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Municipal Buildings
Boston
Lincolnshire PE21 8QR
Tel: **01205 314200**

Chief Executive
Rob Barlow

8 April 2024

NOTICE OF MEETING OF THE LICENSING SUB-COMMITTEE

Dear Councillor

You are invited to attend a meeting of the Licensing Sub-Committee on
Monday, 22nd April, 2024 at 10.00 am
in the Council Chamber - Municipal Buildings, West Street, Boston, PE21 8QR

ROB BARLOW
Joint Chief Executive

Membership: Councillors Stuart Evans, Paul Gleeson and David Scoot
Reserve Member: Councillor Suzanne Welberry

A G E N D A

PART I - PRELIMINARIES

Apologies

To receive apologies for absence.

Declarations of Interests

To receive declarations of interests in respect of any item on the agenda.

PART II - AGENDA ITEMS

Boston Food Store, 12 Red Lion Street, Boston (Pages 1 - 46)

(A report of Anna McDowell, Senior Licensing Officer)

Notes:

The person to contact about the agenda and documents for this meeting is Amanda Dickinson, Senior Democratic Services Officer, Municipal Buildings, Boston, Telephone: 01205 314228 e-mail: amanda.dickinson@boston.gov.uk

Council Members who are not able to attend the meeting should notify Amanda Dickinson, Senior Democratic Services Officer as soon as possible.

Alternative Versions

Should you wish to have the agenda or report in an alternative format such as larger text, Braille or a specific language, please contact Democratic Services on direct dial (01205) 314226

Emergency Procedures

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REPORT TO:	LICENSING COMMITTEE – SUB-COMMITTEE
DATE:	22 APRIL 2024 – 10.00 HOURS
SUBJECT:	BOSTON FOOD STORE, 12 RED LION STREET, BOSTON
PURPOSE:	TO REVIEW THE PREMISES LICENCE FOLLOWING AN APPLICATION RECEIVED FROM LINCOLNSHIRE POLICE
KEY DECISION:	NO
PORTFOLIO HOLDER:	COUNCILLOR DALE BROUGHTON
REPORT OF:	SENIOR LICENSING OFFICER
REPORT AUTHOR:	ANNA MCDOWELL
WARD(S) AFFECTED:	CENTRAL
EXEMPT REPORT?	Appendices A to G of the review application are exempt by virtue paragraph 1 of part 1 of schedule 12A to the Local Government Act, 1972

SUMMARY

This is a report to consider an application for the review of the Premises Licence for Boston food Store, 12 Red Lion Street, Boston. The review was submitted by the Deputy Chief Constable of Lincolnshire Police under the provisions of Section 51 of the Licensing Act 2003.

The application to review the Premises Licence relates to the licence holder's alleged failure to promote the licensing objectives of:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

RECOMMENDATIONS

It is recommended that the sub-committee take into account all evidence and information received from Lincolnshire Police in connection with their review application and determine this matter, having due regard to the guidance issued under Section 182 of the Act and the Licensing Authority's Statement of Licensing Policy.

REASONS FOR RECOMMENDATIONS

The Licensing Act 2003 requires that the sub-committee make a determination where an application for the review of a Premises Licence is received in accordance with Section 51 of the Licensing Act 2003.

The sub-committee must give full reasons for its determination in respect of the licence.

OTHER OPTIONS CONSIDERED

None

1. BACKGROUND - THE PREMISES

- 1.1 The premises is a small shop, licensed for the sale of alcohol for consumption off the premises. The premises also sells a selection of essential products as well as a number of other age-restricted products i.e., cigarettes, lighters and vape equipment. It is located within Boston town centre, in a mixed-use area. A location plan is attached at **APPENDIX 1**.
- 1.2 The premises has been licensed under the Licensing Act 2003 since November 2011. Since the grant of the licence, it has been transferred a number of times. Most recently in December 2022, applications were submitted by Mr Yavuz Ecer under sections 37 and 42 of the Licensing Act 2003 for the transfer of the licence into his name and also to vary the Designated Premises Supervisor (DPS), specifying himself as the DPS. A copy of the premises licence is attached at **APPENDIX 2**.
- 1.3 At the time of the transfer and variation of Designated Premises Supervisor the premises licence was the subject of an ongoing application for review submitted by Lincolnshire Police.
- 1.4 A hearing was held on 18 January 2023 at which Mr Ecer assured members of the Sub-Committee that he was in the process of finalising his purchase of the business. The Sub-Committee were also advised that once the full hand over of the business had taken place the previous licence holder, who's management of the premises had given grounds for review, would no longer have any reason for involvement in the operation of the premises.
- 1.5 The Sub-Committee were concerned that during the initial migration period from the outgoing licensee to Mr Ecer there may be a potential for an overlap of management and involvement in the running of the business by the previous licence holder. However, following assurances by Mr Ecer that he wished to run a legitimate business and would be taking over the business fully in the near future, they were satisfied that culpability for the

issues leading to the review sat with the outgoing licence holder. The Sub-Committee felt reassured that once the business hand-over was complete and that the previous licence holder had no involvement the business, Mr Ecer would be able to run the premises responsibly and in accordance with the licence conditions.

- 1.6 The Sub-Committee determined to suspend the premises licence for the maximum permitted period of three months to give Mr Ecer time to get his business affairs in order. The suspension came into effect on 17 February following the end of the 28-day appeal period and the suspension of the premises licence ended on 17 May 2023. A copy of the decision notice can be found at **APPENDIX 3**.

2. Review application

- 2.1 On 13 March 2024 an application for the review of the premises licence was received from the Deputy Chief Constable of Lincolnshire Police. The grounds of the review application are the premises licence holders' failure to promote all four licensing objectives, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Full details of the grounds for review and their evidence to support the application will be presented by Lincolnshire Police at the hearing. However, a full copy of the review application and supporting evidence is attached at **APPENDIX 4**.

3. Consultation

- 3.1 The Licensing Act 2003 requires that the applicant (Lincolnshire Police) send a copy of their review application to the premises licence holder and all responsible authorities. The Licensing Authority must post a notice providing the details of the review at the Council Offices, on the Council website and prominently displayed at, or near to, the premises. It is confirmed that this requirement was complied with.

4. Relevant Representations

- 4.1 A "Responsible Authority" or other person or business may submit a representation during the consultation period. No relevant representations were received throughout the consultation period.

