

Notice of Licensing Sub-Committee



Date: Thursday, 29 September 2022 at 10.00 am

Venue: Committee Room, First Floor, BCP Civic Centre Annex, St Stephen's Rd, Bournemouth BH2 6LL

(Please note that Item 5 will be held as a Virtual Teams Meeting in accordance with the Licensing Act 2003 and Item 8 will be held as an 'in person meeting' in accordance with the Local Government (Miscellaneous Provisions) Act 1976 (the 1976 Act))

Membership:

Cllr S C Anderson

Cllr D Brown

Cllr J J Butt

Reserves:

Cllr R Burton (1)

Cllr N Decent (2)

All Members of the Licensing Sub-Committee are summoned to attend this meeting to consider the items of business set out on the agenda below.

The press and public are welcome to view the live stream of this meeting at the following link:

<https://democracy.bcpCouncil.gov.uk/ieListDocuments.aspx?MId=4760>

If you would like any further information on the items to be considered at the meeting please contact: Jill Holyoake at Jill.Holyoake@bcpCouncil.gov.uk Democratic Services on 01202 096660 or email democratic.services@bcpCouncil.gov.uk

Press enquiries should be directed to the Press Office: Tel: 01202 118686 or email press.office@bcpCouncil.gov.uk

This notice and all the papers mentioned within it are available at democracy.bcpCouncil.gov.uk

GRAHAM FARRANT
CHIEF EXECUTIVE

21 September 2022



Available online and
on the Modern.gov
app



Maintaining and promoting high standards of conduct

Declaring interests at meetings

Familiarise yourself with the Councillor Code of Conduct which can be found in Part 6 of the Council's Constitution.

Before the meeting, read the agenda and reports to see if the matters to be discussed at the meeting concern your interests



What are the principles of bias and pre-determination and how do they affect my participation in the meeting?

Bias and predetermination are common law concepts. If they affect you, your participation in the meeting may call into question the decision arrived at on the item.

Bias Test

In all the circumstances, would it lead a fair minded and informed observer to conclude that there was a real possibility or a real danger that the decision maker was biased?

Predetermination Test

At the time of making the decision, did the decision maker have a closed mind?

If a councillor appears to be biased or to have predetermined their decision, they must NOT participate in the meeting.

For more information or advice please contact the Monitoring Officer
(susan.zeiss@bcpcouncil.gov.uk)

Selflessness

Councillors should act solely in terms of the public interest

Integrity

Councillors must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships

Objectivity

Councillors must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias

Accountability

Councillors are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this

Openness

Councillors should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing

Honesty & Integrity

Councillors should act with honesty and integrity and should not place themselves in situations where their honesty and integrity may be questioned

Leadership

Councillors should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs

AGENDA

Items to be considered while the meeting is open to the public

- | | |
|---|---------|
| 1. Election of Chair
To elect a Chair of this meeting of the Licensing Sub-Committee. | |
| 2. Apologies
To receive any apologies for absence from Members. | |
| 3. Declarations of Interests
Councillors are requested to declare any interests on items included in this agenda. Please refer to the workflow on the preceding page for guidance.
Declarations received will be reported at the meeting. | |
| 4. Protocol for Public Speaking at Virtual Meetings
A revised protocol for public speaking at formal virtual meetings of the Licensing Sub Committee when it is considering Licensing Act 2003 business is included with the agenda sheet for this meeting. | 5 - 8 |
| 5. Application for Review of Premises Licence at Bargain Convenience Store, 495 Wimborne Road, Bournemouth, BH9 2AW
To consider an application by Dorset Police for review of the premises licence following an intelligence led operation with Officers from HMRC and Trading Standards.

This matter is brought before the Licensing Sub Committee for determination. | 9 - 52 |
| 6. Protocol for Public Speaking at Meetings
A protocol for public speaking at formal 'in person' meetings of the Licensing Sub Committee is included with the agenda sheet for this meeting. | 53 - 56 |
| 7. Exclusion of Press and Public
In relation to the items of business appearing below, the Committee is asked to consider the following resolution: -

'That under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.' | |
| 8. Consideration of suitability of Public Carriage Driver
An application to become a Public Carriage Driver has been received by | 57 - 82 |

the Licensing Office.

The Licensing Sub-Committee is asked to determine whether the applicant is considered a 'fit and proper' person to hold a Public Carriage driver's licence.

No other items of business can be considered unless the Chairman decides the matter is urgent for reasons that must be specified and recorded in the Minutes.

LICENSING COMMITTEE AND SUB COMMITTEE - PROTOCOL FOR PUBLIC REPRESENTATION AT VIRTUAL MEETINGS

1. Introduction

- 1.1. The existing protocol for public speaking has been adapted to apply in respect of virtual hearings under the Licensing Act 2003 and the Gambling Act 2005.
- 1.2. This includes applications relating to the licensing of alcohol, regulated entertainment, late night refreshment and gambling establishments, which are the responsibility of the Licensing Committee/Sub Committee to determine as set out in Part 3(A)-3 of the Council's Constitution.
 1. The Chair welcomes everyone, matters of general housekeeping are dealt with, notification that the hearing may be recorded for live and subsequent broadcast on the Council's website, reminder to switch mobile phones to silent, principles for managing formal virtual meetings.
 2. The Chair identifies all parties present and makes introductions.
 3. Matters of general housekeeping are dealt with, notification that the hearing may be recorded for live and subsequent broadcast on the Council's website, reminder to switch mobile phones to silent.
 4. All persons who have given notice of their intention to speak are identified.
 5. Identify if any person who wishes to withdraw a representation or wishes not to speak
 6. Chair explains proposed procedure and order of speaking for hearing as set out in Appendix A. All parties confirm agreement or make representations on procedure proposed.
 7. Licensing Officer's report is presented.
 8. Parties present their representations in the order agreed.
 9. Parties who are speaking should not repeat the information which they have already given in writing in their representation. They will be able to expand on the written information given, provided the information remains relevant. Any addition information should be limited to the grounds of their representation(s). For example, if they are objecting on the grounds of Public Nuisance, then they should confine their comments to matters relating to Public Nuisance.
 10. Members of the Licensing Committee or Sub Committee may ask questions after each representation and at the end of all representations. Parties, will be allowed to ask questions through the Chair.

11. Following representations, the parties will be given the opportunity to sum up. Party who spoke first to go last. The hearing will then conclude.
12. Members will deliberate in private with the clerk and legal representative as appropriate present.
13. The decision will be taken by the Committee and notification of the decision will be given within the period of five working days beginning with the day or the last day on which the hearing was held in accordance with the regulations. The notification of decision will include information about the right of appeal as appropriate.
14. The Legal Advisor will advise the parties of any right of appeal as appropriate at the conclusion of the hearing.

