

Name of meeting: Licensing Panel

Date: Monday 22nd January 2024 at 9.30am, Council Chambers, Huddersfield Town Hall.

Title of report: Licensing Act 2003, section 51, Review of premises licence for Buccovina Off Licence, 644 Huddersfield Road, Ravensthorpe, WF17 3HP

Purpose of report: To determine the application

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?	Not applicable
Key Decision - Is it in the <u>Council's Forward Plan (key decisions and private reports)</u> ?	Not applicable
The Decision - Is it eligible for call in by Scrutiny?	Not applicable
Date signed off by <u>Strategic Director</u> & name Is it also signed off by the Service Director for Finance? Is it also signed off by the Service Director for Legal Governance and Commissioning?	Fiona Goldsmith – on behalf of Rachel Spencer-Henshall Strategic Director (Environment and Climate Change) Not applicable Not applicable
Cabinet member	Cllr Mussarat Pervaiz

Electoral wards affected: Dewsbury West

Ward councillors consulted: Cllr Ammar Anwar
Cllr Daniel O'Donovan
Cllr Mussarat Pervaiz

Public or private: Public

Has GDPR been considered?

GDPR has been considered and appropriate sections of the report have been amended.

1. Summary

The purpose of this report is to inform Members of an application for the review of a premises licence, which has been referred to this panel for determination.

2. Information required to take a decision

2.1 Application

2.1.1 On 22nd November 2023 the Licensing Department received an application for a review of a premises licence from West Yorkshire Police. A copy of the application can be seen at **Appendix A**.

2.1.2 West Yorkshire Police's review relates to three (3) of the licensing objectives. This is due to two (2) failed test purchases for alcohol sales to persons under the age of 18 years old. And two (2) failed test purchases by Trading Standards.

2.1.3 A test purchase was conducted by West Yorkshire Police on 30th August 2023, on this date a 16-year-old male and a 17-year-old female were able to purchase 1x 440ml can of San Miguel, 5% alcohol volume and 1x 440ml can of Fosters, 3.7% alcohol volume. They paid £1.50 per can and were not asked for their age or ID.

2.1.4 A test purchase was conducted by West Yorkshire Police on 27th September 2023, on this date a 16-year-old Police Cadet dressed in civilian clothing was able to purchase an 330ml AU Vodka Pineapple Crush that was 5% alcohol volume. They paid £4.50 for this drink and were not asked their age or for ID.

2.1.5 On 26th January 2023 Trading Standards conducted a test purchase and were able to buy a packet of illegal Richmond cigarettes for £4.

2.1.6 On 22nd August 2023 Trading Standards revisited the shop and were able to buy another packet of illegal Richmond cigarettes for £4. The normal price for these cigarettes is £12. Over £7 is excise duty.

2.1.7 On 23rd October 2023 West Yorkshire Police and Trading Standards conducted an inspection of the premises, the following items were found:

993 x 20 packets of illegal cigarettes with an approximate retail value if sold at full UK prices of £11,916.

141 x 50g pouches of illegal hand rolling tobacco with an approximate retail value if sold at full UK prices of £4,737.

397 illegal disposable electronic cigarettes with a tank capacity greater than 2ml with an approximate retail value in the UK if sold at full price of £2,779.

Found in a room upstairs were:

47 bottles of alcohol spirits estimated value of £1,608. These were seized as they were suspected of being stolen goods due to the fact that.

1 x 70cl Whitley Neil bottle of Gin had a security tag around its neck and 1 x 70cl bottle of Gordons Gin had a yellow security sticker attached to it.

A number of bottles of Remy Martin had damage around their neck consistent with supermarket security tags being removed.

2.1.8 During Police interview under caution Mr Barna would not confirm that the alcohol licence for the shop was in his name or that he had any involvement with the shop. A copy of the Premises Licence can be seen at **Appendix B**.

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(s):

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 statement and procedures mentioned in this policy statement. Notwithstanding this statement, all applications will be treated on their own 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

13.1 The Licensing Authority recognises the importance of its ability to review premises licences. The proceedings set out in the 203 Act for reviewing premises licence represent a key protection concerning problems associated with crime and disorder, public safety, public nuisance, and the protection of children from harm. Partnership working is important to achieve the promotion of the licensing objectives and responsible authorities are encouraged to give licensees early warning of any concerns identified at a premise.

13.5 For cases which are being considered as a result of a review or potential enforcement action, the Council will take into account all relevant circumstances, but will view the following matters particularly seriously:

- Failure to promptly respond to a warning properly given by a responsible authority.
- Failure to engage with the responsible authorities in an effective manner.
- Previous convictions for licensing offences.
- Previous failure to comply with licence conditions.

