

# Notice of Licensing Sub-Committee



Date: Tuesday, 28 November 2023 at 10.00 am

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

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## Membership:

Cllr M Dower

Cllr E Harman

Cllr S Moore

## Reserves:

Cllr A Chapmanlaw (1)

Cllr G Farquhar (2)

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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?MIId=5809>

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

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

This notice and all the papers mentioned within it are available at [democracy.bcpCouncil.gov.uk](https://democracy.bcpCouncil.gov.uk)

GRAHAM FARRANT  
CHIEF EXECUTIVE

22 November 2023

**DEBATE  
NOT HATE**



Available online and  
on the Mod.gov app

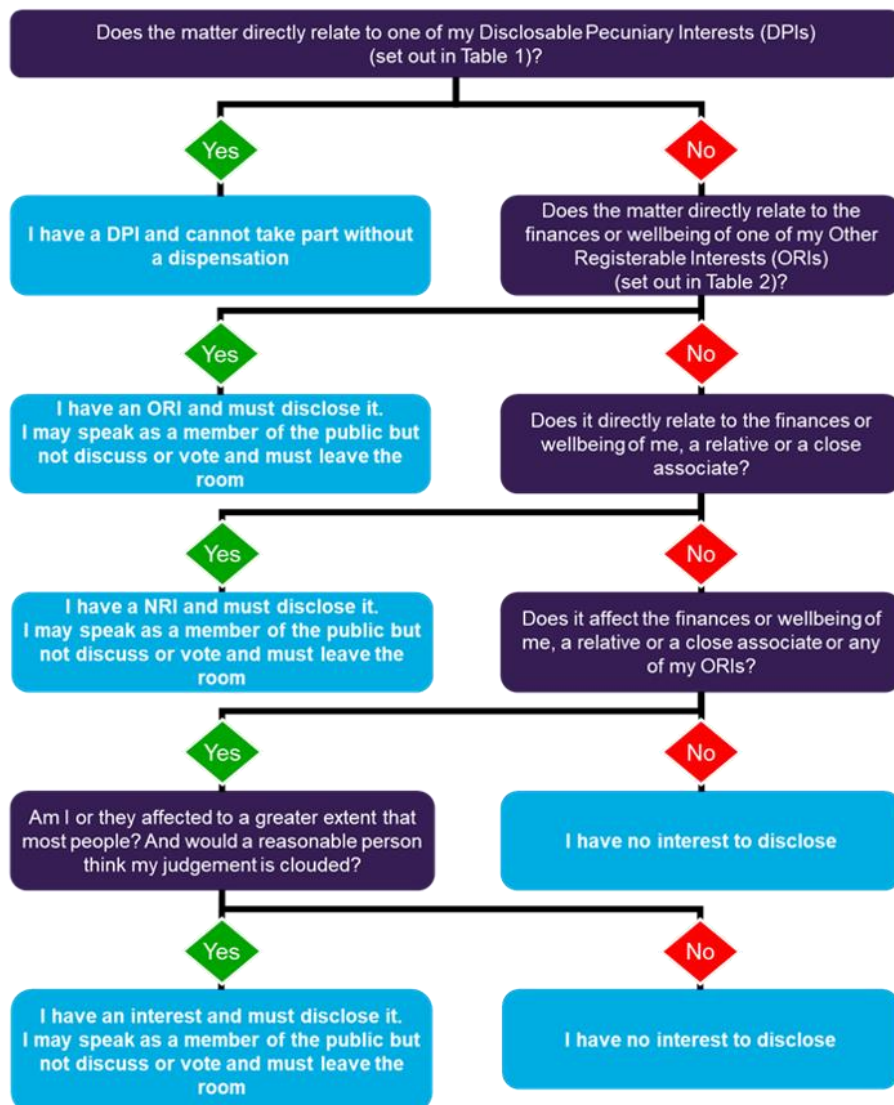


## Maintaining and promoting high standards of conduct

### 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  
(richard.jones2@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**

5 - 8

A 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.

Members of the Licensing Sub-Committee are reminded that they are expected to attend in person, all other attendees may attend in person or via MS Teams.

**5. Units 3a and 3b Sharp Road, Poole, BH12 4BG**

9 - 18

A standard Temporary Event Notice (TEN) has been submitted to cover a 24-hour period from 31<sup>st</sup> December 2023 to 1<sup>st</sup> January 2024 to permit the sale by retail of alcohol (on sales only); and late night refreshment.

As two objection notices have been received from Dorset Police and Environmental Health this matter is brought before the Sub Committee for determination.

