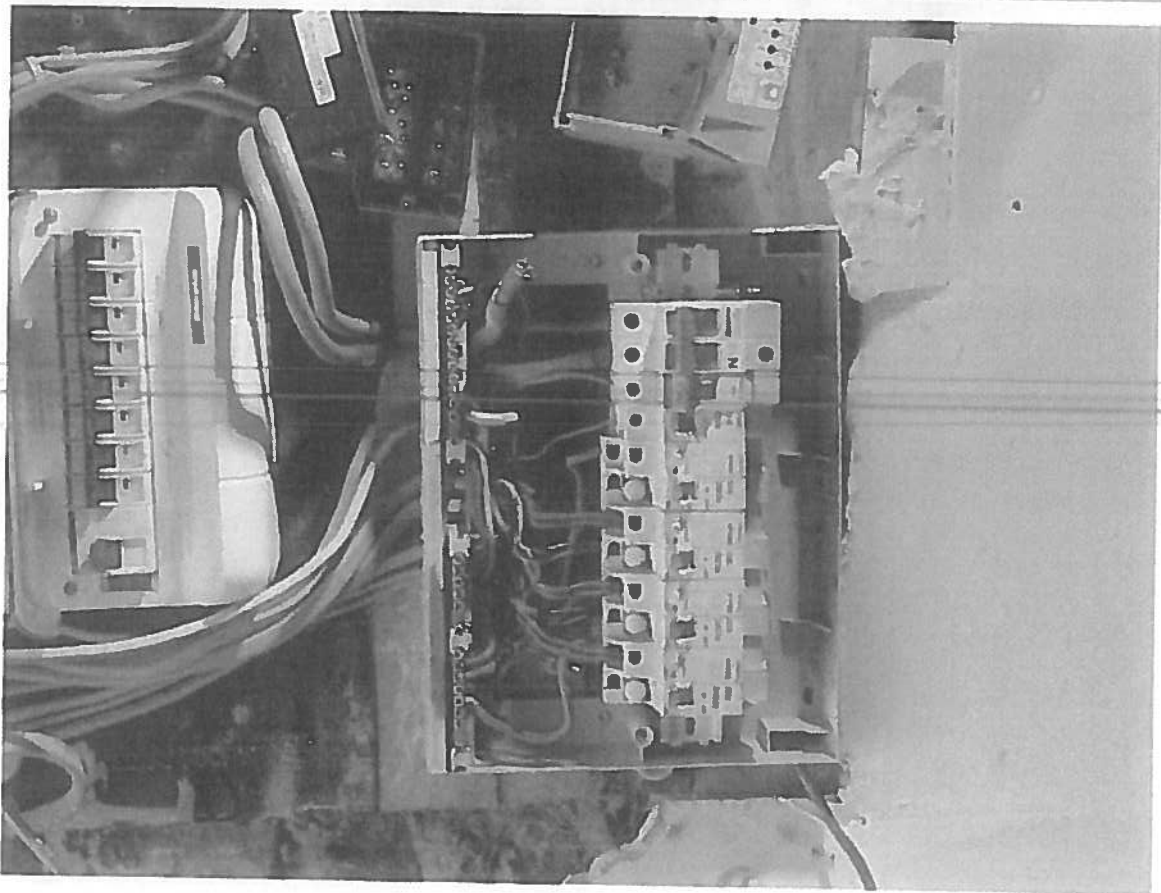
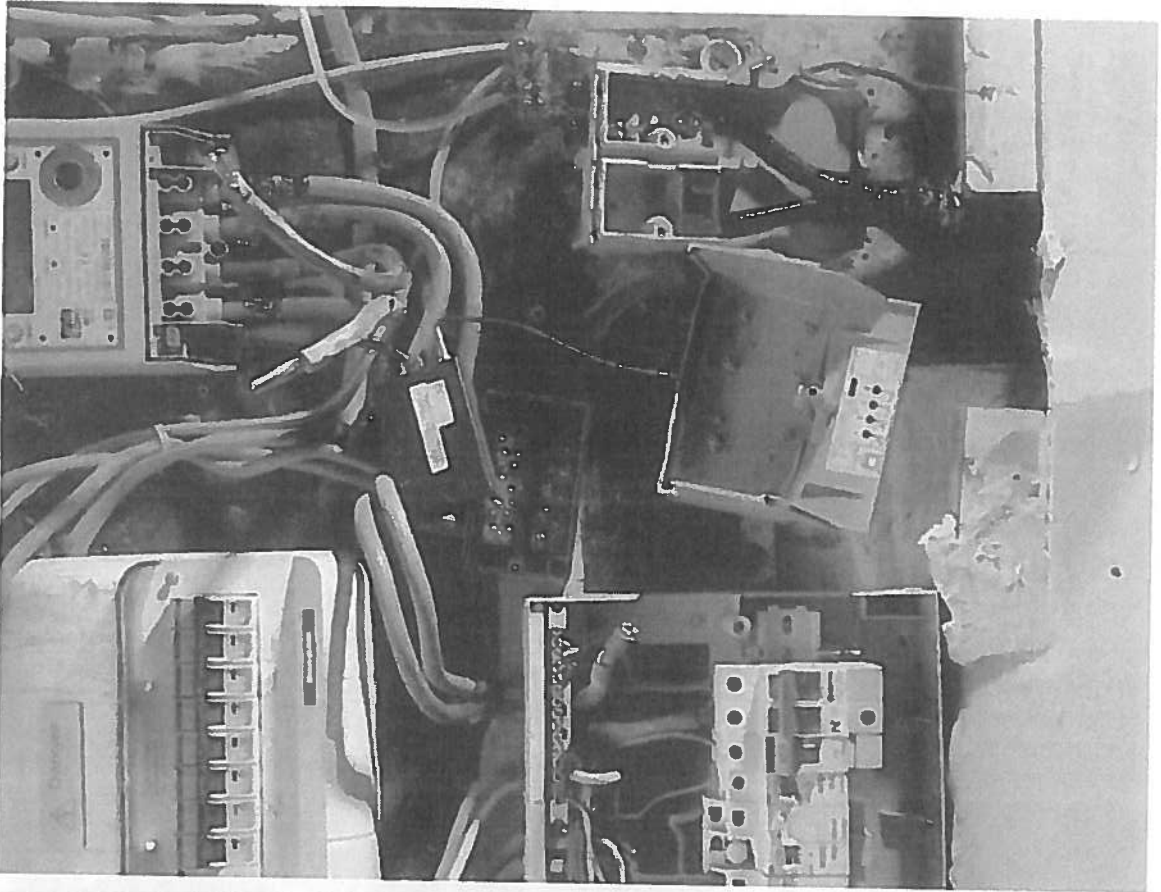
20 CROSS CHURCH STREET HUDDERSFIELD. (CHICKEN HUT)