Licensing Objectives

1. Public Safety
2. Prevention of Crime and 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. As the representations related to three of the licensing objectives, Member's attention is drawn to Section 2 of this guidance, the relevant parts 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 Safeguarding 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 **Climate Change and Air Quality**

There are no climate change or air quality implications contained in this report.

3.5 **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 regard to this objective.

3.6 **Financial Implications for the people living or working in Kirklees**

The decision members make may have financial implications for the applicant/existing licence holder.

3.7 **Other (eg Integrated Impact Assessment (IIA)/Legal/Financial or Human Resources) Consultees and their opinions**

In determining the application Members should have regard to the Authority's licensing policy statement and the Secretary of States Guidance. The applicant or any other

person who made the relevant representations in relation to the application have a right of appeal to the Magistrates Court.

Under the provisions of the Licensing Act 2003 there is no requirement for an IIA, while licence conditions should not duplicate other statutory provisions, members should be mindful of requirements and responsibilities placed on them by other legislation, which may include:

- The Gambling Act 2005
- The Environment Protection Act 1990
- The Noise Act 1996
- The Clean Neighbourhoods and Environmental Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health and Safety at Work etc. Act 1974
- The Equality Act 2010
- The Immigration Act 2016
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

4. Consultees and their opinions

Consultation has taken place in accordance with the requirements of the Licensing Act 2003. Other than the premises licence review submitted by West Yorkshire Police no other representations have been received.

5. Next steps and timelines

5.1 When determining the application Members, having regard to the representation, may take such steps as they consider appropriate for the promotion of the licensing objectives. The steps are:

- a) Modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
- b) Exclude a licensable activity from the scope of the licence;
- c) Remove the designated premises supervisor;
- 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 the 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

Not applicable.

Contact officer

Steve Mycroft, Licensing Officer, Licensing Service

Tel: 01484 221000 ext. 74196

Email: steve.mycroft@kirklees.gov.uk

8. Background Papers and History of Decisions

8.1 Appendix A – Review application by West Yorkshire Police

8.2 Appendix B – Copy of Premises Licence PR00276 Buccovina Off Licence

8.3 Appendix C - Relevant sections of Secretary of State Guidance – Section 182 of Licensing Act 2003

9. Service Director responsible

Katherine Armitage

Service Director – Climate Change and Environmental Strategy

Tel: 01484 221000

Email: katherine.armitage@kirklees.gov.uk

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) PC 4346 Katie Swift

- 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:

Buccovina Mini Market
644 Huddersfield Road

Town/City: Ravensthorpe

Postcode: WF13 3HP

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

Mr Losif-Adria Barna

Number of premises licence or club premises certificate (if known): PR(A)00276

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

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 PC 4346
Surname: Swift Forename(s): Katie
Address: West Yorkshire Police Licensing, [redacted]
Town/City: Huddersfield Postcode: [redacted]
Daytime contact telephone number: [redacted]
E-mail address (optional): [redacted]

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):

This Licenced Premises has failed two test purchases for the sale of alcohol to persons under the age of 18.

Illegal cigarettes, tobacco, vapes and possible stolen goods were found on the premises by Trading Standards and Police on 24th October 2023.

The Premises Licence Holder failed to account for the above named items when formally interviewed by the police and would not confirm in interview if he was Premises Licence Holder.

All of the above breach the alcohol licensing objectives. West Yorkshire Police feel if this business is allowed to continue to have an alcohol licence this premises will continue to sell alcohol to children and illicit tobacco to customers.

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

A test purchase operation was carried on the 30th August 2023 using police cadets wearing plain clothes. On this date a 16 year old male and a 17 year old female were able to buy from this premises 1 x 440ml can of Fosters, 3.7% alcohol volume and 1 x 440ml can of San Miguel, 5% alcohol volume. They paid £1.50 per can and were not asked their age or for any form of ID. The two witnesses to this test purchase are myself and Police Licensing Officer Richard Woodhead.

Moments after the sale I challenged the person working inside the shop. This male said he was not working in the shop and was just helping a friend, he denied selling the alcohol, but when challenged with the evidence he then said "THEY LOOKED OVER 18". He could not confirm if the shop CCTV was working or how to use it. He also said that he had no way of contacting the shop's owner and would only say he was called Adrian. I believe this to be untrue because at 16:45hrs that day I had a missed telephone call from the owner Mr Losif-Adrian Barna with a message asking me to telephone him.