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

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## **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](mailto: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	<b>Units 3a and 3b Sharp Road, Poole, BH12 4BG</b>
Meeting date	28 November 2023
Status	Public Report
Executive summary	<p>Mr Catalin-Mihai Foca has submitted a standard Temporary Event Notice (TEN) to cover a 24-hour period from 31<sup>st</sup> December 2023 to 1<sup>st</sup> January 2024 to permit –</p> <ul style="list-style-type: none"> <li>• The sale by retail of alcohol (on sales only); and</li> <li>• Late Night Refreshment.</li> </ul>
Recommendations	<p><b>Members are asked to decide whether to: -</b></p> <ul style="list-style-type: none"> <li><b>a) Grant the Temporary Event Notice as made; or</b></li> <li><b>b) Refuse the Temporary Event Notice as made by way of a Counter Notice.</b></li> </ul> <p><b>Members of the Licensing Sub-Committee are asked to make a decision at the end of the hearing after all relevant parties have been given an opportunity to speak.</b></p> <p><b>There is no provision to impose conditions as the premises do not have an existing premises licence or club premises certificate at the venue.</b></p> <p><b>Members must give full reasons for their decision.</b></p>
Reason for recommendations	<p>The Licensing Authority has received objection notices from Environmental Health and Dorset Police as relevant persons under the prevention of crime and disorder, public safety and prevention of public nuisance licensing objectives.</p> <p>The Licensing Authority may only consider aspects relevant to the notice that have been raised in the objections by the relevant persons.</p> <p>Where an objection notice has been received and the concerns have not been resolved through modification and agreement to allow the event to proceed, the Scheme of Delegation set out in the Council's Constitution states that these applications should be dealt with by the Licensing Sub-Committee.</p>

Portfolio Holder(s):	Councillor Kieron Wilson – Housing and Regulatory Services
Corporate Director	Jillian Kay – Wellbeing
Report Authors	Sarah Rogers – Senior Licensing Officer
Wards	Alderney & Bourne Valley
Classification	For Decision

## Background

1. The Temporary Event Notice (TEN) is intended to be a light touch process and as such, the carrying on of licensable activities does not have to be authorised by the Licensing Authority on an application.
  - a. **Standard TEN** – must be submitted giving at least ten working days' notice, excluding the day the notice is given and the day of the event.
  - b. **Late TEN** - Applicants can apply for a 'late TEN' up to 5 working days before the event and can apply for up to 10 late TENs per calendar year.
2. The person who intends to hold the temporary event submits a notification to the Licensing Authority which outlines the proposed activities dates and times as well as where the event will take place.
3. Once notification is received only the Police or Environmental Health can object to the event and can either seek to prevent the event or modify the arrangements of the event.
4. Mr Catalin-Mihai Foca submitted a notification for a TEN on 14 November 2023 for a New Years Eve private party at a warehouse, Unit 3a and 3b Sharp Road, Bournemouth.
5. The notice has applied for the sale of alcohol on the premises and late-night refreshment for a continuous 24-hour period commencing 31<sup>st</sup> December 2023 until 1<sup>st</sup> January 2024. A copy of the submitted TEN is attached at Appendix 1.
6. A copy of a plan showing the location of the premises is attached at Appendix 2.

## Consultation

7. The notice was served on the relevant persons - Environmental Health and Dorset Police - on the 14 November 2023.
8. Both parties have submitted objection notices to the TEN these which are attached at Appendix 3.

## Options Appraisal

9. Before making a decision, Members are asked to consider the following matters:
  - The objection notices made by relevant persons.

- The relevant licensing objectives, namely the prevention of crime and disorder, public safety and the prevention of public nuisance.
10. The Committee's decision is whether to issue a counter notice. If a counter notice is issued this means the event cannot take place. A notice with reasons for the decision must also be given.
  11. If the Committee decide not to issue a counter notice and allow the event to go ahead it must be noted that no conditions can be attached to the TEN.
  12. The TEN can be modified (times, layout of venue, licensable activities) but only with the agreement of the premises user and all relevant persons.
  13. The committee are therefore asked whether to
    - Issue a counter notice to prevent the event taking place or
    - Permit the event to go ahead as applied for, or
    - Permit the event with modifications subject to the agreement of all parties.

#### **Summary of financial implications**

14. There are no financial implications.

#### **Summary of legal implications**

15. If Members decide to refuse the application, by way of a Counter Notice, the premises user may appeal to the Magistrates' Court within a period of 21 days beginning with the day that the applicant is notified by the Licensing Authority of the decision appealed against.
16. If the TEN is allowed, and a counter notice is not issued, the relevant parties may appeal to the Magistrates' Court within a period of 21 days beginning with the day that they are notified by the Licensing Authority of the decision.
17. No appeal may be brought later than five working days before the day on which the event period specified in the TEN begins.

