

**Swindon Borough Council
Licensing Act 2003 – Licensing Panel**

NOTICE OF HEARING

Date of Hearing: Friday, 18 October 2013

Place of Hearing: Committee Room 1, Civic Offices

Time of Hearing: 10.30 a.m.

Panel Members:

Conservative Councillors

John Haines

Labour Councillors

Junab Ali

Steve Wakefield

Committee Officer: Shaun Banks (Telephone 01793 463606)

Email: email: sbanks@swindon.gov.uk

Address: Swindon Borough Council, Civic Offices, Euclid Street, Swindon SN1 2JH

AGENDA

- 1. Appointment of Chair**
- 2. Apologies for Absence**
- 3. Declarations of Interest**
Members are reminded that at the start of the meeting they should declare any known interests in any matter to be considered, and also during the meeting if it becomes apparent that they have an interest in the matters being discussed.
- 4. Application to Review the Premises Licence held by Longs Bar, Victoria Road, Swindon together with a copy of each relevant representation made and supporting documents** (Pages 3 - 120)

Date of Despatch: 16 October 2013

Access Arrangements – The Venue is wheelchair accessible and an infrared receiver hearing system is provided. If you would wish to attend the meeting but have any special requirement to enable you to do so please contact the Committee Clerk above, as soon as possible prior to the date of the meeting.

If you would like to receive any of the pages contained in this agenda in a larger print size please contact the Committee Officer whose name appears on the first page of this agenda.

INFORMATION TO ACCOMPANY NOTICE OF HEARING

Action following receipt of Notice of Hearing:

A party shall give to the Licensing Panel within the period of time provided for in the following provisions of this regulation a notice (in the form attached) stating: -

- Whether he intends to attend or be represented at the hearing.
- Whether he considers a hearing to be unnecessary.
- In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.

The following notice periods apply:

No later than one working day in respect of:

- Cancellation of interim authority notice following police objection, or
- Counter notice following police objection to temporary event notice.

No later than two working days before the first day of hearing:

- Review of premises licence following closure order or review of premises licence following review notice;
- Determination of application for conversion of existing licence;
- Determination of application for conversion of existing club certificate; or
- Determination of application by holder of justices' licence for grant of personal licence.

In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

Right of attendance, assistance and representation:

A party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

The hearing will take place in public. However the Licensing Panel may exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. For these purposes a party and any person assisting or representing a party may be treated as a member of the public.

The Licensing Panel may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit that person to return, or
- permit him to return only on such conditions as the authority may specify.

Any such person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

Representations and Supporting Information:

At the hearing a party shall be entitled to:

- Give further information as appropriate in response to a point upon which the Licensing Panel has given notice that clarification is required (Note – if clarification is required from any party this will have been indicated in the Notice of Hearing);
- If given permission by the Licensing Panel, question any other party; and
- Address the authority.
- Failure of Parties to attend the Hearing

If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.

If a party who has not so indicated fails to attend or be represented at a hearing the authority may: -

- Where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
- Hold the hearing in the party's absence.
- Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned

Procedure:

A summary of the procedure that will normally be followed at the hearing is attached.

It should be noted that this is a general procedure intended to cover matters that will normally be applicable at all Hearings. However depending on the circumstances of each individual case, it is recognised that other issues may need to be considered as preliminary points at the hearing. These may include (but are not limited to): -

- Whether to proceed in the absence of a party;
- Whether to admit new documents or information submitted at the hearing;

- Whether it is in the public interest to exclude members of the public from the hearing or any part of it;
- Whether any party wished to withdraw representations previously submitted
- Whether to disregard any information given by a party or any person to whom permission to appear at the hearing is given by the authority which is not relevant to:
 - Their application, representations or notice (as applicable) or in the case of another person, the application representations or notice of the party requesting their appearance, and
 - The promotion of the licensing objectives

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**Standard procedure for licensing committee or
licensing panel review hearings**

- 1) The general facts of the review application will be put to the hearing by an officer of the Licensing Authority.
- 2) The applicant for the review will put their case. They will be invited to clarify and support (but not add to) their written submission.
- 3) Members of the Licensing Committee (or Panel) may ask questions arising from this submission, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask the party which applied for the review to give a brief clarification concerning any of the points they have made.
- 4) Ward Members who wish to speak on behalf of constituents who have made representations following the review application or aspects of the review application will be invited to speak. Written notification of those representations must be submitted within the required period of notice.
- 5) Where individuals or organisations have given the required notice that they wish to make relevant representations on the review application, they will be invited one at a time to clarify and support (but not add to) their written submissions. Representations will be heard only from those who have submitted an objection in writing before the deadline given for comments. This restriction applies equally to Members and Officers of the Council.
- 6) Members of the Licensing Committee (or Panel) may ask questions arising from each representation, as may any other Member of Swindon Borough Council who is present. The premises licence holder will not be allowed to comment or reply at this stage but may ask those making representations to give a brief clarification of any of the points they have made.
- 7) Ward Members who wish to speak on behalf of constituents who have made a representation against the review and in support of the premises licence holder will be invited to speak. Written notification of the positive representation must have been submitted within the required period of notice.
- 8) The premises licence holder and / or their solicitor or representative will be invited to make a submission in opposition to the application for review and to respond to points made by