2. General points

- The hearing may be adjourned at any time at the discretion of the Members
 - Members may amend the procedure at any time if they consider it to be in the public interest or in the interest of a fair hearing
 - The Sub Committee may decide to conduct all or part of a hearing in non public session where it considers the public interest in doing so, outweighs the public interest in the hearing.
 - The Chair may exclude any person from a hearing for being disruptive.
 - Meetings of the Licensing Committee in public session are recorded by the Council for live and subsequent broadcast on its website.
 - The hearing will take the form of a discussion.
 - Only persons (or their representatives) who have made an application, are subject to an application or have submitted a written representation to the Licensing Authority under the relevant Act are permitted to speak at the hearing.
 - Any further information to support an application, representation or notice (as applicable) can be submitted before the hearing. It may only be submitted at the hearing with the consent of all parties. The Licensing Act 2003 (Hearings) Regulations 2005 shall apply. Whereever possible the Licensing Authority encourages parties to submit information at the earliest opportunity to allow sufficient time for this to be considered before the hearing and avoid the need for adjournment.
 - If a party has informed the Authority that they do not intend to participate, or be represented at the hearing, or has failed to advise whether they intend to participate or not, the hearing may proceed in their absence
- 2.2. For other matters in Part 3(A)-3 of the Council's Constitution which are the responsibility of the Licensing Committee and not included in this protocol or the protocol for in person hearings, the procedures set out in Part 4D of the

Council's Constitution in relation to public questions, statements and petitions shall apply.

- 2.3. This includes such matters as making recommendations on relevant policies, approving the level of fees charged by the Council, and making decisions on tariffs charged by the Public Carriage Trade.
- 2.4. The Council's Constitution can be accessed using the following link:
<https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>
- 2.5. For further information please contact democraticservices@bcpccouncil.gov.uk

Proposed procedure and order of speaking for virtual hearings

- The Licensing Officer/Other Council Officer presents report
- Applicant will make their Application
- Questions of the Applicant by all parties, Members of the Committee/Sub-Committee to go first
- Responsible Authorities and Other Persons will make their representations.
- Questions of the Responsible Authorities and Other Persons. Members of the Committee/Sub-Committee to go first.
- All parties will be given an opportunity to sum up (with the party who spoke last to go first). The hearing will then conclude.
- Sub-Committee will deliberate in private with Legal Adviser and Clerk present. (Councillors new to Licensing may observe but will not take part in the decision making).
- Notification of the Sub Committee's decision will be given within the period of five working days beginning with the day or the last day on which the hearing was held in accordance with the regulations. The notification of decision will include information about the right of appeal as appropriate.
- The Legal Adviser will advise parties of any right of appeal as appropriate at the conclusion of the hearing.

LICENSING SUB-COMMITTEE



Report subject	Application for Review of Premises Licence at Bargain Convenience Store, 495 Wimborne Road, Bournemouth, BH9 2AW
Meeting date	12 October 2022
Status	Public Report
Executive summary	To consider an application by Dorset Police for review of the premises licence following an intelligence led operation with Officers from HMRC and Trading Standards to identify and tackle premises that are involved in the sale of illicit alcohol and tobacco. The review relates to concerns that the premises are not upholding the prevention of crime and disorder licensing objective.
Recommendations	<p>It is RECOMMENDED that:</p> <p>Members consider the following option: -</p> <ul style="list-style-type: none"> (a) Modify the conditions of the licence; and/or (b) Exclude a licensable activity from the scope of the licence; and/or (c) Remove the Designated Premises Supervisor; and/or (d) Suspend the licence for a period not exceeding three months; or (e) Revoke the licence; or (f) Leave the licence in its current state. <p>Members are asked to make a decision at the end of the hearing after all relevant parties have been given the opportunity to speak. Members must give full reasons for their decision.</p>
Reason for recommendations	<p>Where a review application by a responsible authority, or any other person, has been received the scheme of delegation set out in the Council's Constitution states that these applications should be dealt with by the Sub-Committee.</p> <p>The Licensing Authority may only consider aspects relevant to the application that have been raised in the application.</p>

Portfolio Holder(s):	Councillor Bobbie Dove – Community Safety and Regulatory Services
Corporate Director	Jess Gibbons – Chief of Operations
Report Authors	Tania Jardim – Licensing Officer
Wards	Winton East
Classification	For Decision

Background

1. An application for review of the premises licence, under Section 51 of the Licensing Act 2003, by Dorset Police, was received by the Licensing Authority on the 15th of August 2022. The application relates to the prevention of crime and disorder licensing objective.
2. A copy of the review application and supporting paperwork are attached at Appendix 1.
3. The premises were granted a premises licence on 16th of January 2017. A copy of the current licence is attached at Appendix 2.
4. A plan showing the location of the premises is attached at Appendix 3.

Consultation

5. A copy of the application was served on all responsible authorities and the licence holder on the 16th of August 2022.
6. A site notice was erected on the premises by the licensing officer on the 16th of August 2022. Further notices were placed in the main public noticeboards of BCP Council's offices at St Stephen's Road and Bourne Avenue and a notice was also published on the Council's website.
7. A representation in support of the review was received from one other person. A copy of this representation is attached at Appendix 4.
8. During the consultation, Mr David Ramsay, Licensing Consultant informed the Licensing Authority that he had been instructed by the licence holder to act for them. Mr Ramsay carried out a Review of the Premises' operation and provided a copy of his findings and recommendations. A copy of Mr Ramsay's Survey and Recommendations is attached at Appendix 5.
9. Mr Ramsay's Survey and Recommendations were forwarded to Dorset Police and one other person who made a representation. Dorset Police have confirmed their original stance stands.

Options Appraisal

10. Before making a decision, Members are asked to consider the following matters: -
 - The representations made by Dorset Police.

- The submissions made by or made on behalf of the applicant.
- The relevant licensing objective, namely the prevention of crime and disorder.
- The Licensing Act 2003, Regulations, Guidance and the Council's Statement of Licensing Policy.

Summary of financial implications

11. An appeal may be made against the decision of Members by the applicant or the holder of the premises licence to the Magistrates' Court which could have a financial impact on the Council.

Summary of legal implications

12. If Members decide on an option available to them which the applicant or licence holder does not agree to, they may appeal to the Magistrates' Court within a period of 21 days beginning with the day that they are notified, in writing, of the decision.

Summary of human resources implications

13. N/A

Summary of sustainability impact

14. N/A

Summary of public health implications

15. N/A

Summary of equality implications

16. N/A

Summary of risk assessment

17. N/A

Background papers

BCP Council – Statement of Licensing Policy

<https://www.bcpCouncil.gov.uk/Business/Licencesandpermits/Documents/Gambling/final-version-solp-2020.pdf>

Hearing Regulations

<https://www.legislation.gov.uk/ukSI/2005/44/made>

Revised Guidance issued under Section 182 of the Licensing Act 2003 (April 2018)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003__April_2018_.pdf

Appendices

- 1 – Copy of Review Application and supporting paperwork
- 2 – Copy of Current Premises Licence
- 3 – Location Plan
- 4 – Copy Representation
- 5 – Survey & Recommendations from Mr Ramsay

[Insert name and address of relevant licensing authority and its reference number (optional)]

**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 Sergeant Gareth Gosling on behalf of the Chief Officer of Dorset 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	
Bargain Convenience Store 495 Wimborne Road	
Post town Bournemouth	Post code (if known) BH9 2AW

Name of premises licence holder or club holding club premises certificate (if known)
Mr Ali Rashid Zmnako

Number of premises licence or club premises certificate (if known)
BH093646

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

I am 18 years old or over

Please tick ✓ yes

☐

**Current postal
address if
different from
premises
address**

Post town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Drug & Alcohol Harm Reduction Team Bournemouth Police Station 5 Madeira Road Bournemouth Dorset BH1 1QQ
Telephone number (if any) [REDACTED]
E-mail address (optional) licensing@dorset.pnn.police.uk

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

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

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

The Prevention of Crime and Disorder

Specifically, that the premises is involved in criminal activity that the Licensing Act 2003 considers particularly serious, namely the sale and storage of smuggled tobacco.