#### **Summary of human resources implications**

18. There are no human resources implications.

#### **Summary of sustainability impact**

19. There are no sustainability impact implications.

#### **Summary of public health implications**

20. There are no public health implications.

#### **Summary of equality implications**

21. There are no equality implications.

#### **Summary of risk assessment**

22. There is no requirement for a risk assessment.

## **Background papers**

### **BCP Council – Statement of Licensing Policy**

[SOLP 2020-2025 \(bcpCouncil.gov.uk\)](https://www.bcpCouncil.gov.uk/2020-2025-solp)

### **Hearing Regulations**

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

### **Licensing Act 2003 Section 182 Guidance (revised August 2023)**

[Revised Guidance issued under section 182 of the Licensing Act 2003 \(publishing.service.gov.uk\)](https://www.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1000000/section-182-guidance-revised-august-2023.pdf)

### **Appendices**

1 – Copy TEN Notice

2 – Location Plan

3 – Objection Notices from Relevant Parties

## APPENDIX 1

A new temporary event notice has been received.

Reference: TEN-030982

Are you an agent acting on behalf of the person being licensed? No

### Person Being Licensed

Title: Mr

First name: Catalin-Mihai

Family name: Foca

Email: [REDACTED]

Phone: [REDACTED]

Address: [REDACTED]

Can we contact the applicant by phone: Yes

I'm applying as: Applying as a business or organisation, including as a sole trader

### Agent

First name:

Family name:

Email:

Phone:

Are you :

### Application Details

Have you had any previous names: No

Previous names details:

Date of birth: [REDACTED]

NI Number: [REDACTED]

Place of birth: [REDACTED]

Correspondence address: [REDACTED]

### Premises

Does the premises have an address: Yes

Premises address: UNIT 3A AND 3B, SHARP ROAD, POOLE, BH12 4BG

Ordnance Survey map ref:

Further location details: Unit 3 sharp road

Bournemouth

Does a premises licence or club premises certificate have effect in relation to the premises (or any part of the premises): Neither

Do you intend to only use part of the premises: No

Part address details:

Nature of the business: Warehouse

Nature of the event: Private party

### Activities

The sale by retail of alcohol: Yes

The supply of alcohol by or on behalf of a club: No

Provision of regulated entertainment: No

Provision of late night refreshment: Yes  
Giving of a late temp events notice: No

Events start date: 31/12/2023  
Events end date: 01/01/2024  
State the times you intend to carry out licensable activities: 24 hours  
Max number of people: 100  
Consumption of alcohol will be: On the premises only  
Relevant entertainment details:

### **Licence Holders**

Do you currently hold a valid personal licence: No  
Issuing authority:  
Licence number:  
Date of issue:  
Other relevant details:

Have you previously given a temporary event notice in respect of any premises for events falling in the same calendar year as the event for which you are now giving this temporary event notice: No

State the number of temporary event notices:

Have you already given a temporary event notice for the same premises in which the event period:  
No

Has any associate of yours given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice: No

State the total number of temporary event notices your associate(s) have given for events in the same calendar year:

Has any associate of yours already given a temporary event notice for the same premises in which the event period: No

Has any person with whom you are in business carrying on licensable activities given a temporary event notice for an event in the same calendar year as the event for which you are now giving a temporary event notice: No

State the total number of temporary event notices your business colleague(s) have given for events in the same calendar year:

Has any person with whom you are in business carrying on licensable activities already given a temporary event notice for the same premises in which the event period: No