On the 31st August 2023 I telephoned Mr Losif-Adrian Barna. We discussed the failed test purchase and he told me that nothing like this had happened before. He said his staff were fully trained and he was sorry that this sale had been allowed. He said he was out of the country at the moment. I sent Mr Barna an e-mail requesting to meet him at his shop on 14th September 2023.

On this date I spoke with Mr Barna at his shop. I gave him some Check 25 ID posters and said that he must put further staff training in place. He agreed to do this. Whilst I was talking to Mr Barna an Eastern European male came into the shop and asked for a packet of cigarettes, he had £5 in his hand. Mr Barna told him he had no cigarettes and looked towards me. The Eastern European male then left the shop after seeing me stood with paperwork in my hand. No legal cigarettes can be bought in the UK for £5. I reported this encounter to Trading Standards.

On this date I noticed for sale disposable electronic cigarettes with tank capacities greater than 2ml. I advised Mr Barna that these were illegal and must not be sold in the shop. He said he would remove them from sale.

A further test purchase was carried out on the 27th September 2023. The test purchaser was a 16 year old police cadet dressed in civilian clothing. This cadet was able to buy a 330ml AU Vodka Pineapple Crush that was 5% alcohol. She was charged £4 for this drink. She was not asked for her age or any form of ID. The two witnesses for this test purchase are myself and Police Sgt Stuart Clarke.

Moments after the sale I challenged the person working inside the shop. It was a different person from the male who sold alcohol to two Police Cadets on 30th August 2023. This male gave his name as Mr Ali and said he had only been working in the shop for a couple of weeks. He would not accept that the female

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he had sold the alcohol to was 16 years of age. He stated that she was wearing work clothing so she must be over 18. The cadet was wearing a red bull t-shirt, a blue and red hooded top and green combat trousers. This clothing did not look like a work uniform and under 18s can be in jobs that need uniforms. Mr Ali said he did not need to ask for ID because she looked over 18. I pointed out the Challenge 25 posters that were on display in the shop to which he still replied. She looked over 18.

On this date I noticed that the oversized electronic cigarettes were no longer on display in the shop.

I emailed Mr Barna and made him aware of this second failed test purchase. On the 3rd October 2023 Mr Barna telephoned me. He had a male friend present to assist with translation. He was aware of the second failed test purchase and said that his staff member thought the customer was over 25. I said I did not accept this as she was only 16. He assured me that no further sales would be made to Under 18's. As part of this conversation, I informed Mr Barna it was an offence to sell none duty tobacco products in his shop. He denied selling illegal tobacco in his shop.

Due to intelligence received from the Police and members of the public Trading Standards Assistant, Andrea Field carried out two test purchases for illegal tobacco at Buccovina, 664 Huddersfield Road, Ravensthorpe. On the 26th January 2023 she was able to buy a packet of Richmond cigarettes for £4. On the 22nd August 2023 she re-visited the shop and was able to buy a further packet of Richmond cigarettes for £4. The normal price for a packet of Richmond cigarettes is around £12, over £7 of this is excise duty. The statement of Andrea Field is attached to this file.

On the 23rd October 2023 I attended at Buccovina Mini Market with Trading Standards Officer Jason Bethell. He was conducting an inspection of the premises on this date. As you will see from his statement illegal cigarettes and rolling tobacco was found under the counter in the shop, in the rear store room and a room above the store. The photographs show how a concealment was found in a black leather effect settee under one of the seat cushions.

The quantities were:

993 x 20 packets of cigarettes. Approximate retail value in UK if sold at full price £11,916.

141 x 50g pouches of hand rolling tobacco. Approximate retail value in UK if sold at full price £4,737.

In the rear store room and room above the store were:

397 disposable electronic cigarettes which had a tank capacity greater than 2ml. Approximate retail value in UK if sold at full price £2,779.

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The statement and photographs provided by Jason Bethell which are attached to this file show how the cigarettes were concealed and also describes the detrimental effect such sales have on tax/excise revenue, health of customers, attraction of cheap cigarettes to children and the loss of income to other businesses close by.

On this date in a storage room upstairs were found 47 bottles of alcohol namely Spirits, estimated sale value of £1,608. I seized these bottles as I believed them to be stolen due to the fact that 1 x 70cl Whitley Neil bottle of Gin had a security tag around its neck and a 70cl Gordon's Gin had a yellow security sticker attached to it. A number of bottles of the Remy Martin had damage around their necks consistent with supermarket security tags being removed. My police statement and photographs taken are attached to this file.