Section 11.27 of the Section 182 Licensing Act 2003 Guidance states the following –

There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously.

One of those specific activities are listed as the use of a premises *for the sale or storage of smuggled tobacco and alcohol.*

Section 11.28 the Guidance continues to state that, *It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines 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.*

Dorset Police no longer have confidence in the DPS or Premises Licence Holder to uphold the licensing objectives.

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

This application for a review of the premises licence for Bargain Convenience Store, also known as *Bargain Booze*, 495 Wimborne Road, Bournemouth, is being submitted by Dorset Police as we can evidence that this premises undermined the licensing objective of the Prevention of Crime & Disorder.

It is and always has been the intention of Dorset Police Drug & Alcohol Harm Reduction Team to engage and support licensees throughout Dorset to promote the four licensing objectives of Preventing Crime & Disorder, Preventing Public Nuisance, Promoting Public Safety and Protecting Children from Harm.

It is our expectation that all licensees will endeavour to meet these objectives and fulfil their duty as licensees with responsibilities to uphold these objectives and meet the conditions of their premises licence.

In this instance, however, Dorset Police and our partners at HM Revenue & Customs (HMRC) have identified that this premises have fundamentally failed in the objective to prevent crime & disorder through facilitating the sale and storage of smuggled tobacco.

Smuggled tobacco presents a significant risk to the community. In addition to the correct duties not being paid to central Government on these products, there is known to be significant damage to local legitimate licensed premises who rely on sales of duty-paid alcohol and tobacco to be sustainable. Furthermore, smuggled tobacco can potentially cause greater harm to consumers who may be unaware whether the product is genuine and/or safe to consume. As these products are generally offered for sale at a cheaper price, this encourages excessive consumption, which impacts on the health of the consumer.

On 12th July 2022 officers from Dorset Police, Trading Standards and HMRC conducted an intelligence-led operation in Bournemouth and Poole, visiting several premises where we have received prior intelligence that smuggled alcohol and/or tobacco were being offered for sale.

At 4.00pm officers attended *Bargain Booze* and upon conducting a search of the premises HMRC located and seized 2800 cigarettes and 1kg of hand-rolling tobacco from a location in the store where they were being stored or offered for sale, namely in a drawer adjacent to the till and a holder in the stock storage room. These products were confirmed by the Premises Licence Holder (PLH) as being smuggled. The PLH further stated during the visit that he couldn't identify from whom he had bought the products, only that there were always Polish and Romanians asking if he wanted to buy tobacco. When asked if he knew the tobacco to be illicit, the PLH stated 'Yes'.

There were alcohol products stored and offered for sale at the premises that HMRC queried as being illicit and no receipts could be produced, however, the focus remained on the tobacco, which was seized and will subsequently be destroyed.

As previously highlighted, the Revised Guidance issued under Section 182 of the Licensing Act 2003, published in April 2018, is clear at Section 11.27 where it states that there is '*certain activity that may arise in connection with licensed premises which should be treated particularly seriously*'. This includes the use of licensed premises '*for the sale or storage of smuggled tobacco and alcohol*'.

The Guidance further envisages at section 11.28 that '*Police...and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime*' and that '*where reviews arise and the licensing authority determines 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*'.

There can be no excuse for licensees promoting crime within their premises. When considering the relevance of the review and the potential sanctions, if any, that the Sub-Committee may choose, it should be emphasised that Dorset Police and other partner agencies are working tirelessly to tackle this type of criminality that is becoming a National concern. It is the view of Dorset Police that this type of activity should not be condoned, and it is very much our intention to continue to work closely with our partners to conduct further similar operations in the future throughout Bournemouth and Poole to tackle this criminality.

Dorset Police invite the Sub-Committee to consider all of the options available to them under the Licensing Act 2003 with particular consideration to be given to revocation of the Premises Licence as we do not consider at this time that the other options available to the Sub-Committee would sufficiently meet the intentions of Licensing Act 2003 Section 182 Guidance given that the licence holder has willingly, and knowingly, avoided paying duty on the tobacco being offered for sale.

Whilst fiscal matters are not of concern to the Sub-Committee; in the event that the Licensing Sub-Committee were to revoke the premises licence, Dorset Police are of the view that the *Bargain Booze* business will remain viable given that the community is made up of residential and commercial premises that will continue to need groceries.

Dorset Police invite the Licensing Sub-Committee of BCP Council Licensing Authority to take this opportunity to stand alongside Dorset Police and our partners to tackle the sale of smuggled alcohol and tobacco to ensure that other legitimate businesses can continue to thrive and that we can continue to protect the public who benefit from our valued licensed premises.

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

☐

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Please tick ✓

yes

- 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



.....

Date **15 August 2022**

.....

Capacity **Police Sergeant**

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

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.

Application to Review Premises Licence Report

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Bargain Convenience Store (Bargain Booze) – BH093646

This report is to be considered alongside the formal Application to Review a Premises Licence submitted to the Licensing Authority. It is the intention of Dorset Police to avoid any repeat of information previously submitted and to provide both the licensee (or their representative) and members of the Licensing Sub-Committee with additional information, context and evidence in support of the application. This report is being completed and submitted as soon as practicable for the benefit of all parties. Whilst all details are correct at the time of completion, Dorset Police reserve the right to amend / introduce additional information and evidence in advance of the hearing.

Background

This premise is a grocery and convenience store located at Wimborne Road, Winton, Bournemouth. This area is a vibrant area with a busy mix of residential and commercial premises. Whilst the licence is in the name of Bargain Convenience Store, the name of the store according to the signage is *Bargain Booze*.

The premise benefits from a 24-hour licence, always permitting the sale of alcohol and other good, including cigarettes. Whilst Dorset Police accept that there are benefits to the late evening/night provision for shift workers and those enjoying the night time economy, this does present challenges for the operator and has resulted in occasional engagement between the operator and Dorset Police following receipt of reports of alcohol-related anti-social behaviour associated with this premises.

Having worked with partners and the community to develop intelligence, an operation was conducted with HMRC and BCP Council Trading Standards to identify and tackle premises that are involved in the sale of illicit alcohol and tobacco.

Officers from Dorset Police and HMRC attended Bargain Convenience Store on 12TH July 2022 and soon discovered a quantity of cigarettes that had not been subject of UK duty.

The products seized and later confirmed as being 'duty free' were as follows –

2,800 cigarettes
1kg of hand rolling tobacco

The value of the duty that had not been paid on this seized product was estimated at **£1,634**.

Concerns

During the visit with HMRC, the operator and licence holder of Bargain Convenience Store, Mr Zmnako, revealed that they had purchased the goods from several individuals from Eastern Europe. It is difficult to estimate the true value of the stock that has been sold at the premises which has not been subject of appropriate import duty over the past weeks, months or years.