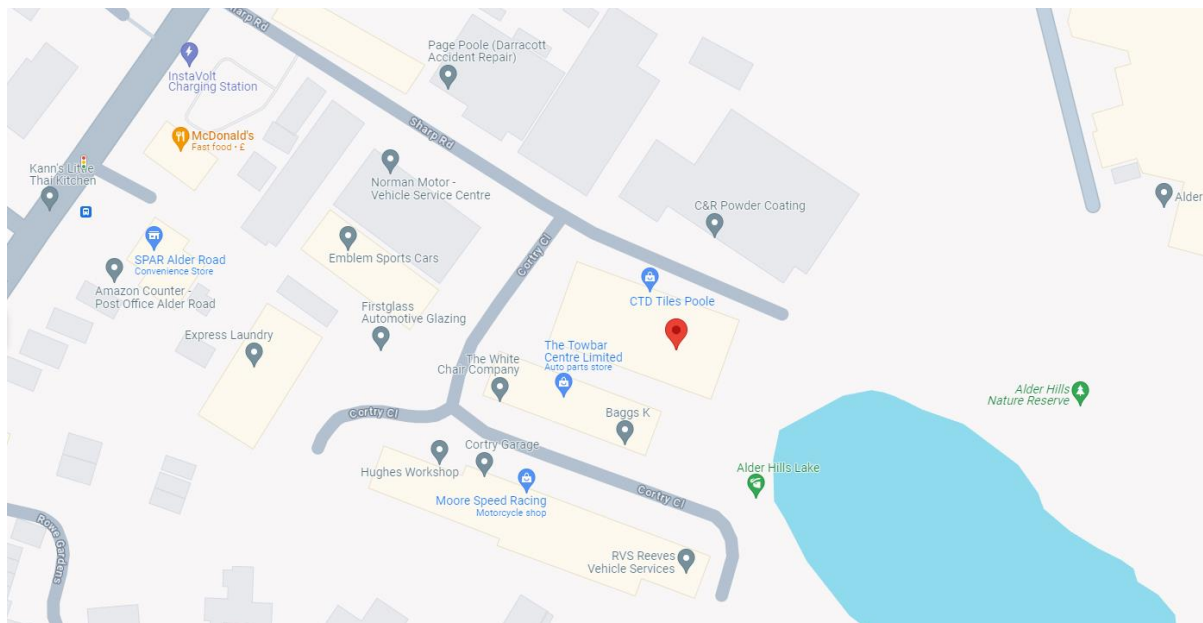
### **Declaration**

I confirm I have read and understood the declaration: Yes

### **Payment**

Amount paid: £21.00  
Payment Date & Time: 14/11/2023 10:57

3a and 3b Sharp Road, Poole





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**OBJECTION NOTICE – ENVIRONMENTAL HEALTH**

Dear Mr Foca

You may recall I attended your premises at 3a Sharp Road with my colleague Andy Wemyss. We spoke to you about unlicensed events and the noise complaints these had generated. There were also concerns about the fire risk with only one door being available for entry and exit.

You were advised during the visit to apply for a premises licence if you wished to carry on having events at the premises. This would enable all the responsible authorities to assess the application with their relevant expertise to ensure the venue is suitable.

Environmental health cannot support your application for a TEN, the fabric of the premises is insufficient to contain noise from regulated entertainment. We are already in receipt of complaints about noise from your unlicensed events. There is also concern for public safety due to the fire risk posed by there only being one entry/exit door. You mentioned during our visit that you park vehicles in front of the large roller door to help contain noise. If you remove the vehicles to enable better entry and exit then you exacerbate the noise issues.

On the grounds mentioned above environmental health object to the granting of this temporary event notice

**Paul Barker  
Environmental Health Officer  
Communities**

**OBJECTION NOTICE – DORSET POLICE**

*Good Morning Sarah,*

*Further to our conversation this morning, please be advised that at the centre of our concerns regarding this premises is that this operator has been providing alcohol provision for some time at this site without a Premises Licence or any other permission. My concern is that they have neither the knowledge, experience or willingness to appreciate the implications of offering alcohol for sale and the effects that will often have on the public.*

*At the minimum, I would have expected, alongside their health and safety and Fire Regulations responsibilities, for the operator to understand that alcohol provision requires a licence or permission (TEN).*

*Dorset Police have no confidence in this operator to deliver alcohol provision to the public. They are known to have previously delivered unlicensed alcohol provision, which is illegal, and Dorset Police would generally require a premises such as this to have suitable conditions attached to the licence,*

*such as a requirement for SIA Door Supervisors, CCTV and an Incident Book (amongst others), which cannot of course be applied without the existence of a premises licence. We therefore cannot have any conditions attached to this TEN.*

*My request is for the Sub-Committee members to refuse this Notice on the grounds that to permit the TEN activities would likely risk undermining the licensing objective to Prevent Crime & Disorder and Public Safety as our experience of the operator is that they have no knowledge of the Licensing Act 2003, how to deliver safe and compliant licensed premises and that any organised event, such as the one proposed, should take place with such controls and safeguarding measures to offer some reassurance that those attending, and the staff, will be safe during the event.*

*Regards,*

*Gareth*



**DORSET  
POLICE**

**Gareth Gosling 2551**

*Police Sergeant*

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***Drug & Alcohol Harm Reduction Team***

*Bournemouth Divisional Headquarters, 5 Madeira Road, Bournemouth, Dorset, BH1 1QQ*