On Friday 10th November 2023 I invited Mr Losif-Adrian Barna in for a voluntary interview at Huddersfield Police Station. He attended with his solicitor Mr Khan. At the beginning of the interview Mr Barna stated his employment was as a factory worker and replied 'no comment' to any of the questions put to him regarding the allegation of handling stolen goods, having illegal cigarettes and tobacco in his shop and also illegal vapes. Mr Barna would not confirm that the alcohol licence for the shop was in his name.

In conclusion West Yorkshire Police are requesting the revocation of this alcohol licence. The shop has on two occasions sold alcohol to children. They are also selling illegal cigarettes and tobacco. The premises licence holder has not put the relevant training in place to protect children from harm and is committing a crime by allowing the sale of illegal cigarettes and tobacco. He has no regard for public safety as these goods are not regulated in anyway and do not carry health warnings.

The Premises Licence Holder whilst also under caution would not admit to owning the shop, being involved with the shop or being the licence holder of the shop. He also would not give an account as to why suspected stolen items, cigarettes, tobacco and oversized vapes were inside Buccovina Mini Market. This shows he has a total disregard for the licensing objectives of:

Prevention of crime and disorder, public safety and the protection of children from harm.

Exhibit KJS.1 Photograph of 1 x 70cl Whitley Neil Apple and Red Berry Gin with a security tag around the neck of the bottle and a yellow security label.

Exhibit KJS.2 Photograph of 1 x 70cl Gordon's Morello Gin with a yellow security label.

Exhibit KJS.3 Photograph of Remy Martin bottles with marks consistent with supermarket security labels.

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Exhibit KJS.4 Photograph of black leather effect settee with seat cushion in place.

Exhibit KJS.5 Photograph of concealment of illegal cigarettes under the settee seat cushion.

Exhibit KJS.6 Photograph of cigarettes found underneath the serving counter in the shop.

Exhibit KJS.7 Photograph of some of the oversized electronic cigarettes found in the rear storage room.

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

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



WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:	Andrea Field
Age of witness: (if over 18 enter 'over 18')	Over 18
Occupation:	Trading Standards Assistant
This statement (consisting of 2 pages 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.	
Dated:	26/10/2023
Signature:	[Redacted]

I am a Trading Standards Assistant employed by West Yorkshire Trading Standards Service, [Redacted] I am an authorised officer for the purposes of the Trade Marks Act 1994, Tobacco and Related Products Regulations 2016, Standardised Packaging of Tobacco Regulations 2015 and The Consumer Rights Act 2015.

On 26th January 2023 I was wearing plain clothes when I attended the premises of Buccovina Off Licence, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HP to carry out a test purchase for illegal tobacco. I approached the counter and asked to purchase a packet of Richmond cigarettes. The Lady serving went into the room at the back of the counter and was gone around 20 seconds before appearing with the cigarettes

NOTE : If statements are typed double spacing should be used. (Signed) [Redacted]
One side only of this paper should be used.



WITNESS STATEMENT


Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

in her hand. I was sold them for £4.00. I then picked up the cigarettes and left the store. The cigarettes were sealed in a signed evidence bag and later placed in secure storage.

On 22nd August 2023 I was wearing plain clothes when I again attended Buccovina Off Licence, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HP to conduct a test purchase for illegal tobacco. I approached the counter and asked for a packet of Richmond Cigarettes. The lady serving went into the store room at the back of the counter and appeared approx. 20 seconds later with the cigarettes, I was charged £4.00, I then picked the cigarettes up and left the store. The cigarettes were sealed in a signed evidence bag and later placed in secure storage.

The normal price of a packet of Richmond cigarettes is around £12.00, over £7.00 of which is excise duty that had clearly not been paid on the cigarettes purchased. The blue packaging of the cigarettes was also not compliant with the Standardised Packaging of Tobacco Regulations 2015 and it did not have the required health warnings/pictures as required by the Tobacco and Related Products Regulations 2016. From discrepancies in the packaging I believe them to be counterfeit.

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed) 

Dated 26th October 2023 Page 2 of 3



WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:

Age of witness: (if over 18 enter 'over 18')

Occupation:

This statement (consisting of 2 pages 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.

Dated: Signature:

I am a Trading Standards Assistant employed by West Yorkshire Trading Standards Service, . I am an authorised officer for the purposes of the Trade Marks Act 1994, Tobacco and Related Products Regulations 2016, Standardised Packaging of Tobacco Regulations 2015 and The Consumer Rights Act 2015.