Dorset Police are concerned that this experienced operator has supported the organised crime of importing of illicit cigarettes and tobacco. This deliberate activity will certainly be resulting in an increase in the availability of cheap cigarettes in this area, which impacts on the health of consumers and the demand on the NHS.

Summary

Dorset Police are of the view that this activity is a clear indication of the licence holder being incapable of promoting the licensing objectives and meeting the conditions of this Premises Licence. The impact is such that the premises is having a detrimental effect on the local community.

Available Outcomes of the Review

To assist the members of the Sub-Committee, Dorset Police make the following submissions in relation to the available outcome options in respect of this Application for Review -

No Action Taken

Dorset Police are of the view that taking no action is not a viable option. The Sub-Committee will hopefully agree that Dorset Police (and our partners) have engaged in worthwhile enforcement action to target organised crime affecting both our residential and business communities. Dorset Police seek a Review of a Premises Licence as a last resort where engagement and support has failed to result in any significant improvement.

Exclude Licensable Activities from the Licence

As the current Premises Licence only includes the Sale by Retail of Alcohol, Dorset Police are of the view that this option would not be appropriate as this would effectively result in the revocation of the licence.

Modify / Add Conditions

If the Sub-Committee were inclined to consider modifying the existing conditions, Dorset Police do experience challenges when determining suitable conditions that tackle anti-social behaviour occurring immediately outside 'off-licence' premises.

This premises currently benefits from a 24-hour licence for the off-sales of alcohol.

If the Sub-Committee are inclined to consider additional conditions or impose restrictions to this premises licence that might assist the premises to promote the licensing objectives and ensure compliance with the existing conditions, Dorset Police make the following observations -

- Dorset Police do not consider that there are any conditions that would adequately mitigate the concerns that we share with our partners concerning the storage and sale of illicit tobacco.

The existing conditions attached to the Premises Licence are not to the standard expected to meet current 'best practice' for a premises of this type.

Remove DPS

The existing DPS is the owner of the premises and the holder of the Premises Licence. Dorset Police anticipate that any change in DPS would likely have a limited impact as any new DPS would be receiving direction and instruction from the current DPS and owner of the premises, who has failed to promote the licensing objectives and have been responsible for encouraging the importing of illicit tobacco to this premises.

Dorset Police are of the view that this option would not remedy the issues identified above.

Suspend the licence for a period (not exceeding 3 months)

The suspension of this Premises Licence is unlikely to result in any substantial improvement. This is an experienced operator who should be acutely aware of their obligations to uphold the licensing objectives. As detailed previously, it is unknown how long this activity has been taking place and how much illicit product has been sold through this premises.

Revoke the Licence

Dorset Police support the view that this option should be a last resort for the Sub-Committee. Whilst fiscal issues are outside of the considerations of the Sub-Committee, Dorset Police consistently adopt a proportionate approach, wherever possible, to remain sensitive to commercial viability of businesses.

Dorset Police acknowledge the value that licensed premises add to communities as places of social and economic value, however, where the presence of a licensed premise becomes detrimental to a community, appropriate action must be taken to seek improvement or reduce/remove the concerned premises.

If the options proposed above are not considered appropriate, Dorset Police propose that this Premises Licence be revoked.

The Sub-Committee are reminded that the Revised Guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003, last published in April 2018, is clear at Section 11.27 where it states that there is *'certain activity that may arise in connection with licensed premises which should be treated particularly seriously'*. This 'activity' includes the use of licensed premises *'for the sale or storage of smuggled tobacco and alcohol'*.

The Guidance further envisages at section 11.28 that *'Police...and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime'* and that *'where reviews arise and the licensing authority determines 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'*.

The revocation of the premises licence and the exclusion of the licensable activities will not render the premises unusable as this premises do offer a range of products for sale. There is of course the option for a further Premises Licence Application to be submitted in the future.

Conclusion

Dorset Police do not intend to elaborate a great deal on the above during the Sub-Committee hearing, however, we will ensure our availability to answer and queries and provide any further clarification/support/advice to the Sub-Committee as required.

Dorset Police invite the Sub-Committee to follow the Section 182 Guidance issued by the Secretary of State which provides that revocation of a licence in these circumstances, should be seriously considered.

WITNESS STATEMENT

ENGLAND AND WALES ONLY

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

Statement of: Isabelle Turner

URN: 88/Code/CAN/YY

Age if under 18: over 18 (If over 18 insert 'over 18') Occupation: Officer of HMRC

This statement (consisting of 1 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: I.Turner

Date: 28/07/2022

Indicate if witness evidence is visually recorded² No (If YES, see guidance)³

I am a Mobile Enforcement Officer of HM Revenue & Customs (HMRC) based at Ty William Morgan, 6 & 7 Central Square, Cardiff, CF10 1EP.

At 16:17 on 12th July 2022. I was on duty at Bargain Booze, 495 Wimborne Rd, Bournemouth, BH9 2AW with Officers Herbert, Fenton, Briaris, Maxted and Thomas of HM revenue and Customs, along with Police Officers. We entered the property under section 112 of Customs Excise Management Act 1979.

At 16:35 I seized 2,800 non-uk duty paid mixed branded cigarettes under section 139 of Customs Excise Management Act 1979. I sealed these items in an Evidential Bag Number AB0765087 which I produced marked TURNER01.

At 16:38 I seized 1KG non-uk duty paid mixed branded tobacco under section 139 of Customs Excise Management Act 1979. I sealed these items in an Evidential Bag Number AB0765088 which I produced marked TURNER02.

The estimated Revenue loss for the seized goods is valued at: - £1,634.

Date: 28/07/2022

Signature: Isabelle Turner
(Signature of witness)Signature: I.Turner
(Signature witnessed by)**STATEMENT OF WITNESS: ENGLAND AND WALES ONLY**
Page 1 of 2

Statement of: Isabelle Turner

URN: 88/Code/CAN/YY

At 16:52 I issued ENF3191 to Ali Rashid Zmnako, D.O.B [REDACTED],

who was identified as the Owner of Bargain Booze.

At 17:00 the search concluded, I left the premises and placed TURNER01 and TURNER02 into official vehicle. I.T

Date: 28/07/2022

Signature: Isabelle Turner
(Signature of witness)Signature: I.Turner
(Signature witnessed by)**STATEMENT OF WITNESS: ENGLAND AND WALES ONLY**
Page 2 of 2

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APPENDIX 2

Premises Licence Part A

Premises licence number: BH093646

Postal address of premises, or if none, ordnance survey map reference or description:	
Bargain Convenience Store 495 Wimborne Road	
Post town: Bournemouth	Post Code: BH9 2AW
Telephone number: 01202 539952	

Licensable activities authorised by the licence:
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:
Supply of Alcohol Monday - 00:01 to 00:00 Tuesday - 00:01 to 00:00 Wednesday - 00:01 to 00:00 Thursday - 00:01 to 00:00 Friday - 00:01 to 00:00 Saturday - 00:01 to 00:00 Sunday - 00:01 to 00:00

The opening hours of the premises:
Monday - 00:01 to 00:00 Tuesday - 00:01 to 00:00 Wednesday - 00:01 to 00:00 Thursday - 00:01 to 00:00 Friday - 00:01 to 00:00 Saturday - 00:01 to 00:00 Sunday - 00:01 to 00:00

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:
Alcohol will be consumed off the premises.