those who submitted the review application or who made representations subsequently. No unreasonable limits will be placed on the right of the applicant to make their case and they may present any documentation they wish, in doing so.

- 9) Members of the Licensing Committee (or Panel) may ask questions arising from the premises licence holder's submission, as may any other Member of Swindon Borough Council who is present.**
- 10) The party which applied for the review and anyone who made representations subsequently will be allowed in turn to ask the premises licence holder to give a brief clarification of any point they have made. They will not be permitted to restate or develop their review application or representation and must limit any further brief comment to issues that arise directly from answers given by the premises licence holder or the premises licence holder's representative.**
- 11) Members of the Committee or Panel hearing the application will then discuss the application in private, accompanied only by non-partisan officers who are there in a support role.**
- 12) Should any person present act in a disruptive manner the Chair will first warn him or her about their conduct and then, if the Chair considers it appropriate, may require the person concerned to leave the meeting forthwith. Where a party to the hearing insists on wasting the time of the hearing by needlessly repeating points that have been well aired and clearly put by earlier speakers, their actions may be judged to be disruptive and they may be asked to leave. It is strongly recommended that any spoken representations from groups of people with common concerns are made through an agreed spokesperson.**

**Application to review the Premises
Licence for Longs Bar, Swindon SN3 5AJ**

Licensing Panel

Date: 18 October 2013

Author: Licensing Manager

Wards Affected: Old Town

Purpose

- To consider an application made by Wiltshire Police for the review of a premises licence in respect of Longs Bar, Victoria Road, Swindon SN3 5AJ.

Recommendation

The Licensing Committee is required to:

- In the light of the application, to determine any action that they deem necessary, having regard to the extensive remedial powers available.

1. Reasons

- 1.1 The Licensing Panel has a statutory duty to undertake the functions of the Licensing Authority, where these have been delegated by the Licensing Committee.

2. The Review of the Premises Licence

- 2.1 The Council must hold a review of the Premises Licence within 28 days after the day of receipt of the Chief Officer of Police's application and reach a determination on that review. This must take place even if the Chief Officer asks to withdraw his application or representations.
- 2.2 At the hearing, the Licensing Authority must consider any steps it considers necessary for the promotion of the licensing objectives.
- 2.3 The options available to the Licensing Committee are as follows:-
- The modification of the conditions of the Premises Licence; and/or
 - The removal of one or more of the licensable activities authorised by the licence; and/or
 - The removal of the Designated Premises Supervisor from the licence; and/or
 - The suspension of the licence for a period not exceeding three months; or
 - The revocation of the licence.
- 2.4 The Committee can impose any one or a combination of the above options.

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

Application to review the Premises Licence for Longs Bar, Swindon SN3 5AJ

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- 2.5 Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place.

3. Summary of the application

- 3.1 The Licensing Authority for Swindon Borough Council has received an application for a review of a premises licence relating to Longs Bar, Victoria Road, Swindon, SN3 5AJ. The application to review the premises licence specifically relates to the licensing objectives in respect of the prevention of children from harm and prevention of crime and disorder as detailed in the application.
- 3.2 A copy of the application is attached as Appendix A and supporting information is attached as Appendix B.
- 3.3 The documentation was sent to all responsible authorities and a blue notice was been affixed to the premises advertising the application as required by regulations. A copy of this notice is attached as Appendix C.
- 3.4 The application for review is in respect of a test purchase operation conducted by the Police. The application states: 'Wiltshire Police carried out a test purchase operation on Saturday 13/07/13 and again tested 20 premises. The premises were all re tested due to the number of fails in January. As with the previous operation premises were tested before door staff and after doorstaff were on duty. On this occasion 2 of our volunteers were identified as being test purchase subjects from the first premises they entered in Old Town and this was put out over the SCRIP radio. Upon arriving at Longs Bar they were refused by Mr Sheridan who then followed them from his premises and continued to broadcast over the SCRIP radio. Due to this not all premises in the Old Town area were visited by these 2 volunteers and this part of the operation was aborted. Later on in the evening Longs Bar was tested as part of the operation when their door staff came on duty. At Approx 22.25hours 2 Police Officers approached the premises and were asked for identification by the member of door staff stood on the entrance to the venue. Mr Sheridan was also observed to be standing at the entrance way at the same time. Once the officers were inside the venue our 2 test purchase volunteers aged 16 and 17 entered the premises and were stopped by the same member of door staff. The Police Officers saw Mr Sheridan say something to the door staff at which point the 2 test purchase volunteers were let into the premises. One of the test purchase subjects was then served at the bar and purchased a bottle of Bulmer's cider and this was observed by the 2 Police Officers inside the premises who have recorded this in statement form.'
- 3.5 Full details are contained within the review application and supporting information submitted by Wiltshire Police which are contained within Appendix A and B of this report.