On 26th January 2023 I was wearing plain clothes when I attended the premises of Buccovina Off Licence, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HP to carry out a test purchase for illegal tobacco. I approached the counter and asked to purchase a packet of Richmond cigarettes. The Lady serving went into the room at the back of the counter and was gone around 20 seconds before appearing with the cigarettes

NOTE : If statements are typed double spacing should be used. (Signed)
One side, only of this paper should be used.

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:	Jason Lee BETHELL
Age of witness: (if over 18 enter 'over 18')	Over 18
Occupation:	Illicit Tobacco officer
This statement (consisting of 3 pages 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.	
Dated:	26/10/2023
Signature:

I am an Illicit Tobacco officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015 and the Consumer Rights Act 2015.

On 23rd October 2023 I was on duty in company with police officers when I attended at Buccovina Mini Market, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF133HP to conduct an inspection visit. Upon arrival I introduced myself to the person working at the store who identified herself as [REDACTED]. She stated that she only worked at the store occasionally when required and that the business owner was the licensee, Mr Losif-Adrian Bama.

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed) [REDACTED]

Dated.....26/10/2023..... Page 1 of 3

To be completed if applicable:being unable to read the
above statement I,of.....
read it to him/her before he/she signed it. Signed Dated.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Continuation Statement of: Jason Lee BETHELL

A search of the store was conducted and illegal cigarettes and hand rolling tobacco were found lined up under the counter and in bags in the rear store room. A concealment of illegal cigarettes was also identified hidden in the base of a sofa in the store room and further amounts were recovered from the area above the store. All the illegal cigarettes and hand rolling tobacco was seized along with some disposable electronic cigarettes which had a tank capacity greater than 2ml, making them also illegal. The total amount seized was 993 x 20 packets of cigarettes, 141 x 50g pouches of hand rolling tobacco and 397 disposable electronic cigarettes.

I visually examined all the cigarettes and hand rolling tobacco seized and could see the packaging was not the correct colour as required by The Standardised Packaging of Tobacco Products Regulations 2015 and the prescribed health warnings were not present in English as required by the Tobacco and Related Products Regulations 2016. From discrepancies in the packaging on some items and from the foreign excise stamps present on others it was clear to me they were a mix of counterfeit and smuggled items.

The sale of Counterfeit/Illicit Tobacco products is not a minor breach of Trading Regulations but is in fact Serious Organised Criminality. These items which cannot be legally sold in the UK are smuggled into the country on a vast scale. The Profits of this illegal trade going to criminals while

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(Signed)

Dated.....26/10/2023..... Page 1 of 3

To be completed if applicable:being unable to read the
above statement I,of.....
read it to him/her before he/she signed it. Signed Dated.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Statement of:

Age of witness: (if over 18 enter 'over 18')

Occupation:

This statement (consisting of 3 pages 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.

Dated: Signature:

I am an Illicit Tobacco officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, the Tobacco and Related Products Regulations 2016, the Standardised Packaging of Tobacco Regulations 2015 and the Consumer Rights Act 2015.

On 23rd October 2023 I was on duty in company with police officers when I attended at Buccovina Mini Market, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF133HP to conduct an inspection visit. Upon arrival I introduced myself to the person working at the store who identified herself as . She stated that she only worked at the store occasionally when required and that the business owner was the licensee, Mr Losif-Adrian Bama.

NOTE : If statements are typed double spacing should be used.
One side only of this paper should be used.

(Signed)

Dated.....26/10/2023..... Page 1 of 3

To be completed if applicable:being unable to read the above statement I,of....., read it to him/her before he/she signed it. Signed Dated.....

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2
Criminal Justice Act 1967, S. 9
Magistrates Courts Act 1980, 5B

Continuation Statement of: **Jason Lee BETHELL**

the treasury is deprived of the Tax/Excise. The current yearly loss in revenue is in excess of £2.5 billion which in turn deprives public services of funding.

Smoking is the leading cause of preventable diseases in the UK and over half of long term smokers will die prematurely from smoking related diseases. Tobacco taxes are a proven strategy to reduce smoking and extend lives. The illegal, cheap sale of this product removes this incentive of helping people to quit and also makes cigarettes more affordable to children, making it more likely they will start.

The supply of illegal tobacco not only causes harm to people but also causes genuine businesses to lose income and potentially close. This damages local communities with reduced employment and the loss of essential services.

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One side only of this paper should be used.*

(Signed)

Dated.....26/10/2023..... Page 1 of 3

To be completed if applicable:being unable to read the
above statement I,of.....
read it to him/her before he/she signed it. Signed Dated.....