5. Options

- 5.1 With respect to the review the Sub-Committee must determine whether or not the licence holder has operated with a view to promoting the licensing objectives. In deciding any action to implement, it is expected that the sub-committee will, as far as possible, seek to establish the cause or causes of concern that the review application identifies. The remedial action taken should generally be directed at those concerns and should always, giving appropriate weight to any supporting evidence and the submission made by any party at the hearing, be no more than an appropriate and proportionate resolution. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

5.2 Having regard to the application the sub-committee must take such steps, if any, it considers appropriate for the promotion of the licensing objectives. The steps are:

- to modify the conditions of the licence (either permanently or for a period not exceeding 3 months)
- to exclude a licensable activity from the scope of the licence (either permanently or for a period not exceeding 3 months)
- to remove the designated premises supervisor from the licence
- to suspend the licence for a period not exceeding 3 months
- to revoke the licence

Alternatively, the sub-committee may consider that no action is required or that a warning should be issued and/or recommend improvement within a particular period of time.

The sub-committee must give full reasons for its decision and must make its decision within 5 working days of the end of the hearing.

6. Considerations

6.1 In determining the review application, in accordance with the Licensing Act 2003, and with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:

- The Statutory Guidance issued under section 182 of the Licensing Act 2003.
- Boston Borough Council's Statement of Licensing Policy
- The steps that are appropriate to promoting the licensing objectives.
- The submissions, including supporting information, if any, presented by all parties.

Should the Sub-Committee depart from the Section 182 Guidance or the Statement of Licensing Policy reasons for doing so must be given.

6.2 Guidance issued under Section 182 of the Licensing Act 2003

6.2.2 The Sub-Committee's attention is drawn to the following paragraphs of the Section 182 guidance.

Crime and disorder

Paragraph 2.1

Licensing Authorities should look to the police as the main source of advice on crime and disorder.

The role of responsible authorities

Paragraph 9.12

Each responsible authority will be an expert in their respective field, and in some cases, it is likely that a particular responsible authority will be the licensing authority's main source of advice in relation to a particular licensing objective. For example, the police have a key role in

managing the nighttime economy and should have good working relations with those operating in their area. The police should usually therefore be the main source of advice on matters relating to the promotion of the crime and disorder licensing objective. However, any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent. However, it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing.

The review process.

Paragraph 11.1

The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

Paragraph 11.2

At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

Powers of a Licensing Authority on the determination of a review

Paragraph 11.16

The 2003 Act provides a range of powers for the licensing authority, which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

Paragraph 11.17

The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

Paragraph 11.18

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil

immigration penalties which a licence holder has been required to pay for employing an illegal worker.

Paragraph 11.19

Where the licensing authority considers that action under its statutory powers is appropriate, it may take the following steps:

- *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.*
- *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)*
- *Remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management.*
- *Suspend the licence for a period not exceeding 3 months.*
- *Revoke the licence.*

Paragraph 11.20

In deciding which of these powers to invoke, it is expected that licensing authorities should so far as is possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

Paragraph 11.21

For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions by that individual.

Paragraph 11.22

Equally, it may emerge that poor management is a direct reflection of poor company practice or policy, and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact on the licensing objectives.

Paragraph 11.23

Licensing authorities should also note that modification of conditions and exclusion of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always

be important that any detrimental financial impact that may result from a licensing authorities' decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

6.3 A copy of the relevant sections of the Licensing Authority's Statement of Licensing Principles, with respect to the licensing objectives and grounds for review identified in the application is attached at **APPENDIX 5**.

6.4 Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. The use of wording such as "must", "shall" and "will" is encouraged. If consideration is given to attaching or amending conditions, they:

- Must be appropriate for the promotion of the licensing objectives.
- Must be precise and enforceable.
- Must be unambiguous and clear in what they intend to achieve.
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the licence holder by other legislation.
- Must be tailored to the individual type, location and characteristics of the premises and events concerned.
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case.
- Should not replicate offences set out in the 2003 Act or any other legislation.
- Should be proportionate, justifiable and capable of being met.
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

7. Human Rights & Equalities

7.1 In determining the review the sub-committee should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Human Rights Act it is unlawful for a public authority to act in a manner which is incompatible with the European Convention on Human Rights.

7.2 When determining the application, the sub-committee should be satisfied that any decision which interferes with the rights of the licence holder, or of any other person, only does so insofar as is necessary to protect the rights of others and that no alternative decision would be more appropriate.

7.3 The sub-committee, in its decision-making, must have due regard to its public sector equality duty under section 149 of the Equality Act 2010. A copy of section 149 of the Act is attached at **APPENDIX 6**.

8. Appeal

8.1 The applicant for review and/or the holder of the premises licence may appeal the decision made by the sub-committee to the Magistrates Court. Any appeal must be made within 21

days of the day on which the appellant is notified, in writing, by the Licensing Authority of the decision to be appealed against.

- 8.2 The hearing determination does not take effect until the end of the period for appealing against the decision or, if the decision is appealed against, until the appeal is disposed of.

EXPECTED BENEFITS TO THE PARTNERSHIP

By working together as a Partnership, the three sovereign councils benefit from the learning and experience of each other and also the trade benefits from a consistency and uniformity of approach from the Licensing service across the sub-region.

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL'S PARTNERSHIP

There are no SELCP implications.

CORPORATE PRIORITIES

This work contributes to the Growth and Prosperity, Safe and Resilient Communities Priority in the South & East Lincolnshire Councils Partnership Sub-regional Strategy 2024/25 to 2028/9.

STAFFING

There are no implications in terms of staffing.

WORKFORCE CAPACITY IMPLICATIONS

None

CONSTITUTIONAL AND LEGAL IMPLICATIONS

An appeal could be lodged with Lincolnshire Magistrates' Court against the decision of the Regulatory & Appeals Sub – Committee.

DATA PROTECTION

This report is exempt by virtue of Part 1, Paragraph 7 of Schedule 12A of the Local Government Act 1972 because it contains information relating to ongoing criminal proceedings.

FINANCIAL

There are no financial implications arising from this report.

RISK MANAGEMENT

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

STAKEHOLDER / CONSULTATION / TIMESCALES

There are no stakeholder implications.

REPUTATION

There is a risk that the Council's reputation could be damaged if licensing legislation and guidance are not upheld and applied appropriately.

CONTRACTS

None.

CRIME AND DISORDER

The Council has a duty to promote the Licensing Objectives.

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

Equality Implications: The licensing authority must have due regard to its public sector equality duty under section 149 of the Equality Act 2010.

Human Rights: Under the Human Rights Act it is unlawful for a public authority to act in a manner that is incompatible with the European Convention on Human Rights.

Safeguarding Implications: The Council has a duty to protect the public and promote the four licensing objectives of the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm within the Borough that is consistent with prevailing national guidance and standards.