# Appendix B

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**PREMISES LICENCE**

Licensing Act 2003

**PR(N)0179****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**

**The Chicken Hut**  
 Chicken Hut  
 20 Cross Church Street  
 Huddersfield  
 HD1 2PT

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

Late Night Refreshment

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

Late Night Refreshment (Indoors)

Day(s)	From - To
	23:00 - 04:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 04:00 The Following Morning
	23:00 - 02:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 04:00 The Following Morning

**THE OPENING HOURS OF THE PREMISES**

DAY(S)	FROM	TO
Friday	10:00	04:00
Monday	10:00	03:00
Saturday	10:00	04:00
Sunday	10:00	02:00

Thursday	10:00	03:00
Tuesday	10:00	03:00
Wednesday	10:00	04:00

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

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

The Chicken Hut (Hudd) Ltd  
Chicken Hut  
20 Cross Church Street  
Huddersfield  
HD1 2PT

**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:	
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**ANNEXES****ANNEX 1 – MANDATORY CONDITIONS****ANNEX 2 – CONDITIONS CONSISTANT WITH THE OPERATING SCHEDULE****ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

1. CCTV is installed at the premises.
2. All staff are trained with regard to the four licensing objectives.

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

1. That last orders be taken on these days at 03.45 am with the premises being closed to customers at 04.00 am prompt.

**ANNEX 4 – PLANS OF PREMISE**

As outlined in the operating schedule and attached plan

**Date Granted: 6 July 2019**

**Date Commences/Varied: 6 July 2019**



Head of Public Protection Service

**PREMISES LICENCE SUMMARY**

Licensing Act 2003

**PR(N)0179****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**

**The Chicken Hut**  
 Chicken Hut  
 20 Cross Church Street  
 Huddersfield  
 HD1 2PT

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

Late Night Refreshment

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

**Late Night Refreshment (Indoors)**

Day(s)	From - To
	23:00 - 04:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 04:00 The Following Morning
	23:00 - 02:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 03:00 The Following Morning
	23:00 - 04:00 The Following Morning

**THE OPENING HOURS OF THE PREMISES**

DAY(S)	FROM	TO
Friday	10:00	04:00
Monday	10:00	03:00
Saturday	10:00	04:00
Sunday	10:00	02:00
Thursday	10:00	03:00

Tuesday	10:00	03:00
Wednesday	10:00	04:00

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

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

[REDACTED]  
[REDACTED]

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

[REDACTED]

**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: 6 July 2019**

**Date Commences/Varied: 6 July 2019**

*J. Blawley*

Head of Public Protection Service

# Appendix C

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Licensing Act 2003  
Response to Building Control & Licensing Service  
From Environmental Health

<b>Reference:</b>	WK/201917766
<b>Premises:</b>	Chicken Hut, 19 Cross Church Street, Huddersfield, HD1 2PY.

Licensable Activity (place X in relevant box)			
Sale by retail of Alcohol		Provision of regulated entertainment	
Provision of entertainment facilities (music, dancing, etc)		Provision of late night refreshment	X

OBSERVATIONS			
<b>Public Safety</b>	The information regarding the discovery of the bypassing of the gas and electricity meters at the premises has been noted. I agree that these actions could present a serious risk to public safety and therefore support the application for review of this licence. It is also noted that the electricity supply was subsequently disconnected to address the electrical risk. This information will be taken into consideration in relation to our next involvement with the premises.		
<b>Date:</b>	29 Aug 2019	<b>Officer/Ext:</b>	Jenny Dineen 01484 221000 [REDACTED]
<b>Prevention of Public Nuisance</b>	No observation		
<b>Date:</b>	29 Aug 2019	<b>Officer/Ext:</b>	Richard Hume 01484 221000 [REDACTED]



# Appendix D

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**The Electricity at Work Regulations 1989 place ongoing responsibilities on employers and the self-employed to ensure their electrical system is safe to use at all times.**

**Employers and the self-employed must ensure that all electrical systems, including electrical equipment within their control is of a construction and be used and so maintained as to prevent danger. Regulation 4.**

In order to ensure an electrical installation complies with the Electricity at Work Regulations, it must be inspected and tested in accordance with the Institute of Electrical Engineers (IEE) Wiring Regulations current at the time of installation.

It is recommended that all fixed electrical installations be inspected and tested for safety at least once every 5 years by a competent person. They should also be inspected and tested after major rewiring or alterations to the installation.

The competent person should provide you with a written report that states when, in their professional opinion, your electrical installation should be next inspected and tested.

**The business operator of the Chicken Hut will be expected to comply with these requirements from now on to ensure the safety of employees and members of the public who visit the premises is not put at risk.**

**Jenny Dineen  
24<sup>th</sup> September 2019**

# Appendix E

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## **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 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.

*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.*

### **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.*