WEST YORKSHIRE POLICE
OFFICIAL SENSITIVE (when complete)

WITNESS STATEMENT

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;
Criminal Procedure Rules, Rule 16.2)

NICHE Ref. No:

URN:

Statement of: PC 4346 Swift

Date of birth: Over 18

Occupation: Police Constable - Licensing Officer

This statement (consisting of: 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: K J Swift

Date: 02/11/23

Time and date statement taken: 02/11/2023

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

I am the West Yorkshire Police Licensing Officer for Kirklees. On Monday 23rd October 2023 I was on duty in company with Jason Bethell an Illicit Tobacco Officer for West Yorkshire Trading Standards Services.

On this date we attended at Buccovina Mini Market, 644 Huddersfield Road, Ravensthorpe, Dewsbury, WF13 3HP. The purpose of the visit was to conduct an inspection as intelligence had been received that this shop was selling illegal tobacco. Working in the shop on this date was a female called [REDACTED]. She stated she worked in the shop on a part-time basis when asked by the business owner Mr Losif-Adrian Barna.

I know Mr Losif-Adrian Barna, born [REDACTED] to be the owner of this business as I had spoken to him in person and on the telephone before, regarding the alcohol licence the shop holds. The alcohol licence for this shop is in the name of Mr Losif-Adrian Barna.

A search of the premises was carried out under Trading Standards powers. The premises consists of a shop with a room behind it. A door from this room to an area upstairs was boarded up, keys to this upstairs area were hanging in the rear room and [REDACTED] confirmed this area was linked to the shop and used for storage. The number on the door to this area was 644 Dewsbury Road.

I went with Jason Bethell into this upstairs storage area, he alerted me to a number of bottles of alcohol stored within a wardrobe in bags for life.

The following bottles were found:

- 12 x 1L Courvoisier VS Cognac - retail value per bottle £39
- 4 x 700ml Couvoiser VS Cognac - retail value per bottle £33
- 14 x 70cl Hennessy VS Cognac - retail value per bottle £31
- 9 x 1L Jack Daniels Whiskey - retail value per bottle £35
- 2 x 70cl Gordon's Morello Cherry Gin - retail value per bottle £23
- 2 x 1L Gordon's Pink Gin - retail value per bottle £26.50
- 1 x 70cl Whitley Neil Apple and Red Berry Gin - retail value per bottle £28
- 3 x 70cl Remy Martin Brandy - Remy Martin VSOP Cognac £44

Total retail value £1,608

Signature: K J Swift

Signature witnessed by:

MG11

OFFICIAL SENSITIVE (when complete)

(Revised 07-06-23)

NICHE Ref. No:		URN:	
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Continuation Statement of Swift

I believed these items to be stolen because on the 1 x 70cl Whitley Neil Apple and Red Berry Gin was a security tag around the neck of the bottle and yellow security labels. A photograph of this is Exhibit KJS.1
On one of the 70cl Gordon's Morello Cherry Gin was a yellow security label. A photograph of this is Exhibit KJS.2.

Around the neck of the Remy Martin bottles were marks consistent with supermarket security tags being removed. A photograph of this is Exhibit KJS.3

I seized these bottles, and they were later placed in Huddersfield Police Station property store.
No invoices for these bottles could be produced at the shop.

I have attended and spoken with Security Staff at Asda Supermarket, Dewsbury. They confirmed the above tags and labels are used in their stores.

Signature: K J Swift

MG11

Signature Witnessed by:

OFFICIAL SENSITIVE (when complete)