HEALTH AND WELL BEING

The licensing and compliance role of the Council is important in improving the health, safety, security and welfare of the borough's residents, visitors, and business community. Effective implementation of a fair, proportionate and consistent licensing regime should help to promote the local economy.

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

There are no implications.

LINKS TO 12 MISSIONS IN THE LEVELLING UP WHITE PAPER

MISSIONS	
This paper contributes to the follow Missions outlined in the Government's Levelling Up White paper.	
Pride in Place	By 2030, pride in place, such as people's satisfaction with their town centre and engagement in local culture and community, will have risen in every area of the UK, with the gap between the top performing and other areas closing.
Crime	By 2030, homicide, serious violence, and neighbourhood crime will have fallen, focused on the worst-affected areas.

ACRONYMS

DPS – Designated Premises Supervisor

APPENDICES	
Appendices are listed below and attached to the back of the report: -	
APPENDIX 1	Location plan
APPENDIX 2	Premises licence
APPENDIX 3	Decision notice – January 2023
APPENDIX 4	Review application from Lincolnshire Police
APPENDIX 5	Extract from Boston Borough Councils Licensing Policy
APPENDIX 6	Section 149 of the Equality Act

BACKGROUND PAPERS

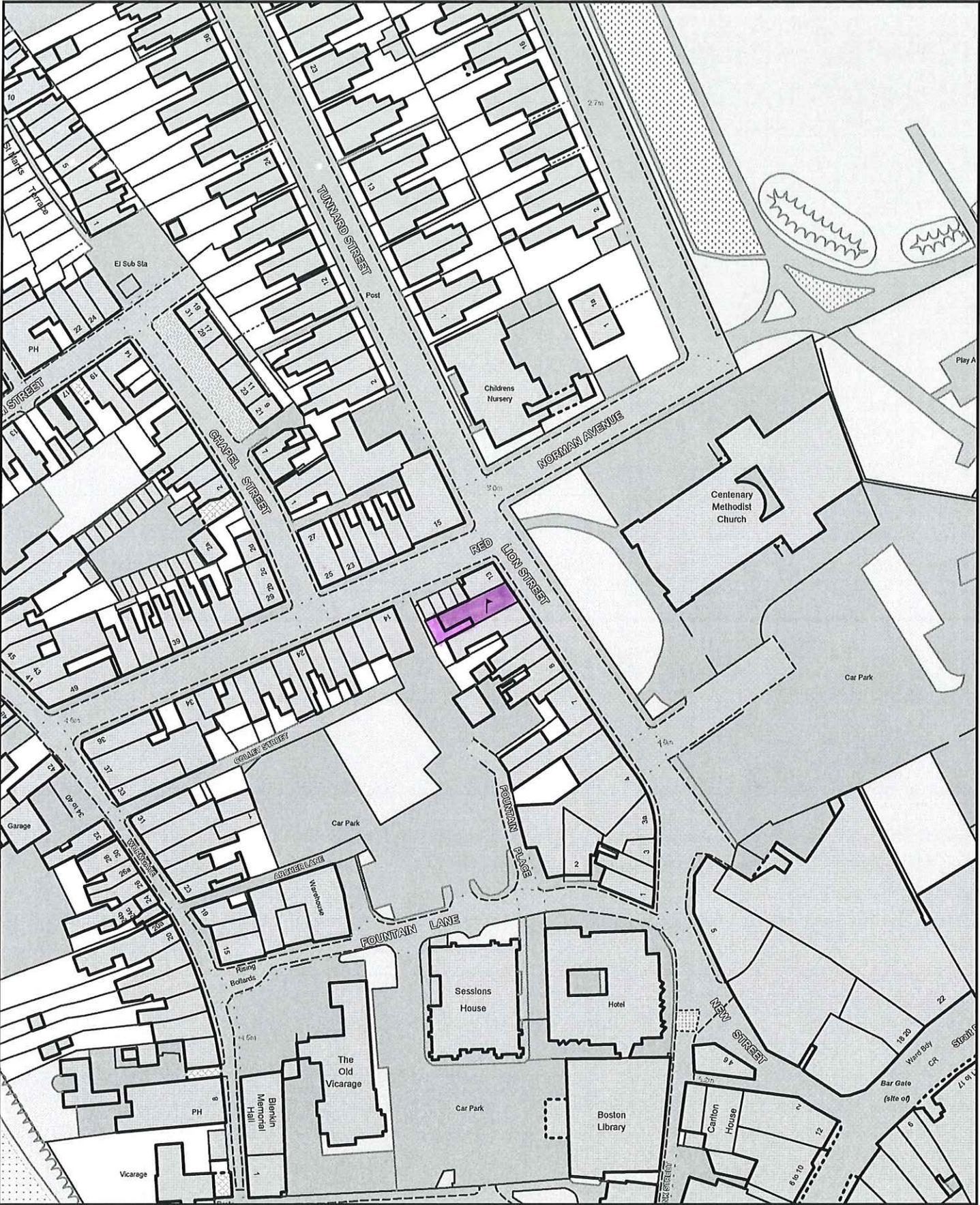
No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.

CHRONOLOGICAL HISTORY OF THIS REPORT

A report on this item has not been previously considered by a Council body.

REPORT APPROVAL

Report author:	Anna McDowell anna.mcdowell@boston.gov.uk Telephone: 01205 314235
Signed off by:	Christian Allen christian.allen@boston.gov.uk Telephone: 01205 314200
Approved for publication:	TBC if this is exempt



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**Premises Licence
Boston Borough Council**

Premises Licence No. 32UBB11013

Granted date: 14/10/2011

Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description

International Food & Drink
12 Red Lion Street

Post town Boston **Post code** PE21 6NY

Telephone number Not applicable

Where the licence is time limited the dates - Not applicable

Licensable activities authorised by the licence

Sale by retail of alcohol for consumption off the premises

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol for consumption off the premises

Monday – Friday: 04.00 hours until 00.00 hours

Saturday & Sunday: 05.00 hours until 00.00 hours

The opening hours of the premises

Monday – Friday: 04.00 hours until 00.00 hours

Saturday & Sunday: 05.00 hours until 00.00 hours

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies

Off

Part 2 – Licensee Details

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Name: Mr Yavuz Ecer

Address:

Postcode:

Telephone:

Registered number of holder, for example company number, charity number (where applicable)

Not applicable

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol

Name: Mr Yavuz Ecer

Address:

Postcode:

Telephone:

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Licence No:

Issuing Authority:

ANNEX 1

(a) MANDATORY CONDITIONS

1. Supply of alcohol

(i) No supply of alcohol may be made under the premises licence:

(a) at a time when there is no designated premises supervisor in respect of the premises licence,

or

(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended

(ii) Every supply of alcohol under the Premises Licence must be made or authorised by a person who holds a Personal Licence

Conditions set out in The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

1. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

Conditions set out in The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2014

(1) 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.