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:
Mr Ali Rashid Zmnako [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Name, address and telephone number of designated premises supervisor where the premises licence authorises the supply of alcohol:
Mr Ali Rashid Zmnako [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

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

Annex 1 – Mandatory conditions

Mandatory Conditions (Sections 19,20,21 LA 2003)

- 1.1. There shall be no sale or supply of alcohol when there is no designated premises supervisor in respect of this premises licence or at a time when the said premises supervisor does not hold a personal licence or when his/her licence is suspended.
- 1.2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The Licensing Act 2003 (Mandatory Licensing Conditions) (Amendment) Order 2014

- 1.3.
 1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

The Licensing Act 2003 (Mandatory Conditions) Order 2014

- 1.4.
 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. For the purposes of the condition set out in paragraph 1 -
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) “permitted price” is the price found by applying the formula —

$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or

- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 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.
 4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 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 consistent with the operating schedule

- 2.1 The premises operate as a newsagents/convenience store with an off licence facility.

Prevention of Crime and Disorder

- 2.2 A CCTV system shall be installed to the recommendations of the Dorset Police Crime Preventions Officer.
- 2.3 The premises licence holder shall work to maintain liaisons with the police and make available to them any CCTV recorded images they consider necessary in the course of any investigation as well as the refusals book.
- 2.4 No sale of intoxicating liquor shall be made to persons where there are grounds to believe that the sale shall result in crime and disorder.

Public Safety

- 2.5 The premises licence holder shall endeavour to ensure that the premises are safe for both staff and the general public.
- 2.6 The premises licence holder shall ensure the premises complies fully with any recommendations made by the Dorset Fire and Rescue Service in respect of fire safety.

Prevention of Public Nuisance

- 2.7 The premises licence holder shall help alleviate public nuisance on and in the vicinity of the premises during the times when the premises are open to members of the public.
- 2.8 Notices shall be posted asking clients to have consideration for local residents when leaving the premises, which will be re-enforced by management staff.
- 2.9 All deliveries and the collection of refuse shall take place during day time hours, as at present.

Protection of Children from Harm

- 2.10 Training shall be given to all staff using training methods recognised by the Police/ Trading Standards.
- 2.11 Only PASS approved ID's shall be accepted as well as passports or photo driving licences.

- 2.12 A refusals register or other recognised method shall be used to monitor staff compliance.
- 2.13 PASS scheme signage shall be displayed at the entrance to the premises.
- 2.14 The designated premises supervisor shall instruct all staff selling or supplying intoxicating liquor not to serve persons under the age of 18 years.
- 2.15 No employee under the age of 18 years of age shall be responsible for the sale of intoxicating liquor.

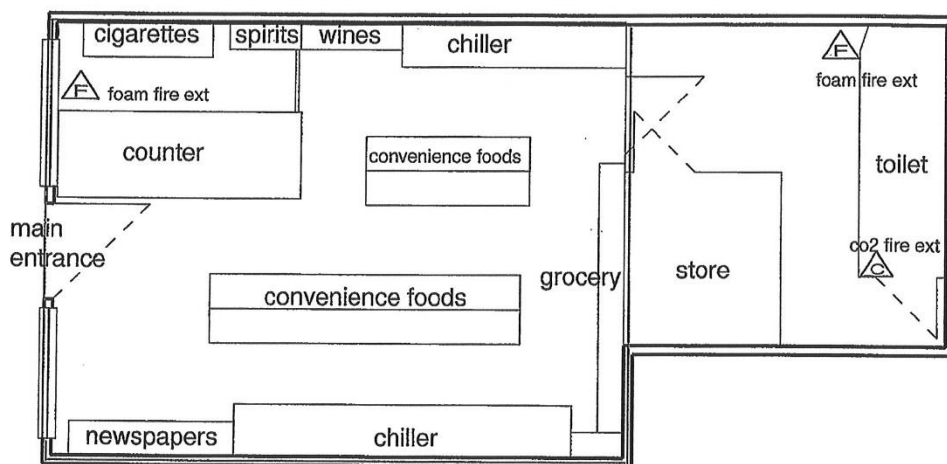
Annex 3 – Conditions attached after a hearing by the licensing authority

N/A

Annex 4 – Plans

This licence is issued in accordance with the plan M093646, dated 16.01.2007.

Winton News Mart, 495 Wimborne Road, Winton, Bournemouth



Dorset Licensing
 Prepared for :- Mr N.Guganesan
 Application for grant of a Premises Licence
 Scale 1: 50 Ref. AD39/748032/P/15/12/2006
 0 1m 2m 3m

BOURNEMOUTH BOROUGH COUNCIL
 LICENSING SECTION
 16 JAN 2007
 APPROVED
 REF. No. M093646



**Premises Licence
Part B**

Premises licence number: BH093646

Postal address of premises, or if none, ordnance survey map reference or description:	
Bargain Convenience Store 495 Wimborne Road	
Post town: Bournemouth	Post Code: BH9 2AW
Telephone number: 01202 539952	

Licensable activities authorised by the licence:
Supply of Alcohol

The times the licence authorises the carrying out of licensable activities:
Supply of Alcohol: Monday to Sunday - 00:01 to 00:00

The opening hours of the premises:
Monday to Sunday - 00:01 to 00:00

Where the licence authorises supplies of alcohol whether these are on and/ or off supplies:
Alcohol will be consumed off the premises.

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence:
Mr Ali Rashid Zmnako, [REDACTED] [REDACTED]

Registered number of holder, for example company number, charity number (where applicable):
N/A