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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- 3.6 A representation has also been received from Lincolns Inns which attached as Appendix D
- 3.8 A response to the review application has been made by Mr Nigel Musgrove, solicitor for the premises licence holders. This response is attached as Appendix E.

4. Background and operation of the premises

- 4.1 A premises licence was granted in respect of Longs Bar, Victoria Road Swindon on 5 September 2005.
- 4.2 There have been no applications to vary the licence since this time.
- 4.3 There have been four temporary event notices submitted in respect of the premises and these have been received November 2012
- 4.4 There have been no complaints received by Environmental Health or Licensing in respect of this premises
- 4.5 This is the second review of the Premises Licence brought by Wiltshire Police
- 4.6 A copy of the current licence is attached as Appendix F

5. Relevant Considerations

- 5.1 The Licensing Act 2003 states that the licensing authority can only consider representations if they are relevant to one of the Government's four licensing objectives:
- The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 5.2 Members may only consider matters that have been raised with them based on the grounds of the review and representations made by either the premises licence holder, the responsible authorities or 'other persons' within the prescribed consultation period. Members may not consider any other matters when making their decision.
- 5.3 The review in this case has been requested on the basis of the Protection of Children from Harm licensing objective.

6 Other Representations

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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- 6.1 There have been no representations from any other responsible authority or other persons in respect of this review application.

7 References/Considerations

In making their decision Members must have regard to the following:-

7.1 Guidance Published by the Government under Section 182 of the Act

- 7.1.1 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 7.1.2 Para 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 7.1.3 Para 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 7.1.4 Para 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
 - to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
 - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - to suspend the licence for a period not exceeding three months;
 - to revoke the licence.
- 7.1.2 Members should have regard to the Hearings Regulations published by the Government under the Licensing Act 2003.

8. Human Rights Act 1998

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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8.1 The Human Rights Act provides that "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties." The term "possession" includes a Licence as well as a home and the things it contains.

8.2 The Act further provides:

" (1) it is unlawful for a public authority to act in a way which is incompatible with a Convention right.

(2) Subsection (1) does not apply to an act if-

as the result of one or more provisions of primary legislation, the authority could not have acted differently; or

in the case of one or more provisions of, or made under, primary legislation which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions."

8.3 However, it is recognised that the Council's Statement of Licensing Policy and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore subject to both the Policy and Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

9 Legal Considerations

9.1 A Premises Licence lasts for the lifetime of the business, unless it lapses due to the death or insolvency of the licence holder, is surrendered by the applicant, is suspended, or is revoked.

9.2 However, the Government have introduced a review mechanism where licensed premises are found to be contravening one of the licensing objectives.

9.3 The Statutory Guidance issued under section 182 of the Licensing Act states at 11.2, "At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives."

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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- 9.4 The applicant for review, holder of the Premises Licence, or any other person who made relevant representations to the application may appeal against the Council's decision to the Magistrates Court within 21 days beginning with the day on which the appellant was notified by the Council of the decision being appealed against.
- 9.5 The decision of the Council, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.
- 9.6 The Statutory Guidance under section 182 of the Licensing Act 2003 states at 12.10 "It is important that licensing authorities should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that reasons should also address the extent to which the decision has been made with regard to the licensing authority's statement of licensing policy and this Guidance. Reasons should be promulgated to all the parties of any process which might give rise to an appeal under the terms of the 2003 Act.

Alternative Options

It would be possible to defer a decision or to defer the hearing itself to a later date but either step should be seen as an exceptional measure

Risk Management

Financial and Procurement Implications

There are no direct financial implications arising from the report. Failure to reach a reasonable conclusion, based on the facts, could lead to breach of the licensing objectives or to unwarranted damage to the business in question. Either scenario could raise issues of compensation. In the case of an appeal, the Council could become liable for costs. The Council provides training for Members who sit on the Licensing Committee, as one of the measures to mitigate financial risk.

Legal / Human Rights Implications A declaration has been made by the Secretary of State, that the Licensing Act is compliant with the Human Rights Act.