(2) In this condition:—

(a) “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;
- (b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence—
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- (3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.
- (4) 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, 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 CONSISTENT WITH THE OPERATING SCHEDULE

a) General

1. A personal licence holder will be in attendance at the premises at all times when licensable activities are being carried out.
2. Staff will be suitably trained in licensing issues.
3. A CCTV recording system will be installed at the premises and maintained in good working order.

b) The Prevention of Crime & Disorder

1. The premises licence holder or responsible person will ensure the premises are sufficiently lit when licensable activities are being undertaken.
2. Alcohol will be restricted from public view outside of the hours for the sale of alcohol.
3. A CCTV system shall be installed and maintained in working order and shall record during all hours authorised for licensable activities.
4. The CCTV system shall record a full frontal head and shoulder colour image of all persons entering the premises.
5. The system shall monitor and record all areas of the premises to which members of the public are permitted access.
6. The monitor and recording equipment shall be located in a secure room or in a secure cabinet to prevent unauthorised access, tampering or removal of images.
7. The system shall record between a minimum of 15 frames per second and an optimum of 25 frames per second.

8. The quality of the images recorded by the CCTV system shall be such that they are of practical value in the promotion of the licensing objectives by;
 - a) Clearly showing actions of persons involved in an incident
 - b) Giving evidence of identity of offenders
 - c) Showing overall view of the scene
9. The images recorded by the CCTV system shall be retained in an unedited form for a period of not less than 31 days and be endorsed with the accurate date and time.
10. During all hours that the premises are open, a member of staff will be on the premises who is capable of operating the system to review recordings and provide recorded footage on a removable medium.
11. Recordings shall be provided to officers of Lincolnshire Police or the Licensing Authority upon request. Officers shall be permitted access to the system at any reasonable time.

c) Public Safety

1. Emergency lighting will be installed at the premises and maintained in good working order.
2. Additional fire escape routes will be provided at the premises.
3. There will be a suitable supply of first aid provisions kept on site.

d) The Prevention of Public Nuisance

1. The premises licence holder will ensure that the area outside the premises will be kept litter free.
2. Unloading of deliveries will be carried out at times when they will not cause disturbance to neighbouring properties.
3. There shall be no sale of loose cans of beers, lagers or ciders in packs of less than 4, nor a sale of any single bottles of beers, lagers or ciders

e) The Protection of Children from Harm

1. The premises shall operate a "Challenge 25" proof of age policy to prevent the sale or supply of alcohol to persons under 18 years of age. The policy must require individuals who appear to the responsible person to be under 25 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

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

None

ANNEX 4 - PLANS

1. Licensable activities are permitted in accordance with the attached plan.

**Boston Borough Council
Licensing Act 2003
Review of a Premises Licence
Decision Notice**

Date of hearing	18 January 2023
Members of Sub-Committee	Councillor K Chalmers Councillor F Pickett Councillor J Whelbourn
Premises Licence Holder	Mr Y Ecer
Premises Address	International Food & Drink, 12 Red Lion Street, Boston
Date Application Received	29 November 2022
Details of Application	Application for the review of a premises Licence under S51 of the Licensing Act 2003

The Parties:

The licensing Sub-Committee convened to consider a review of a premises licence following receipt of an application from Lincolnshire Police.

In attendance at the hearing was two representatives from Lincolnshire Police, Mr Ecer the premises licence holder and designated premises supervisor and his representative Nigel Carter from Carter Consulting. Mr Ecer also had the benefit of an interpreter. Also in attendance was Ms McDowell (Senior Licensing Officer).

The Sub-Committee heard from Ms McDowell, the Premises Licencer Holder

and Designated Premises Supervisor and his consultant, and Lincolnshire Police. In reaching their decision, the Sub-Committee had due regard for all that they have read and heard, and at the hearing evidence of the purchase of the lease, and a training manual were shown to the Sub-Committee with the agreement of all parties.

Policy and Guidance:

The Sub-Committee also had due regard for the Licensing objectives, The S182 Guidance and the Councils Licensing policy, along with S149 of the Equality Act 2010.

Decision and Reasons:

The Sub-Committee heard from Lincolnshire Police the issues encountered at the premises (and a linked premises) during 2022 when it was run by ■■■■■■■■■■ and Premises Licence Holder. It was acknowledged that since the review application was submitted that there had been a transfer of the premises licence to Mr Ecer, but they explained to the Sub-Committee that they were not convinced that there was no influence from the previous Premises Licence Holder/DPS over the current day to day running of the premises under Mr Ecer, as they had been supplied with very little evidence to date. It was put to the Sub-Committee that if ■■■■■■■■■■ was still involved in the premises, then his history of running licensed premises, and the issues encountered gave Lincolnshire Police great concern in an area of Boston where there are issues of street drinking and antisocial behaviour.

Lincolnshire Police also highlighted concerns they have with regard to Mr Ecer running licensed premises as they have encountered history of non-compliance of a premises licence condition and failure to act swiftly to remedy breaches on his part when he ran a previous premises in 2015, along with illicit alcohol at the premises.

Mr Carter addressed members on behalf of Mr Ecer to explain that other than the issues encountered in 2015, there had been no other incidents throughout Mr Ecer running a previous premises until 2017.

He further explained that he had been retained by Mr Ecer to assist with staff training which will be undertaken every 4 months and gave details of the steps Mr Ecer has undertaken to purchase the business and lease and the timescales to completion. Mr Ecer addressed the Sub-Committee and explained he wants to run a legitimate licensed premises and will have everything in order as soon as he can including employing staff and having them PAYE registered, along with updating Companies House etc. It was also explained to members that the recent incidents of single can sales was addressed swiftly, but that the member of staff had been recently trained and a record of this was shown.

Having taken into consideration all that they have read and heard, the Sub-Committee have decided that it is reasonable and proportionate to the promotion and safe guarding of the licensing objectives to suspend the premises licence for three months. During this time, the Sub-Committee strongly urge Mr Ecer to complete his legal purchase of the business and the lease for the premises in order that [REDACTED] should have no reason to be involved in the running of the premises. The Sub-Committee do consider that by virtue of the current position with regard to the transfer of the business from Mr Dinler to Mr Ecer, that there is scope for [REDACTED] to have some degree of influence over the running of the premises, and this is a concern to the Sub-Committee by virtue of the history of issues encountered at the premises under [REDACTED] outlined to the Sub-Committee by Lincolnshire Police.