KSS.1

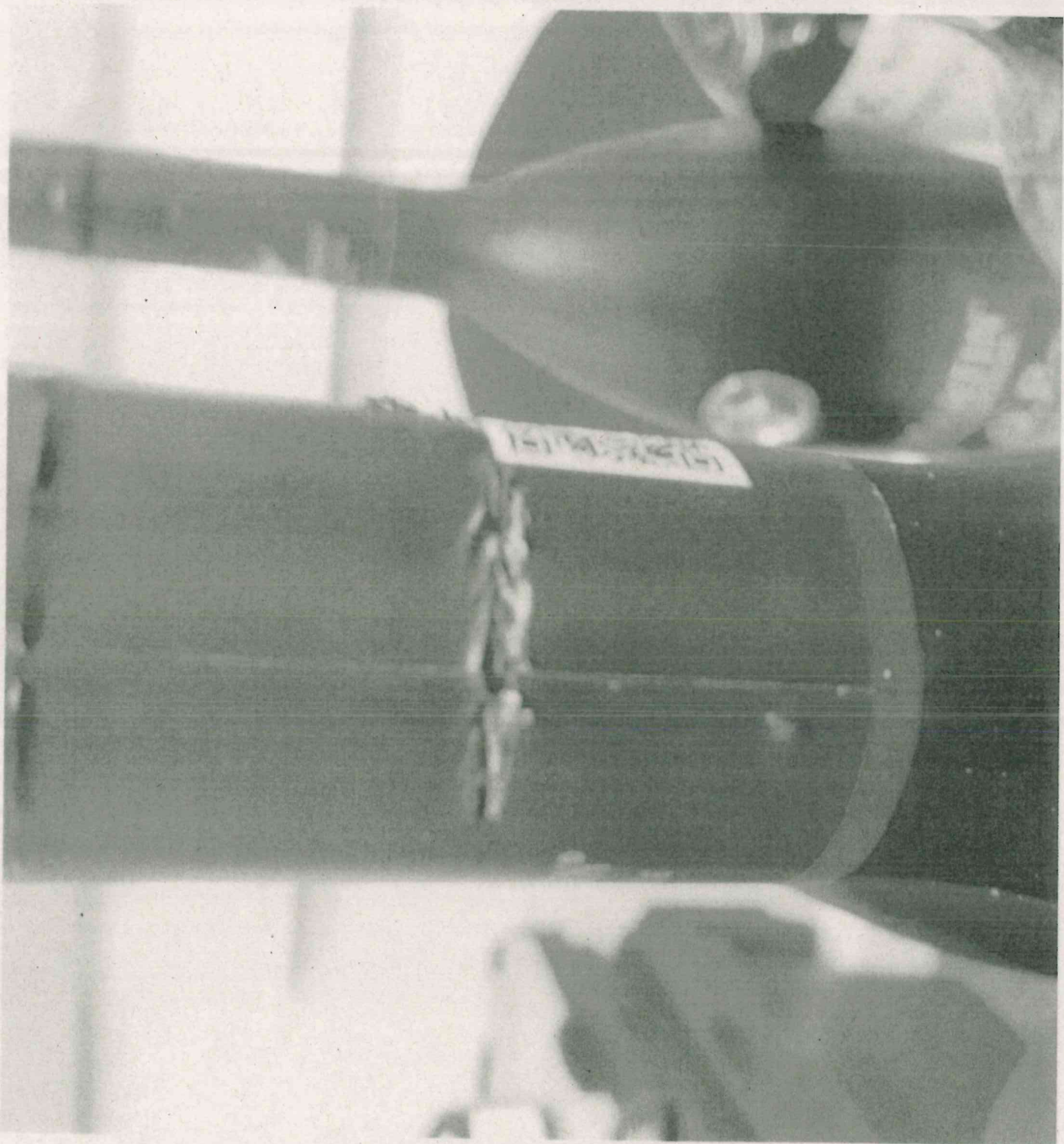


~~Exhibit K55.2~~

Exhibit K55.2



K55.3



K35.4





116

ng
harm
others
you

Smoking
kills

BRITISH
TOBACCO

ALFA
ROMEO
MOTOR CARS

KSS-6



KJS-7



RESTRICTED

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

N/A

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: 22/11/23

Capacity: West Yorkshire Police Licensing - Kirkstall

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

PREMISES LICENCE

Licensing Act 2003

Licence number:

PR00276

Online Reference number:

PR00407**THIS LICENCE IS ISSUED BY**

Kirklees Council
 Public Protection Services
 Licensing Department
 PO Box 1720
 Huddersfield
 HD1 9EL

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

POSTAL ADDRESS OF PREMISES**Buccovina Off Licence**

644 Huddersfield Road
 Ravensthorpe
 Dewsbury
 WF13 3HP

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES**Sale of Alcohol**

Day(s)	From - To
Monday	06:00 - 23:00
Tuesday	06:00 - 23:00
Wednesday	06:00 - 23:00
Thursday	06:00 - 23:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 23:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday	06:00	23:00
Tuesday	06:00	23:00
Wednesday	06:00	23:00
Thursday	06:00	23:00

Friday	06:00	00:00
Saturday	06:00	00:00
Sunday	06:00	23:00

NON STANDARD TIMINGS FOR OPENING HOURS (IF ANY)
N/A

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
--

Mr Losif-Adrian Barna
Email address

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

Mr Losif-Adrian Barna

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

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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:	
--	--

ANNEXES**ANNEX 1 – MANDATORY CONDITIONS****ANNEX 1 - MANDATORY CONDITIONS****Alcohol:**

1. No supply of alcohol may be made under this 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. 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.

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.

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 the condition set out in paragraph 1 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" mean 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

General.