Links to Corporate Plans and Policies (in particular to Swindon 2010 Promises)

The determination of the application will be made in accordance with set legal principles. The exercise of licensing powers by the Panel relates particularly to the LAA outcome of reducing crime and the fear of crime.

Consultees

Further information on the subject of this report can be obtained from Kathryn Ashton on 01793 466113 or e-mail kashton@swindon.gov.uk.

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- No parties other than the responsible authorities have been consulted directly but there was a statutory consultation period of 28 days, following the application for review.
- The Director of Finance (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted on all reports.

Background Papers and Appendices

Appendix A	Review application
Appendix B	Supporting information from Wiltshire Police
Appendix C	Copy of the Public Notice
Appendix D	Representation from Lincolns Inns
Appendix E	Response from Premises Licence holders' solicitor (Circulated under separate cover)
Appendix F	Copy of current Premises Licence

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**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 SIAN KALYNKA on behalf of WILTSHIRE POLICE

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 LONGS BAR, VICTORIA ROAD,	
Post town SWINDON	Post code (if known) SN3 5AJ
Name of premises licence holder or club holding club premises certificate (if known) ARKELLS BREWERY LIMITED	
Number of premises licence or club premises certificate (if known) 881050944 PREM	

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 SIAN KALYNKA POLICE LICENSING OFFICER SWINDON POLICE STATION GABLECROSS, SHRIVENHAM ROAD, SWINDON, SN3 4RB
Telephone number (if any) 01793 507874
E-mail address (optional) Sian.kalynka@wiltshire.pnn.police.uk

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

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

- Wiltshire Police have been conducting test purchase operations since February 2010 and Longs Bar have failed on four separate occasions.
- The premises has repeatedly failed to adhere to the licensing objective of the protection of children from harm and committed criminal offences by serving alcohol to children under the age of 18.

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

Wiltshire Police have conducted test purchase operations since February 2010 and regularly test premises that are within the main Night time economy areas as well as those where there is intelligence to suggest that persons under 18 are being sold alcohol.

The impact of underage alcohol sales by on licensed premises not only links to incidents of anti social behaviour and disorder but also puts young people at risk of becoming victims of crime.

Since 2010 Wiltshire Police have carried out 12 test purchase operations in Swindon. Longs Bar has failed on 4 separate occasions. The Premises Licence Holder and Designated Premises Supervisor have not changed throughout this period.

The first test purchase operation took place on 27/02/2012 and occurred in the main night time economy areas of Swindon. On this occasion premises that were to be tested were sent letters on the 04/01/10 warning that an operation would be taking place and that their premises may be tested as part of this operation. Longs Bar was sent a letter and this is contained in the additional documents.

On the 27/02/10 a 15 year old and 17 year old were served alcohol at Longs Bar. A meeting was held on the 12/03/10 with the premises duty manager and several concerns were raised including the lack of staff training, no proof of age material and no refusals log was evident. A letter sent highlighting these concerns was sent to the premises along with challenge 21 posters and an example refusal record. As this was the first operation it was used as an educational opportunity and on this occasion no fixed penalty notices were issued.

Longs Bar did not fail any further test purchase operations carried out by Wiltshire Police until the 27/10/12. On this occasion two 17 year old volunteers were not asked for identification at Longs Bar and purchased alcohol.

On this occasion Mr Sheridan the DPS was invited to Gablecross Police station on Monday 29/10/12 so that an £80 Fixed Penalty Notice could be issued to him and details of the server could be obtained. The staff training was discussed and Mr Sheridan produced documents showing that training is given to staff when they begin work at the premises. Advice was given to Mr Sheridan on improving the quality, regularity and recording of the training.

Following this test purchase failure the premises licence was reviewed on the 05/12/12 and as a result the licensing panel placed conditions on to the premises licence to address the failings at the premises focusing on staff training, challenge 25 and door supervisors.

A test purchase operation took place on the 26/01/13 which was a repeat of

the operation in October.

20 on licensed premises in the main night time economy areas of Swindon were tested. On this occasion 8 venues failed the operation and Longs Bar was one of the venues that failed.

The premises was tested before door staff came on duty and again after they were on duty. At approximately 20.44 hours and 22.55hours 2 test purchase volunteers entered the premises and purchased alcohol. The Police Officer inside the premises identifies Mr Sheridan as being present at the front door on the earlier sale and this is described in SPC Roakes statement. The later sale involved 2 volunteers aged 17 and 16 who entered the premises and were not asked for identification by door staff and were served a bottle of Smirnoff Ice each. This was observed by PC Law who has described the offence in statement form.