In reaching this decision, the Sub-Committee did not consider there were any conditions on the Premises Licence that should be amended. They are very happy that if operated properly by a responsible Premises Licence Holder/DPS the conditions are very thorough. Nor did the Sub-Committee feel it was reasonable or proportionate response to exclude a licensable activity, remove the DPS or revoke the premises licence. The Sub-Committee felt that the issues with the premises previously had been due to [REDACTED] management, but having heard from Mr Ecer they feel reassured that he will

be able to run the premises responsibly and in accordance with the licence conditions and the licensing objectives.

Appeal:

There is a right of appeal to the Magistrates' Court under Section 181 of the Licensing Act 2003.

The appeal must be commenced by notice of appeal to the Justices' Chief Executive for the Magistrates Court within the period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision being appealed against.

Any appeal should be sent to: Lincoln Magistrates Court, 358 High St, Lincoln LN5 7QA

This decision does not take effect until the end of the appeal period or if the decision is appealed, when the appeal is disposed of.

Upon hearing an appeal the Magistrates' Court may

- a) Dismiss the appeal,
- b) Substitute for the decision appealed against any other decision which could have been made by the Licensing Authority, or
- c) Remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court,

And make such order as to costs it thinks fit.

Signed:



Anna McDowell
Licensing Officer
On behalf of the Licensing Sub-Committee
19 January 2023

Review 12 Red Lion Street, Boston, March 2024.

Review document

Appendix A - 10 Red Lion St Representation to new licence application received 7/8/23

Contents:-

Representation

A - Decision notice for 10 Red Lion Street

B - 85 West St review and decision notice

C – Caution Paperwork

D – Statement from [REDACTED]

E – Statement from Mr Rowley (BBC Licensing Officer)

F – Statement from Pc Jones

G – Decision notice for 12 Red Lion Street

H- Statement from Immigration Officer Whyman

I – Statement from Pc McConville with photographs

Appendix B – Statement from Volunteer PCSC [REDACTED]

Appendix C – Statement from Trading Standards Officer Wright

Appendix D – Statement from Trading Standards Officer Marshall

Appendix E – Statement from Trading Standards Officer Griffin

Appendix F – Statement from Pc McConville with photographs

Appendix G – Tobacco Track and Trace Gov.uk information.

Boston Borough Council

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 Julia Debenham (Deputy Chief Constable of Lincolnshire Police)
(Insert name of applicant)

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 (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description 12 Red Lion Street Boston	
Post town Lincolnshire	Post code (if known) PE21 6NY
Name of premises licence holder or club holding club premises certificate (if known) Yavuz ECER	
Number of premises licence or club premises certificate (if known) 32UBB11013	

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible
authority (please read guidance note 1, and complete (A)
or (B) below)

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 (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title
(for example, Rev)

Surname	First names
<input type="text"/>	<input type="text"/>

Please tick ✓ yes

I am 18 years old or over

Current postal address if different from premises address	<input type="text"/>
--	----------------------

Post town	<input type="text"/>	Post Code	<input type="text"/>
------------------	----------------------	------------------	----------------------

Daytime contact telephone number	<input type="text"/>
---	----------------------

E-mail address (optional)	<input type="text"/>
----------------------------------	----------------------

(B) DETAILS OF OTHER APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Lincolnshire Police Police Headquarters Deepdale Lane Nettleham PO Box 999
Telephone number (if any) 101 - Lincolnshire – Alcohol Licensing
E-mail address (optional) Countylicensing@lincs.police.uk

This application to review relates to the following licensing objective(s)

- | | |
|---|---------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | X |
| 2) public safety | X |
| 3) the prevention of public nuisance | X |
| 4) the protection of children from harm | X |

Please state the ground(s) for review (please read guidance note 2)

This review application relates to a premises which operates as an off-licence offering alcohol with some food, drink and groceries to the local community. It has been granted a premises licence by Boston Borough Council, authorising the sale of alcohol for consumption off the premises. The sale of alcohol is authorised between the hours of 04:00 and midnight on weekdays and 0500hrs to midnight on weekends.

The premises is situated within the public space protection order (PSPO) for alcohol, a valuable tool for the Police and Council to address concerns of street drinking and alcohol-related nuisance within Boston's valued public spaces. Red Lion Street, and Central Park, which is very close by, is a known area for street drinking.

12 Red Lion Street's premises licence was reviewed on 18/1/2023 following an application made by Lincolnshire Police. The review centred round issues when [REDACTED] was premises licence holder and designated premises supervisor. It involved illegal working, an unsupervised child selling alcohol and non-compliance with the licence conditions. However, at the time of review hearing for No 12 the premises licence holder [REDACTED] was Mr Yavuz Ecer (Police didn't have the opportunity to object). Lincolnshire Police's concerns were that [REDACTED] had been operating the premises in such a manner that amounted to criminal activity and the ramifications of this had undermined all four of the licencing-objectives, that the transfer of business to Mr Ecer wasn't genuine, that [REDACTED] still had an element of control, and Mr Ecer's past history with regards to licensing was concerning and current compliance with premises licence conditions was poor. The Licensing Sub-Committee decided on a 3-month suspension of the premises licence.

Lincolnshire Police has since the suspension, further evidence, despite assurances given to the Licensing Sub-Committee, that the management of the premises have been operating it such a manner as to seriously undermine the licensing objectives namely, being non-compliant with the premises licence conditions, the takeover from [REDACTED] was not genuine, [REDACTED] still has an element of control, the premises has sold an illegal disposable vape to an adult and a child, illegal cigarettes and illegal disposable vapes have been found on the premises, therefore risking all four of the licencing objectives.

Sec 136 Licensing Act 2003– unauthorised licensable activity – not compliant with premises licence conditions.

Sec 144 Licensing Act 2003 - smuggled goods on licenced premises (cigarettes).

The sale of the vape to the minor is an offence under the Children and Families Act 2014 and the Nicotine Inhaling Product (Age of Sale and Proxy Purchasing) Regulations 2015.

Breaches of Tobacco & Related Products regulation 2016 regarding disposable vape size sold, and cigarettes not in English (making them likely smuggled), with the prescribed warnings or pictorial representations. Nor were they in the standard packaging as stipulated by those regulations.

The Tobacco and Related Products Regulations 2016 deal with the manufacture, presentation and sale of tobacco and related products, including herbal products for smoking, vapes and refill containers, as well as smokeless and novel tobacco products. The Tobacco and Related Products Regulations 2016 set out rules covering vapes. No one must produce or supply a vape or refill container unless they meet the following requirements:

- nicotine-containing liquid for retail sale must be in a dedicated refill container in a maximum volume of 10 ml; in a disposable vape, single-use cartridge or a tank the maximum volume is 2 ml
- the capacity of the tank of a refillable vape must not be more than 2 ml
- there is a nicotine limit of 20 mg per ml that applies to nicotine-containing liquids in an vape or refill container. Disposable vapes sometimes display a typical number of puffs on the packaging. Typically, a disposable vape would provide 600 puffs or the equivalent of 20 cigarettes.