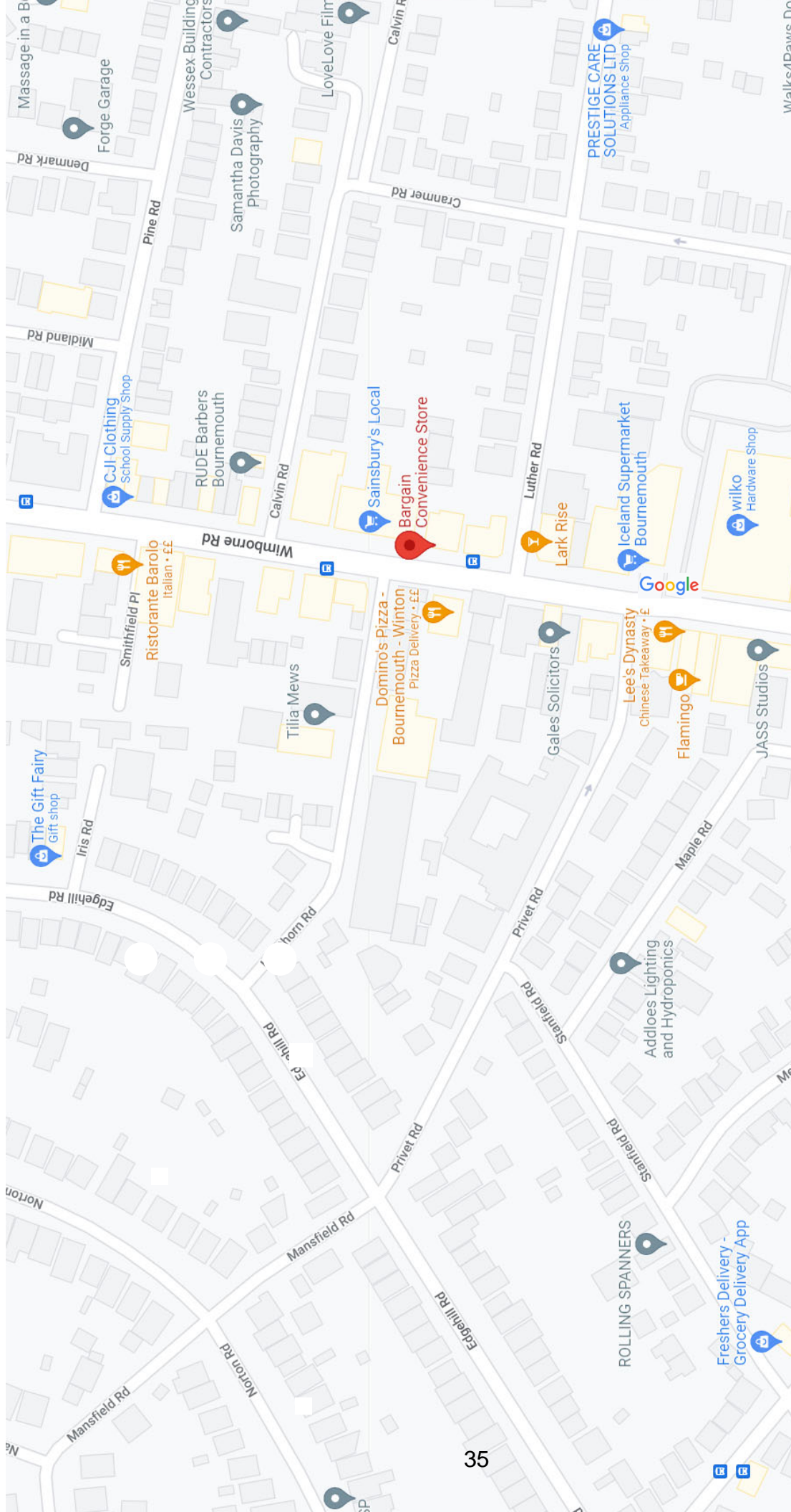
Name of designated premises supervisor where the premises licence authorises the supply of alcohol:
Mr Ali Rashid Zmnako

State whether access to the premises by children is restricted or prohibited:
N/A

Issued: 16 January 2007
Revised: 6 March 2018 [Transfer & Vary DPS]

[REDACTED]
Mrs Nananka Randle
Licensing Manager

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From: [REDACTED]
To: [Licensing.Com](#)
Subject: 199070 Bargain of Winton
Date: 31 August 2022 08:56:38

To whom it may concern,

I understand the license of this business is under review and I would like to support it's complete withdrawal.

I operate a business in Winton, not far from this shop, and have done for several years. It is common local knowledge that Bargain of Winton sell goods that are not legal: from cheap (illegal/ fake) cigarettes and tobacco to alcohol. This has been going on for years.

Following the recent raid the staff have openly said if they have to they will just open under another name.

The police are quite right in their challenge and need the council's support to stamp out this tax evading, illegal business model once and for all.

[REDACTED]

Yours sincerely,

[REDACTED]

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David Ramsay Licensing Consultant



‘Bargain Convenience Store’

**495 Wimborne Road
Bournemouth
BH9 2AW**

Survey & Recommendations

31st August 2022

Introduction

My name is David Ramsay and I am a self-employed licensing consultant and trainer working regularly with the licensing trade in the United Kingdom.

I have been asked to use my expertise to survey and assess the operation known as 'Bargain Convenience Store' 495 Wimborne Road Bournemouth BH9 2AW in relation to its responsibility under the Licensing Act 2003, and its stance as a responsible alcohol retailer.

Prior to taking up my current profession as a Licensing Consultant I had a successful career as a police officer both in Strathclyde and Dorset completing my career in the post of Poole Division Licensing Sergeant in January 2007.

I was also an qualified expert drugs witness for the Crown Court until my recent retirement.

The latter part of my police career was concentrated on the implementation of the Licensing Act 2003 within the county of Dorset.

In anticipation of this Act I implemented the 'Poole Safe' licensing initiative. This initiative improved the standard of operation within local licensed premises and won National recognition as 'best practice' in relation to the 'Night Time Economy'.

The ethos of 'Poole Safe' was to encourage the licensed trade to work closely with the Police and other agencies, thus improving safety and standards within and around their premises.

The initiative also included the very prestigious 'Safe & Sound Awards' that recognised and awarded good practice within licensed premises.

I also gained vast experience representing Dorset Police at Licensing Reviews, mediation, Magistrates court and as a member of the Dorset Licensing Group.

Since leaving Dorset Police I have represented numerous licensed premises throughout the country in licensing matters and have delivered training on behalf of the British Institute of Innkeeping to both the licensed trade and Responsible Authorities.

I now have my own training centre delivering courses for the Highfield Awarding Body for Compliance (HABC).

The Licensing Act 2003 places a responsibility on licensed premises to reach certain standards to satisfy licensing objectives.

It was my experience that these standards are often not met. This is usually due to a lack of expertise or understanding as to the requirements of the police and/or other interested parties.

In surveying this premises I have endeavoured to identify failings and/or shortcomings in the operation and recommend methods, training and equipment that will ensure the standards required under the Licensing Act 2003.

Premises

'Bargain Convenience Store' is a small retail outlet situated on the busy Wimborne Road Winton, a suburb of Bournemouth.

The store is surrounded by other retail premises many of them with residential flats in the upper floors.

The surrounding streets have many residential properties that are served by Bargain Convenience Store and other food outlets.

The shop premises is owned by the premises licence holder **Mr. Ali Rashid Zmnako** who lives with his wife **Zhiki Zmnako** and 3 children in nearby [REDACTED] Road Winton.

The shop is the only source of income for the family.

The Layout of the shop is similar to most convenience stores. It is of a square shaped design with two islands containing mostly groceries. The serving counter is to the immediate left of the shop entrance. The alcoholic beverages are displayed mostly on the left hand wall with the spirits behind the serving counter next to the cigarettes and tobacco. There is also a refrigerator unit against the right wall that contains a quantity of beers and wines.

Although the shop caters for many essential shopping requirements, much of its trade relies on the sale of alcoholic beverages

On examining the shop floor the vast majority of alcoholic beverages were responsibly displayed.

The position of the displays of the alcoholic beverages allowed them to be covered from the serving counter and/or CCTV cameras.

Due to the position of the shop within a densely populated area, the staff are required to deal with a diverse class of customer. This in turn

requires them at times to deal with difficult and intimidating customers.

The licensee states that there is a refusals register in existence but he stated that it had been misplaced and was unable to produce it.

There is no incident book in existence.

The premises licence summary was clearly displayed behind the serving counter as was a 'Challenge 25' notice.

There were however no notices asking the customers to leave quietly.