The bar staff were both given FPNs for serving alcohol to a person under 18 and were asked about the training they had received at the premises. One indicated that he had been trained 2 months ago after the last test purchase operation and the second member of bar staff stated he had been told to check IDs better and was told not to forget about it. He also stated after being spoken about underage by the manager he had to sign to say he had been told about it.

This was the second time Longs Bar failed a test purchase operation within 3 months and so the premises licence holder was approached to see if they wanted to accept a closure notice instead of prosecution for the offence of persistently selling alcohol to children. This is in line with guidance issued regarding this offence under the Licensing Act 2003.

Following a meeting on 28/01/13 with Craig Titchener a Director at Arkells Brewery and Michael Sheridan to discuss the test purchase failures Arkells Brewery accepted the closure order. The acceptance of the closure order discharges the premises licence holders criminal liability in respect of the offence.

This closure was for a 48 hour period from Monday 04/02/13 at 0800hours to Wednesday 06/02/13 at 0800hours. The maximum allowed for a closure order is 14 days.

Following this test purchase operation numerous emails were exchanged with both the premises licence holder and DPS regarding advice and details about training at their venues.

It is normal practice for Wiltshire Police to apply for a second review of the premises following another test purchase fail however on this occasion the licensee had not received the new updated license from the previous review. To ensure that the licensee was given time to adjust to the new conditions on the licence Wiltshire Police felt that the acceptance of the Closure order in place of prosecution for persistently selling alcohol to children was acceptable in the circumstances.

Mr Sheridan and Arkells Brewery were sent letters confirming the action to be

taken and were warned that should the premises fail a further operation in the future a review application would be made.

Wiltshire Police carried out a test purchase operation on Saturday 13/07/13 and again tested 20 premises. The premises were all re tested due to the number of fails in January. As with the previous operation premises were tested before door staff and after door staff were on duty. On this occasion 2 of our volunteers were identified as being test purchase subjects from the first premises they entered in Old Town and this was put out over the SCRIP radio. Upon arriving at Longs Bar they were refused by Mr Sheridan who then followed them from his premises and continued to broadcast over the SCRIP radio. Due to this not all premises in the Old Town area were visited by these 2 volunteers and this part of the operation was aborted.

Later on in the evening Longs Bar was tested as part of the operation when their door staff came on duty. At Approx 22.25hours 2 Police Officers approached the premises and were asked for identification by the member of door staff stood on the entrance to the venue. Mr Sheridan was also observed to be standing at the entrance way at the same time. Once the officers were inside the venue our 2 test purchase volunteers aged 16 and 17 entered the premises and were stopped by the same member of door staff. The Police Officers saw Mr Sheridan say something to the door staff at which point the 2 test purchase volunteers were let into the premises. One of the test purchase subjects was then served at the bar and purchased a bottle of Bulmer's cider and this was observed by the 2 Police Officers inside the premises who have recorded this in statement form.

Mr Sheridan was notified of this latest test purchase failure on Monday 15/07/13 by phone as was Mr Titchener of Arkells Brewery. A meeting was arranged with Mr Sheridan on 17/07/13.

In attendance at the meeting was Sian Kalyinka, Inspector Burt, Mr Sheridan and Mr Sheridan's security consultant Gary Richman and bar manager Paul Simmons.

At this meeting the server details were obtained and it was established that he is a duty manager at the premises and he last received training on the 22/04/13. This training was shown by Mr Sheridan as going through the booklets he had obtained since the last test purchase operation. Whilst at the premises training was discussed and the staff training record sheet was shown with the majority of staff being trained last on the 19/04/13 and 22/04/13.

A lengthy discussion occurred regarding the test purchase fail particularly around the fact that Mr Sheridan himself had prevented the door staff from doing their job and intervened allowing the test purchase subjects entry. Mr Sheridan disputes this test purchase failure and refuses to accept that the test purchase volunteers entered the premises.

During the course of the meeting it was also established the premises CCTV

was not in operation at the time as it had broken. This has now been fixed and working again.

Following this meeting emails were sent to Mr Sheridan with details of challenge 25 and ID scanners that have been operated successfully in other premises in Swindon.

In summary this is the third test purchase failure within 12 months and the fourth since Wiltshire Police began this operation in 2010. This is an unacceptable level of failures and the actions of the DPS Mr Sheridan have seen two underage persons enter the venue allowing them to purchase alcohol.

Due to these repeated failures and breaches in the licensing objective of the protection of children from harm Wiltshire Police are left with no other option than to ask the Licensing committee to suspend or revoke the licence.

Should the licensing committee consider suspending the premises licence consideration should also be made as to whether Mr Sheridan is an appropriate Designated Premises Supervisor and for the below condition to be added to the premises licence.