Breaches of Tobacco Track and Trace - The Tobacco Products (Traceability and Security Features) Regulations 2019. Implements Articles 15 and 16 of the Tobacco Products Directive (2014/40/EU) provide a track and trace system for the supply chain of tobacco products and a system of security features to authenticate tobacco products; later updated when UK left the EU in 2020.

The Tobacco Products (Traceability System and Security Features) (Amendments) (EU Exit) Regulations 2020. Ensures continued functionality of tobacco products traceability scheme and security feature post-Brexit.

Section 93 Finance Act 2022 introduced primary legislation, giving powers to make regulations setting out new sanctions linked to Tobacco Track and Trace. The provisions provide powers to issue financial penalties, seize any tobacco products found at non-compliant premises and exclude retailers from Tobacco Track and Trace.

Revised Guidance issued under Section 182 of the Licensing Act 2003

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder.

2.8 Licence holders have a responsibility to ensure the safety of those using their premises, as part of their duties under the 2003 Act.

2.35 Licensing authorities should give considerable weight to representations about child protection matters.

9.12 Each responsible authority will be an expert in their own field....for example the police have a key role in managing the night-time economy.....However, any responsible authority under the 2003 Act may

make representations with regard to any of the licensing objectives if they have evidence to support such representations. Licensing Authorities must therefore consider all relevant representations from responsible authorities carefully, even where the reason for a particular responsible authority's interest or expertise in the promotion of a particular objective may not be immediately apparent.

11.23 ...where the premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

11.24 A number of reviews may arise in connection with crime that is not directly related with licensable activities. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is the matter for the courts. The licensing authorities role when determining such review is not therefore to establish guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 There is no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings....it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives.

11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of crime prevention objective. It's important to recognise that certain criminal activity or associated problems may be taking place or have been taking place despite the best efforts of the licence holder and staff working at the premise despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.

11.27 There is certain criminal activity that may arise in connection to licensed premises which should be treated particularly seriously –

- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.
(Lincolnshire Police would argue that although a vape is not alcohol, a sale of an illegal, age restricted product to a child is similar and of a serious nature.
- for the sale or storage of smuggled tobacco or alcohol

11.28 It is envisaged that licensing authorities, the police, The Home Office (Immigration Enforcement) and other law enforcement agencies will use the

review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determined that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Please provide as much information as possible to support the application (please read guidance note 3)

In 2022 numbers 10 and 12 Red Lion Street, Boston were licenced with [REDACTED]'s premises licence holder and DPS, with the company [REDACTED] appearing to operate both under the same company. [REDACTED] wife is [REDACTED] and she is the director of that company.

Issues of non-compliance, sale of alcohol and vapes to children, illegal working, and an unsupervised child selling alcohol at No 10 led to a review where the premises licence was revoked.

At No 12 the issues were non-compliance, illegal working, and an unsupervised child selling alcohol. The premises licence was reviewed, the licence transferred to Mr Yavuz Ecer prior to hearing (without the police given the opportunity to object due to an error) and a suspension given. No appeals occurred for either premises.

Following the suspension of No 12 premises licence, Mr Ecer attempted to licence No 10. Lincolnshire Police made representation, citing the previous failings of Mr Ecer, the current failings of Mr Ecer at No 12 and the evidence that the purported takeover to Mr Ecer at 12 and 10 Red Lion Street was not genuine and [REDACTED] was still in control of the premises.

Please see the representation with appendices at Appendix A, submitted on 24/8/23 by Lincolnshire Police for a new premises licence at 10 Red Lion Street. The application was withdrawn on 21/9/23. The applicant was Boston Food Store Ltd, the director of which is Mr Ecer, the current premises licence holder for 12 Red Lion Street. The representation explains much of the background that has led to this review.

On 10/11/23 12 Red Lion Street sold an oversized, 4000 puff illegal disposable vape to an adult during a test purchase operation. Please see appendix B for a statement from Volunteer PCSO Porter (the purchaser) and appendix C for a statement from Trading Standards Officer Andy Wright regarding the legality of what was purchased.

On 18/11/23 12 Red Lion Street sold an oversized, 4000 puff illegal disposable vape to a child, during a test purchase operation. Please see appendix D for a statement from Trading Standards Officer Kimberly Marshall.

On 23/11/23 12 Red Lion Street was visited by Police Licensing and Trading Standards Officers, illegal vapes and illegal cigarettes were found on the premises. Alcohol with concerning duty stamps (peeling off) were also seized and further enquiries are ongoing. Please see Trading Standards Officer Alan Griffin's statement at appendix E.

On 13/12/23 12 Red Lion Street was visited by Police Licensing to view CCTV from the test purchase on 18/11/23 and the seizure on 23/11/23, paperwork was photographed. Please see Pc 642 McConville's statement at appendix F

with the photographs. CCTV from the premises on 23/11/23 is available to view, should the Licensing Sub-Committee wish, however not from all cameras as requested.

Gov.uk information regarding Track and Trace of tobacco products can be found at appendix G.

██████████ appears to still have responsibilities at the premises. The company ██████████, still appears to be buying and receiving goods at the premises.

It appears that despite the large amount of Police and Council time spent working with Mr Ecer and the ample opportunities given to Mr Ecer by the 2 Licensing Sub-committee's over the years, he is still unable to recognise the responsibilities to the licensing objectives he has agreed to take on by becoming premises licence holder and DPS on a premises licence, and has failed to meet the minimum standards required, despite his assurances. The sales and storage of illegal products, particularly to a child, is extremely concerning.

The licensing objectives have been further undermined by ██████████ continued involvement. The purpose for the 3 month suspension was to enable to full takeover of the business in every aspect, not just a paper exercise where nothing changed on the ground, otherwise there is still as much a risk to the objectives that initiated the first review, and that caused the licence to be revoked at No 10, and despite assurances, in June 2023 staff are still being paid by the company what was paying staff when ██████████ was PLH and DPS. The change only came about on the day of the police visit in August, indicating there never was a full change of control.

Lincolnshire Police have previously highlighted to the Licensing-Sub Committee serious concerns with ██████████, Mr Ecer and the risk to the licensing objectives. Those risks have not been dealt with by the 3 month suspension given at the last review hearing, and the licensing objective have continued to be undermined, therefore Lincolnshire Police request that the premises licence is revoked.