There is no Age Verification Policy in existence.

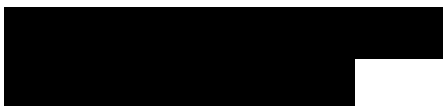
These omissions are required to be rectified immediately.

Staff & Training

Currently the staff members are as follows:

Mr Ali Rashid ZMNAKO

Mrs Zhikl ZMNAKO



Mr ZMNAKO is a personal licence holder since 2009 and works full-time within the shop.

Mrs ZMNAKO, although having worked for many years within the shop has only had verbal training with no documented proof of training in licensing law or underage sales. She normally works mornings.

██████ has worked afternoons at the premises since August 2022 having moved from Golden Supermarket in Charminster. Although experienced in alcohol sales he has no documented training.

██████ works flexible hours at the shop and has been employed for one year. He has only received verbal training on licensing law.

On examining for policy documents and training documents I observed that there were no documented in-house training including TSSW training and no Age Verification Policy relevant to the store.

It was also to be noted that bearing in mind the possibility of intimidation from difficult customers in this built up residential area, there has been no training of staff in dealing with conflict or confrontation.

CCTV

The store has invested in a modern SWANN 4980 series CCTV system and ensured that it is maintained on a regular basis.

The system is multiplex and at present carries out all necessary functions satisfactorily.

In order to ensure that all areas are covered the premises licence holder has installed 5 (five) cameras within the shop and 1 (one) outside the front entrance.

The cameras include a one giving the required image of persons entering through the main door.

There are 2 (two) monitors, one in the shop beside the serving counter,

positioned towards the server ensuring that members of the public do not easily view the images, and another in the storeroom.

The main hard drive system is situated above the monitor in the storeroom.

As yet none of the staff have received training in working and downloading from the system.

No CCTV register is in existence.

Recommendations

Having carried out my review of the premises and its operation, I have identified various shortcomings and failings primarily in relation to training.

This training, I believe is essential when operating a premise trading in alcoholic beverages in a somewhat difficult retail and residential neighbourhood such as Winton.

Although the problem that has led to the proposed licence review was a tax evasion offence the evidence of shortcomings observed during my survey may have led to a lapse in management within the operation.

This however does not in any way excuse the said offence.

The lack of training in respect of dealing with confrontation and underage sales could also give rise to breaches in the law due to intimidation and ignorance of the law.

It is also essential that there are no 'language barriers' in relation to the necessary training of all staff at the premises.

I have also examined the premises licence BH093646 issued on 18 January 2007 and 8th March 2018.

It is clear that the current conditions attached in **ANNEX 2 – Conditions (consistent with the operating schedule)** are in no way adequate enough for such a premises in today's environment.

Most shortcomings that I have identified would be rectified by the conditions that I would offer when submitting such a premises licence application.

Below are the replacement proposed conditions which I would recommend to be adopted by Bargain Convenience Store immediately.

I believe that adopting these conditions below would greatly improve the operation in a manner that would allow the premises to operate in a responsible manner.

Proposed replacement conditions

All front of house staff will be trained to a competent level including licensing law, and will be trained to Level 2 Award in Conflict Management.

A refusals book shall be maintained and shall be checked and signed by one of the management staff on a weekly basis. The refusals book shall be kept on the premises and made available for inspection by Licensing, Police and other authorised officers."

An incident log shall be kept at the premises. The log shall include the date and time of the incident and the name of the member of staff who has been involved. and made available on request to an authorised officer of the Council or the Police, which shall record the following:

- (a) any complaints received
- (b) any incidents of disorder

- (c) any faults in the CCTV system / or searching equipment /or scanning equipment
 - (d) any refusal of the sale of alcohol
 - (e) any visit by a relevant authority or emergency service
 - (f) all crimes reported to the venue
 - (g) all ejections of patrons
 - (h) all seizures of drugs or offensive weapons
- This log to be checked on a weekly basis by the DPS of the premises.

Challenge 25, shall be operated at the premises where the only acceptable forms of identification are (recognised photographic identification cards, such as a driving licence or passport I Holographically marked PASS scheme identification cards). Appropriate signage advising customers of the policy shall prominently displayed in the premises. An incident log shall be kept at the premises. The log shall include the date and time of the incident and the name of the member of staff who has been involved. and made available on request to an authorised officer of the Council or the Police, which shall record the following:

- (a) any complaints received
- (b) any incidents of disorder
- (c) any faults in the CCTV system / or searching equipment /or scanning equipment
- (d) any refusal of the sale of alcohol
- (e) any visit by a relevant authority or emergency service
- (f) all crimes reported to the venue
- (g) all ejections of patrons
- (h) all seizures of drugs or offensive weapons

This log to be checked on a weekly basis by the DPS of the premises.
The premises will actively participate in any local Town Watch initiative.

A CCTV system, shall be installed to cover all entry and exit points enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record and cover areas where alcohol is kept for selection and purchase by the public, whilst the

premises is open for licensable activities. It shall operate during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with correct date and time stamping. Recordings shall be made available immediately upon the request of Police or an authorised officer of the council throughout the preceding 31 day period. The CCTV system shall be updated and maintained according to police recommendations.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This staff member must be able to show a Police or authorised council officer recent data or footage with the absolute minimum of delay when requested.

CCTV shall be downloaded on request of the Police or authorised officer of the council. Appropriate signage advising customers of CCTV being in operation, shall be prominently displayed in the premises.

A documented check of the CCTV shall be completed weekly to ensure all cameras remain operational and the 31 days storage for recordings is being maintained.

Refresher training shall be provided at least once every 6 months.

A record shall be maintained of all staff training and that record shall be signed by the person receiving the training and the trainer. The records shall be kept for a minimum of 12 months and made available for inspection by police, licensing or other authorised officers.

c) Public safety

The applicant is aware of the need to ensure that members of the public or staff are not put at risk. A Fire Risk Assessment will be complied with. Other General Health and Safety Risk Assessments, including First Aid will be adhered to in order to protect customers and staff.

d) The prevention of public nuisance

No waste will be removed from the premises during the hours of 2200hrs - 0800hrs.

No deliveries to the premises will take place between the hours of 2200hrs -0800hrs.

Staff will encourage customers and delivery drivers to leave quietly and have regard for residents.

The outside of the premises will be regularly monitored by staff and CCTV to ensure that the licensing objectives are being upheld and no customers are loitering outside premises.

Any movable furniture will be removed inside at the end of licensable hours

Signs will be displayed at the exit requesting customers to leave the area quietly, having regard for local residents.

No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

e) The protection of children from harm

Staff shall be trained in accordance with any guidance given by TSSW in relation to all age restricted goods.

A “No Proof of Age – No Sale” policy will be adopted and records kept of that training at the premises. Such records will be kept and made available to Licensing, Police or other authorised officers.

‘Challenge 25’ signage will be displayed prominently on the premises.

Written records of training and subsequent refresher training will be kept for all staff involved in the sale of alcoholic beverages.

The only acceptable proof of age documents acceptable will be UK photo driving licence, valid passport and ID cards bearing the PASS LOGO.

Any delivery will be provided by a reputable company operating in the area. Where the company directly employ a delivery driver they will provide a delivery policy and training to their employee
Deliveries shall only be made to an address and handed to the purchaser who is inside that address and no deliveries made to outside areas or open spaces.