1. An ID scanner machine will be installed in the premises and shall be in operation every day the premises is open.

Additional Information

1. Initial advice letter 22/03/2010
2. Licensing review of Longs Bar 05/12/12
3. Minutes from Licensing Review 05/12/12
4. Witness Statement of SPC 4100 ROAKE
5. Witness Statement of PC 2509 LAW
6. Emails to Arkells and Michael SHERIDAN
7. Closure Order for Longs Bar
8. Letter to premises regarding test purchase fail 06/02/13
9. Witness statement of PC2565 SHEARING
10. Witness Statement of PC 2306 MAPSON
11. Emails to Michael SHERIDAN

Please tick ✓ yes

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

☐

If yes please state the date of that application

Day		Month			Year		
0	1	1	1	2	0	1	2

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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 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 Sian Kalynka

.....

Date 28/08/13

.....

Capacity **Police Licensing Officer**

.....

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.

This page is intentionally left blank

Mr M Sheridan,
Longs,
86 – 87 Victoria Road,
Swindon,
SN1 3BB

Swindon Police Station
Gablecross
Shrivenham Road
South Marston
Swindon
Wiltshire SN3 4RB
Telephone: 0845 408 7000
Ext: 760 417
Direct Dial: 01793 507874
Facsimile: 01793 507892
DX: 132780

Date 22nd March 2010

Your ref

Our ref UAS1

Reply contact name is: Siân Kalyinka – Police Licensing Officer

Dear Mr Sheridan,

I met with the premises duty manager on Friday 12th March 2010 following the positive test purchases at your premises on Saturday 27th February 2010.

It is widely accepted that underage drinking results in alcohol fuelled disorder and anti social behaviour and carries serious concerns around the effects on the health and development of young persons who consume alcohol.

Our operation was aimed at tackling this problem locally and enabled us to gauge the level of standards throughout Swindon's licensed premises and will also ensure that the 'protection of children' objective within the Licensing Act is being adhered to.

It is illegal to sell intoxicating liquor to anyone under 18. As discussed when we met, the two females aged 15 and 17 entered your premises and were not asked for any identification and were not challenged in anyway by your door staff or your bar staff. They were served and one female purchased a WKD and the other purchased a Smirnoff Ice.

Whilst discussing the positive test purchase with you I highlighted several improvements that could be made. These are highlighted below:

Staff Training

- You were not able to produce any staff training to me so I have to assume that your staff are not given any level of training with regards to their obligations under the Licensing Act 2003.
- Training must be put in place to ensure that you have informed your staff of their obligations and the laws under the Licensing Act 2001, this training must be repeated at regular intervals, for example every 3 months to ensure that your staff do not forget their obligations. You should ensure that this is recorded on paper for evidence.
- When any staff training is completed, records should be kept and the employee should sign and date the training record to confirm they have understood what

they have been given. You were able to show me a book which staff had signed following some training however there was no evidence to see what training they had received.

- Encourage your staff to never assume the age of young person and if in doubt ask for identification and if they cannot prove their age then refuse to sell.
- Ensure that your staff are confident in asking for identification from people and make sure that they know you will back them up if they refuse a sale. Refusing a sale could be a potentially confrontational situation and staff may feel undermined if you override their decision in front of a customer.

Proof of Age Material

Displaying proof of age material, such as 'NO ID, NO SALE!' or 'Challenge 21' around the premises and around the till area. This will make young people think before attempting to buy as well as reminding your staff. I have included some Challenge 21 posters for you.

The following websites allow you to order posters and training packages.
www.abvtraining.co.uk , www.noidnosale.com and www.challenge21.co.uk

Record Refusals

Keeping a record of refused sales is a good way of showing that you are being diligent and trying not to sell products to the under aged. By recording refused sales it will also provide you with the information of which members of staff are refusing sales highlighting any members of staff who may need further training.

I have included with this letter an example of a refusal record sheet which can be used or you can create your own. The refusal record should be kept by the till behind the bar so that your staff can fill out details when someone is refused service based on their age, the records should be checked on a regular basis and signed to show that it is being monitored.

Till Prompt

If possible set up your till system to prompt sales staff to check for identification, if not then a written notice at the till point is useful.

Door Staff

It was highlighted that your door staff made no challenge to the test purchasers as they entered the premises. Training records should be examined if you employ security company staff. If they do not provide training for the door staff, you must ensure that you take time to train them appropriately. It is not always possible for door staff to check for identification at the entrance to the premises so your bar staff should be reminded of this and instructed to carry out their own checks of customer ID.