Please tick ✓ yes
Yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

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

A review of the premises licence at the time (understood to not be this licence) occurred in 2011 due to smuggled goods.

A review of this premises licence occurred 18/1/2023 following submission on 11/10/2022 due to illegal working, non-compliance, and an unsupervised child selling alcohol, with a transfer occurring before hearing and concerns regarding genuine takeover and new premises licence holder and DPS.

yes

Please tick ✓

- 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, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature Pc 642 Gina McConville

Date 13/03/24

Capacity for and on behalf of Deputy Chief Constable of Lincolnshire Police

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
1	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.

be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason these elements should be specifically considered and addressed within the applicants operating schedule.

The Licensing Authority recommends that applicants carry out their own risk assessments in relation to the four licensing objectives in order to assist them in deciding whether any steps are required to be taken in order to meet those objectives.

In accordance with the Home Office Guidance to Licensing Authorities, this Authority expects applicants to demonstrate knowledge of the area within which the licensed premises is situated. This would include, for example, proximity to residential properties, areas where children congregate and any risk posed to the local area by the applicant's proposed licensable activity.

4.1 Prevention of crime and disorder

4.1.1 The Licensing Authority will carry out its licensing functions with a view to promoting the prevention of crime and disorder and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to regulate the behaviour of persons whilst on their premises, or in the immediate vicinity of the premises.

4.1.2 In addition to the requirement for the Licensing Authority to promote this licensing objective, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to exercise its functions with due regard to the likely effect on, and do all it reasonably can to prevent, crime and disorder in the Borough.

4.1.3 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.

The Licensing Authority encourages applicants to include in their operating schedule the steps they propose to take to reduce/deter crime and disorder. These steps will vary from premises to premises according to the type of licensable activities that are to be carried on. Examples of measures the Licensing Authority encourage applicants to consider and address include

- Physical security features e.g. use of toughened, polycarbonate or plastic drinking glasses
- Procedure for risk assessment of alcohol promotions to ensure they do not promote irresponsible drinking or potentially breach the mandatory condition on irresponsible drinks promotions
- The use and number of Security Industry Authority (SIA) registered door supervisors
- Amount of seating to be provided to reduce the risk of high volume vertical drinking
- Training given to staff in crime prevention and drug awareness measures
- Measures agreed with the Police to reduce crime and disorder
- Measures to prevent the use or supply of illegal drugs
- Search procedures
- Formalisation of a dispersal policy
- Measures to prevent customers taking glasses and bottles away from the premises

- Training given to staff to prevent the sale of alcohol to those who are under age or appear drunk
- Measures to tackle street drinking including not selling single cans or bottles of beer, lager and cider; not selling super strength (ABV above 6.5) beer, lager and cider; and attaching water proof labels with printed shop names and addresses to cans and bottles of beer, lager and cider.

CCTV remains one of the most effective measures for reducing crime and disorder. The Licensing Authority expects premises that retail alcohol for consumption on or off the premises will have an effective CCTV system installed that operates in compliance with the requirements of Lincolnshire Police

- 4.1.4 The British Beer and Pub Association (BBPA) has consolidated good practice on combating violence in licensed premises into a guide to risk assessment. This is available on the BBPA's website: www.beerandpub.com.

4.2 Public Safety

- 4.2.1 The Licensing Authority will carry out their licensing functions with a view to promoting public safety and will seek to ensure that licensees/certificate holders/designated premises supervisors take measures to protect the safety of performers and persons attending licensable activities. The risk to public safety will vary according to the type of premises and the activities carried out.

The Licensing Authority encourages applicants to include in their operating schedules the steps they propose to take to promote public safety.

- 4.2.2 Where an applicant identifies an issue in regard to public safety, which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety.

- 4.2.3 Depending on the individual style and characteristics of the premises and/or events the following issues may be of relevance:

- Use of equipment and effects
- Levels of door supervision
- Measures to prevent the supply and use of illegal drugs
- Physical safety features e.g. use of toughened glass, polycarbonate and plastic containers
- Fire evacuation procedures
- Provision of CCTV (see para 7.1.3)
- Occupancy figures

- 4.2.4 It will be the responsibility of licence/certificate holders/designated premises supervisors to ensure they have complied with all Health and Safety legislation.

- 4.2.5 Where a premise is on a vessel for which a current Passenger Ship Certificate is in force, the public safety objective can generally be considered to be met in respect of the layout, structure, access arrangements and operation of the vessel.

- 4.2.6 Whilst the Licensing Authority cannot require documentation regarding risk assessments to be attached to the operating schedule, it considers such risk assessments to be good practice. Risk assessments, including fire risk assessments, are a useful tool in the instruction and training of staff, as well as a sound basis for review by the licence holder,

in the event of needing to make an application for variation of a premises licence or in response to changing circumstances/conditions at the premises.

4.3 Prevention of Public Nuisance

- 4.3.1 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the potential consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 4.3.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.
- 4.3.3 When addressing public nuisance the applicant should initially identify any particular issues (having regard to their type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant’s operating schedule. For example, the Licensing Authority expects an applicant to identify how public nuisance will be controlled in outside areas, particularly in smoking areas, that are not within the boundary of the licensed area. This would include prohibiting the consumption of alcohol.
- 4.3.4 Applicants are encouraged to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events. These may include:
- The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, local businesses, hospices and places of worship
 - The hours of opening, particularly between 23.00 and 07.00
 - The nature of the activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside the premises
 - The design and layout of the premises and in particular the presence of noise limiting and/or monitoring features
 - The occupancy capacity of the premises (Where appropriate)
 - The availability of public transport to facilitate dispersal of customers
 - ‘wind down period’ between the end of the licensable activities and the closure of the premises
 - last admission time
 - The formulation of a dispersal policy
 - Control of nuisance from persons using outside areas and in particular smoking areas.
- 4.3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities
- Effective and responsible management of premises
 - Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance e.g. to ensure customers leave quietly

- Control of operating hours for all or parts (e.g. garden areas) of the premises, including such matters as deliveries
- Adoption of best practice guidance (e.g. Good practice Guide on the Control of Noise from Pubs and Clubs, produced by Institute of Acoustics)
- Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- Management of people, including staff and traffic (and resulting queues) arriving and leaving premises
- Liaison with public transport providers
- Siting of external lighting, including security lighting
- Management arrangements for collection and disposal of litter
- Effective ventilation systems to prevent nuisance from odour
- Undertaking noise impact assessments
- Regular assessments of the noise coming from the premises when used for regulated entertainment and steps to control the level of noise so as not to cause disturbance to local residents.
- Regular assessment of any noise coming from outside areas, including smoking areas, and steps to control the level of noise so as not to cause disturbance to local residents.
- Keeping a written record of assessments in a log book kept for that purpose including, the time and date of the checks, the person making them and the results including any remedial action.
- Identifying smoking areas in operating schedules to enable responsible authorities to appraise proposals with a view to promoting the prevention of public nuisance licensing objective.
- Keeping external doors (except for access and egress) and windows closed when regulated entertainment is being provided except in the event of an emergency.
- The disposal of empty glass bottles not being undertaken externally between 23.00 hours and opening hours on the following day on every day of the week.
- Posting at exits from the premises in a place where they can be seen and easily read by the public, notices requiring customers to leave the premises and the area quietly and in an orderly manner.
- Regularly clearing outside the premises of litter associated with the operation of the premises e.g. cigarette ends.