1. CCTV

The premises shall install and maintain a CCTV system with a minimum of 3 cameras

The CCTV system shall have sufficient hard drive storage capacity to store a minimum of 31 days.

The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises at each exit and entrance point.

1.4 A CCTV log will be completed on a weekly basis to record all elements of the CCTV System is maintained in good working order and recordings date and time stamped.

1.5 Only nominated staff shall be trained in the operation of the CCTV system to ensure rapid data retrieval & downloads of footage can be provided to the Police & the Local Authority Officer upon reasonable request in accordance with the Data Protection Act.

1.6 CCTV shall be continually recording during licensable hours

1.7 In the event of a failure of the CCTV system for any reason, a record of the failure will be recorded in the premises Incident log and immediate steps will be made to rectify the problem.

1.8 Proxy signs will be sited on the premises to deter proxy sales on behalf of under 18's.

1.9 The DPS will provide training to staff in relation to alcohol sales and to authorise the employees the DPS considers competent to sell alcohol on their behalf in writing. An Alcohol register containing all the names of all persons who is authorised to sell alcohol on the premises will be completed and kept at the premises for a minimum of 12 months.

The prevention of crime and disorder

2. Incident / Refusals Register

2.1 An incident log shall be kept at the premises. Log records will be retained for a period of 12 months from the date it occurred. It will be made immediately available on request to an 'authorised person' (as defined by section 13 of the Licensing Act 2003), an authorised trading standards officer or the police, and must record the following;

(a) All crimes reported to the premises (where relevant to the licensing objectives)

(c) Any incidents of disorder

3. When the designated premises supervisor is not on duty, a contact telephone number will be available at all times.

4. All spirits will be stored and sold behind the counter.
5. A steel security door has been installed at the rear of the premises.

Public Safety.

No Risk Assessed by applicant.

The prevention of public nuisance

6. Prominent, clear and legible signage shall be displayed at the entrance and exit to the premises requesting the public to respect the needs of local residents and to leave the premises and the area quickly and quietly. (Quiet Notice).

6.1 No deliveries or removal of trade waste will take place after 19.00 on any day.

6.2 The proprietor shall ensure that no exterior lighting will cause a nuisance to any neighbouring residential properties.

e) The protection of children from harm

7. A written register of refusals will be kept including a description of the people who have been unable to provide required identification to prove their age. Such records shall be kept for a period of 12 months and will be collected by the designated premises supervisor and produced to the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer the local authority/council on demand.

8. All staff engaged in the sale of alcohol shall be trained in Challenge 25. Training records shall be kept on the premises and produced to the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer of the local authority/council on demand

9. Challenge 25

9.1 The premises shall operate a Challenge 25 policy. Such policy shall be written down and kept at the premises. The policy shall be produced on demand of the police or an 'authorised person' (as defined by section 13 of the licensing act 2003) or an authorised trading standards officer the local authority/council.

9.2 Prominent, clear and legible Challenge 25 signage shall also be displayed at all entrances to the premises as well as at, at least one location behind any counter advertising the scheme operated.

9.3 Proxy signs will be fitted near to all alcohol P.O.S positions warning people not to buy alcohol for children.

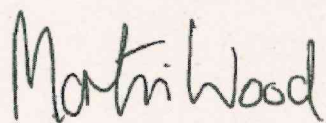
ANNEX 3 – CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY

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

PR00276**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

Buccovina Off Licence
 644 Huddersfield Road
 Ravensthorpe
 Dewsbury
 WF13 3HP

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

Sale of Alcohol

THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Sale of Alcohol

Day(s)	From - To
Monday	06:00 - 23:00
Tuesday	06:00 - 23:00
Wednesday	06:00 - 23:00
Thursday	06:00 - 23:00
Friday	06:00 - 00:00
Saturday	06:00 - 00:00
Sunday	06:00 - 23:00

THE OPENING HOURS OF THE PREMISES

DAY(S)	FROM	TO
Monday	06:00	23:00
Tuesday	06:00	23:00

Wednesday	06:00	23:00
Thursday	06:00	23:00
Friday	06:00	00:00
Saturday	06:00	00:00
Sunday	06:00	23:00

NON STANDARD TIMINGS FOR OPENING HOURS (IF ANY)

N/A

WHERE THE LICENCE AUTHORIZES 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

Mr Losif-Adrian Barna

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

Mr Losif-Adrian Barna

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORIZES 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:

Martin Wood

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 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.

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 Revised Guidance issued under section 182 of the Licensing Act 2003 | 11 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); and • 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 12 | Revised Guidance issued under section 182 of the Licensing Act 2003 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.