Scrip (pubwatch) Radio

The radios should be used to alert other premises in the area if there are youths attempting to enter your premise, who have failed to provide the required proof of age and/or identification. If all premises in the area work together and share descriptions of individuals that have failed to provide identification with other venues it will help to improve your community and protect your staff. If you contact Bernie Maguire at Inswindon on 01793 464995 he will be able to discuss the scrip radio system with you.

Pubwatch

Pubwatch is a good forum to share information and ask for help if you require from me or other licensees.

Another operation will take place in the future and if a second purchase occurs to an under age individual robust action will be taken, £80 fixed penalties will be imposed and the premises licence will be taken to review. This is your opportunity to ensure you put in place the correct procedures to try and prevent underage sales occurring on your premises.

If you need any help or advice regarding the above please contact me on 01793 507874, 07968514384 or by email sian.kalynka@wiltshire.pnn.police.uk and I will be more than happy to offer any assistance that I can.

Yours sincerely

Siân Kalynka
Police Licensing Officer

**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 SIAN KALYNKA on behalf of WILTSHIRE 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 LONGS BAR, VICTORIA ROAD	
Post town SWINDON	Post code (if known)

Name of premises licence holder or club holding club premises certificate (if known) ARKELLS BREWERY LIMITED
--

Number of premises licence or club premises certificate (if known) 881050944PREM
--

Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises ☐
 - b) a body representing persons living in the vicinity of the premises ☐
 - c) a person involved in business in the vicinity of the premises ☐
 - d) a body representing persons involved in business in the vicinity of the premises ☐
- 2) a responsible authority (please complete (C) below) ☒

- 3) a member of the club to which this application relates (please complete (A) ☐ below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick

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

SIAN KALYNKA
POLICE LICENSING OFFICER
SWINDON POLICE STATION GABLECROSS,
SHRIVENHAM ROAD,
SOUTH MARSTON,
SWINDON,
SN3 4RB

Telephone number (if any)

01793 507874

E-mail address (optional)

sian.kalynka@wiltshire.pnn.police.uk

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

Please tick one or more boxes

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

☐
☐
☐
☒

Please state the ground(s) for review (please read guidance note 1)

- Wiltshire Police have been conducting test purchase operations since February 2010 and Longs Bar have failed on two separate occasions.
- The premises is failing to adhere to the licensing objective of the protection of children from harm and committing criminal offences by serving alcohol to children under the age of 18.

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

Wiltshire Police began conducting test purchase operations in February 2010. It is widely accepted that incidents of disorder linked to the night time economy are also linked to the excessive consumption of alcohol. The knock-on effect for police and other agencies is tremendous. Under-age alcohol sales by on-licensed premises may contribute to this and place young people at risk of becoming victims of crime and of developing long term health issues.

The first test purchase operation took place on the 27th February 2010 and occurred in the main night time economy areas of Swindon the Town Centre and Old Town. Letters were sent to all Town Centre and Old Town licensed premises on the 4th January 2010 to warn that a test purchase operation would be taking place and that Longs may be tested as part of this operation. The letter is exhibited at Appendix 1.

A test purchase attempt by a 15 year old and 17 year old volunteer resulted in a sale of alcohol being made on 27th February 2010 at Longs Bar. The volunteers entered the premises and were not asked for any identification and were not challenged in anyway by door staff or bar staff. They were served at the bar and one female purchased a WKD and the other purchased a Smirnoff Ice.

Following the positive sale of alcohol to a person under 18 Licensing Officer Siân Kalyinka met with the premises duty manager on Friday 12th March 2010.

During the meeting the following concerns were highlighted.

- No staff training or any training records could be produced so it was clear that staff were not aware of their responsibilities under the Licensing Act 2003.
- There was no record of refusals behind the bar showing that people were being asked for identification and service refused if necessary.
- SCRIP radio was not used at the venue which prevented them from communicating with other premises in the area that there may be groups of young people going to various venues.
- No proof of age material such as "NO ID,NO SALE" or "Challenge 21" was displayed around the premises or the till area

The letter sent highlighting my concerns is attached at Appendix 2. Challenge 21 posters and an example refusal record sheet were also included in the letter.

On this occasion no premises that failed were issued a Fixed Penalty Tickets as this first operation was a warning to the premises to get their training process in order.

Since this first operation in 2010 Wiltshire Police have carried out 4 test purchase operations in the Old Town area the last being the 19th March 2011. In 2010 the failure rate was 50% and over a period of 13 months this had reduced to just 5% with only 1 premise failing.

Longs Bar did not fail any further test purchase attempts by Wiltshire Police until 27th October 2012.

A test purchase attempt by two 17 year old volunteers resulted in a sale of alcohol being made at Longs Bar. The volunteers entered the premises and were not asked for any identification and were not challenged in anyway by door staff or bar staff.