4.4 Protection of children from harm

- 4.4.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Except as prohibited by law, access by children to all types of premises will not be limited in any way unless it is considered necessary to do so to protect them from harm. It is hoped that family friendly premises will thrive but the risk of harm to children remains a paramount consideration when determining applications.

The protection of children from harm includes protection of children from moral, psychological and physical harm.

- 4.4.2 When receiving relevant representations and deciding whether to limit access to children, other than in circumstances where the law demands their access to be limited, applicants/licence/certificate holders should consider the activities carried on at the premises. Examples which may give rise to concern in respect of children would include premises;

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

4.4.6 The options available for limiting access by children would include –

- Limitations of the hours when children may be present
- Limitations or the exclusion of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18 years);
- Requirements for accompanying adults (including for example, a requirement which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 years of age from the premises when any licensable activities are taking place.

4.4.7 The Licensing Authority will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder/certificate holder or designated premises supervisor.

4.4.8 The body responsible for the interests of children is:

Lincolnshire Safeguarding Children Partnership

Lincolnshire Safeguarding Children Partnership can be contacted through Lincolnshire County Council.

The reasons the Licensing Authority has chosen the above as a Responsible Authority competent to advise it on the protection of children from harm are:

- That this body is answerable to democratically elected persons and is not answerable to a particular vested interest group;
- That this body is responsible for the area covered by this Licensing Authority and this policy;
- That this body is experienced in dealing with the protection of children.

4.4.9 In respect of premises licensed for the sale of alcohol, The Portman Group Code of Practice on The Naming, Packaging and Promotion of Alcoholic Drinks should be followed to ensure drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.

4.4.10 The sale of alcohol to children and young persons under the relevant age is a criminal offence, often resulting in harm to the children and young persons concerned and disturbance and nuisance to local residents and businesses. Applicants should detail adequate control measures in their operating schedule to prevent under-age sales. The Licensing Authority recognises that Lincolnshire County Council Trading Standards Service, as part of its responsibilities and duties under the legislation controlling the sale of age restricted products, including alcohol, provides advice and guidance on the controls and systems that may be adopted to help prevent such sales. Applicants are strongly advised to contact Trading Standards for advice on this matter. The Licensing Authority also recognises that in liaison with the Police, the Trading Standards Service conducts covert test purchasing exercises to check compliance with the law.

Challenge 25 – The mandatory licence conditions (introduced in October 2014) require relevant premises to hold an age verification policy in relation to the sale or supply of alcohol. The Licensing Authority supports the adoption of the Challenge 25 Schemes (or similar scheme) for licensed premises.

A suitable proof of age policy adopted by a licence holder should require the production of a photo-driving licence or passport before sale or entry into the premises. For added security, licence holders are encouraged to consider use of the Proof of Age Standards Scheme (PASS) and accept cards showing the PASS logo.

4.4.11 Where licence holders wish to employ children they should ensure that the legislation regarding this matter is complied with and any necessary permits to work have been obtained. Further information on the requirements of this legislation is available from the Lincolnshire Safeguarding Children Board.

● [REDACTED]

● [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- [REDACTED]
- [REDACTED]
- [REDACTED]

[REDACTED]

13 Review of Premises Licences and Club Premises Certificates

- 13.1 The Licensing Authority will consider the full range of powers available to it when an application for review of a licence or club premises certificate is heard. It will however be mindful of the need to prevent the review process being used as an opportunity by Responsible Authorities and other persons to re-run earlier representations without due cause. The power to review premises licences represents a crucial protection for the community, especially with regards to the promotion of the four licensing objectives. Reviews of licences may be triggered at any stage by Responsible Authorities or other persons due to a matter arising at the licensed premises and relating to one of the four licensing objectives. It is the Licensing Authority's belief that the promotion of the licensing objectives is best achieved in an atmosphere of mutual co-operation between all stakeholders. Reviews should therefore be mainly reserved for circumstances where early warnings of concerns, where appropriate, and the need for improvement have gone unheeded by the management of the licensed premises.
- 13.2 This Authority emphasises the importance of all parties working in partnership to achieve the promotion of licensing objectives; the Authority expects that Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises.

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Equality Act 2010

2010 CHAPTER 15

PART 11

ADVANCEMENT OF EQUALITY

CHAPTER 1

PUBLIC SECTOR EQUALITY DUTY

149 Public sector equality duty

- (1) A public authority must, in the exercise of its functions, have due regard to the need to—
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- (2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in subsection (1).
- (3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
 - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
 - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

Status: This is the original version (as it was originally enacted).

- (4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- (5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to—
 - (a) tackle prejudice, and
 - (b) promote understanding.
- (6) Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.
- (7) The relevant protected characteristics are—
 - age;
 - disability;
 - gender reassignment;
 - pregnancy and maternity;
 - race;
 - religion or belief;
 - sex;
 - sexual orientation.
- (8) A reference to conduct that is prohibited by or under this Act includes a reference to—
 - (a) a breach of an equality clause or rule;
 - (b) a breach of a non-discrimination rule.
- (9) Schedule 18 (exceptions) has effect.

150 Public authorities and public functions

- (1) A public authority is a person who is specified in Schedule 19.
- (2) In that Schedule—
 - Part 1 specifies public authorities generally;
 - Part 2 specifies relevant Welsh authorities;
 - Part 3 specifies relevant Scottish authorities.
- (3) A public authority specified in Schedule 19 is subject to the duty imposed by section 149(1) in relation to the exercise of all of its functions unless subsection (4) applies.
- (4) A public authority specified in that Schedule in respect of certain specified functions is subject to that duty only in respect of the exercise of those functions.
- (5) A public function is a function that is a function of a public nature for the purposes of the Human Rights Act 1998.

151 Power to specify public authorities

- (1) A Minister of the Crown may by order amend Part 1, 2 or 3 of Schedule 19.