ID to be produced by the person receiving the delivery to correspond with the name on the credit /debit card of the person placing the order.

All persons making deliveries shall be instructed to report to the holder of the licence or the DPS any and all occasions when a delivery is refused and the reason for that refusal and a record of all such refusals shall be maintained at the premises. The record shall be checked by the DPS or manager in charge of the premises at least once a week and shall be signed to that effect.

Conclusion

Mr ZMNAKO is under no illusion as to the severity of the position he now finds himself in.

He is aware that the loss of the premises licence will also mean the loss of his business which is the income that supports his family.

During my time with **Mr and Mrs ZMNAKO** they were freely open to the fact that improvements need to be made in the running of the convenience store if their licence is to continue. These improvements they are determined to make.

Mrs Zmnako is sitting the Level 2 APLH course with a view to gaining her personal licence . Once gained she will become the Designated Premises Supervisor.

This will happen as soon as possible.

It is also my opinion and experience that the revocation of the premises licence could prove counterproductive, as the high demand for licensed convenience stores would attract another operator to open in close proximity.

There is no guarantee that this would be a responsible retailer and this could bring further problems to this retail and residential area.

It is my opinion and recommendation that **Mr ZMNAKO** is allowed to continue operating his business under strict conditions including the recommendations listed above, ensuring a high standard of training and operation.

I have spent time with **Mr ZMNAKO** and his wife and stressed the seriousness of his actions regarding illicit cigarettes and tobacco. The repercussions of his actions have cost his family much stress.

He is aware that Customs & Excise officers have the right to enter licensed premises and remove goods liable to forfeiture e.g. in respect of fraudulent evasion of duty.

He is also aware that a police officer may enter and search any premises at any time, if he has reason to believe an offence under the Licensing Act has been, is being, or is about to be committed and that no search warrant is required.

He greatly regrets his actions and I have made him aware that should the Licensing Committee be of mind to allow him to keep his premises licence his premises will be monitored to ensure compliance.

This, I believe, would be the best course of action to ensure that the 4 (four) licensing objectives are met.

David Ramsay Licensing Consultant

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LICENSING COMMITTEE AND SUB COMMITTEE – PROTOCOL FOR PUBLIC SPEAKING

1. Introduction

- 1.1. The following protocol for public speaking shall apply in respect of in person hearings under the Licensing Act 2003, the Gambling Act 2005, and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 (as amended by the Policing and Crime Act 2009).
- 1.2. This includes applications relating to the licensing of alcohol, regulated entertainment, late night refreshment, gambling, and sex establishments, Hackney Carriage and Private Hire vehicles, which are the responsibility of the Licensing Committee/Sub Committee to determine as set out in Part 3(A)-3 of the Council's Constitution.
 1. The Chair welcomes everyone to the hearing, identifies all parties present and makes introductions.
 2. Matters of general housekeeping are dealt with, eg location of fire exits and toilets, fire alarms, notification that the hearing may be recorded, reminder to switch mobile phones to silent.
 3. All persons who have given notice of their intention to speak are identified.
 4. Identify if any person who wishes to withdraw a representation or wishes not to speak
 5. Chair explains proposed procedure and order of speaking for hearing as set out in Appendix A. All parties confirm agreement or make representations on procedure proposed.
 6. Licensing Officer's report is presented.
 7. Parties present their representations in the order agreed.
 8. Parties who are speaking should not repeat the information which they have already given in writing in their representation. They will be able to expand on the written information given, provided the information remains relevant. Any addition information should be limited to the grounds of their representation(s). For example, if they are objecting on the grounds of Public Nuisance, then they should confine their comments to matters relating to Public Nuisance.
 9. Members of the Licensing Committee or Sub Committee may ask questions after each representation and at the end of all representations. Parties, will be allowed to ask questions through the Chair.
 10. Following representations, the parties will be given the opportunity to sum up. Party who spoke first to go last.

11. Members will deliberate in private with the clerk and legal representative as appropriate present.
12. The decision will be taken by the Committee and that decision delivered by the Chair to all parties at the conclusion of the hearing as appropriate. A written decision notice will be issued following the hearing in accordance with the regulations.
13. The Legal Adviser will advise the parties of any right of appeal as appropriate.

2. General points

- The hearing may be adjourned at any time at the discretion of the Members
 - Members may amend the procedure at any time if they consider it to be in the public interest or in the interest of a fair hearing
 - Licensing Hearings are held in public. However, the Chair may exclude members of the public (including a party to the Hearing) from all or part of a Hearing where it considers the public interest in doing so, outweighs the public interest in the Hearing.
 - The Chair may exclude any person from a hearing for being disruptive.
 - Meetings of the Licensing Committee in public session are recorded by the Council for live and subsequent broadcast on its website. The meeting may also be audio recorded and/or filmed for live or subsequent broadcast by members of the public and media representatives.
 - The hearing will take the form of a discussion.
 - Only persons (or their representatives) who have made an application, are subject to an application or have submitted a written representation to the Licensing Authority under the relevant Act are permitted to speak at the hearing.
 - Any further information to support an application, representation or notice (as applicable) can be submitted before the hearing. It may only be submitted at the hearing with the consent of all parties. The Licensing Act 2003 (Hearings) Regulations 2005 shall apply. Wherever possible the Licensing Authority encourages parties to submit information at the earliest opportunity to allow sufficient time for this to be considered before the hearing and avoid the need for adjournment.
 - If a party has informed the Authority that they do not intend to attend, or be represented at the hearing, or has failed to advise whether they intend to attend or not, the hearing may proceed in their absence
- 2.2. For other matters in Part 3(A)-3 of the Council's Constitution which are the responsibility of the Licensing Committee and not included in this protocol or the protocol for virtual hearings, the procedures set out in Part 4D of the

Council's Constitution in relation to public questions, statements and petitions shall apply.

- 2.3. This includes such matters as making recommendations on relevant policies, approving the level of fees charged by the Council, and making decisions on tariffs charged by the Public Carriage Trade.
- 2.4. The Council's Constitution can be accessed using the following link:
<https://democracy.bcpccouncil.gov.uk/ieListMeetings.aspx?CommitteeID=151&Info=1&bcr=1>
- 2.5. For further information please contact democraticservices@bcpccouncil.gov.uk

Proposed procedure and order of speaking for Licensing Act 2003 hearings

- The Licensing Officer/Other Council Officer presents report
- Applicant will make their Application
- Questions of the Applicant by all parties, Members of the Committee/Sub-Committee to go first
- Responsible Authorities and Other Persons will make their representations.
- Questions of the Responsible Authorities and Other Persons. Members of the Committee/Sub-Committee to go first.
- All parties will be given an opportunity to sum up (with the party who spoke last to go first).
- Sub-Committee will deliberate in private with Legal Adviser and Clerk present. Councillors new to Licensing may observe but will not take part in the decision making)
- Sub-Committee will return, and the Chair will announce the decision if appropriate (a written decision notice will be issued following the hearing in accordance with the regulations).
- The Legal Adviser will advise parties of any right of appeal as appropriate.

By virtue of paragraph(s) 1, 2 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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