They were served at the bar and purchased a Smirnoff Ice and a pint of lager.

It was disappointing to note that over 50% of premises in Old Town that were tested failed this operation on the 27th October 2012.

This highlights that without continued testing and reminders premises become complacent.

An attempt to attend the premises on Saturday the 27th October was made however they had closed for the evening. Mr Mike SHERIDAN the Designated Premises Supervisor was invited to attend Gablecross Police station on Monday 29th October 2012 at 11.00hours so that an £80 Fixed Penalty Notice could be issued to him and details of the server could be obtained.

Whilst at the station Mr SHERIDAN was asked about training at the premises. Mr SHERIDAN produced documents showing that training was issued to staff when they begin at the premises and that they have till prompts on the tills to remind staff about verifying customer's ages.

It was highlighted that staff training should be ongoing and delivered at regular intervals which could be every 3 months or 6 months.

Mr SHERIDAN also stated he would be discussing the matter with his door company.

In summary there have been breaches of the licensing objective of the protection of children from harm at the premises which is also a criminal offence resulting in the issuing of Fixed Penalty Notices to the DPS and bar staff at the premises.

The premises in the main does not suffer from alcohol related crime and disorder and is generally well run and several things have been put in place to prevent any further underage sales.

I ask the following to be considered in addition or alongside the sanctions the licensing committee may or may not be considering.

1-The premises will have a minimum of 3 SIA door supervisors on a Friday and Saturday evening and they will be provided at any other time on a risk assessed basis. The door supervisors will wear high visibility clothing at all times.

2- No persons under 18 shall be allowed into the premises after 7 p.m.

3- A Challenge 21 policy will apply to the premises and all staff serving alcohol trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 21 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card, or PASS accredited card or its equivalent successor card, and if none is supplied or that supplied unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.

4- The Designated Premises Supervisor will belong to the Pub watch scheme and any alternative area network designed to promote the licensing objectives. The DPS will attend a majority of Pub watch meetings in each calendar year and will comply with the terms of the Pub watch scheme regarding the exchange of information and enforcement of banning procedures

6- No private functions for anyone under the age of 21 should occur at the premises

7- The till prompt will be in operation at all times the premises is open for trade.

8- CCTV equipment which is fit for purpose and which covers all trading areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and made available to enforcement bodies on request. There shall be someone qualified to use the equipment on site at all times during trading hours.

Please tick yes

Have you made an application for review relating to this premises before ☐

If yes please state the date of that application Day Month Year

If you have made representations before relating to this 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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 3)

Signature of applicant or applicant's solicitor or other duly authorised agent (See guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 01/11/12

.....

Capacity Police Licensing Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

--	--

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

Minutes from the licensing review of Longs Bar 05/12/13

The Panel considered (a) a report of the Council's Licensing Officer setting out details of an application Wiltshire Police for a review of the Premises Licence for Longs Bar, Old Town, Swindon, (b) oral representations from Wiltshire Police in support of their application for a review, (c) representatives from the management of Longs Bar opposing the review, (d) questions from Members to the applicants and the Police and the answers received, and (e) the Council's procedure for licensing hearings, Government Guidance and the Council's Licensing Policy.

Resolved - The Panel considered The Licensing Objectives, Secretary of State's Guidance, representations made by Wiltshire Police and representations by the management of Longs Bar.

The Panel considered the sale of alcohol to minors to be very serious and carefully considered whether suspension of the premises licence was appropriate.

However, given the Licensee's previous good record, their co-operation with police, new management systems put in place following the failed test purchase and the Panel's view that the imposition of conditions would be effective the Panel decided not take any further action on this occasion.

The Panel therefore imposed the following conditions:

1. - The premises will have a minimum of 2 SIA registered door supervisors on a Friday and Saturday evening and door staff provision on other evenings be established on a risk assessed basis. The door supervisors will wear high visibility clothing at all times.

Reason

To prevent breaches of the Licensing Objectives in respect of the Prevention of Crime and Disorder and the Prevention of Public Nuisance.

2. - No persons under 18 shall be allowed into the premises after 9 p.m. unless accompanied by an adult.

Reason

To prevent breaches of the Licensing Objectives in respect of the Protection of Children from Harm.

3. - A Challenge 25 policy will apply to the premises and all staff serving alcohol shall be trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card, or PASS accredited card or its equivalent successor card, and if none is supplied or that supplied is unacceptable, a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.

Reason

To prevent breaches of the Licensing Objectives in respect of the Protection of Children from Harm and the Prevention of Crime and Disorder.

RESTRICTED (when complete)**WITNESS STATEMENT**

(CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

The MG11 back sheet must be completed and submitted with this statement

URN

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Statement of: SPC 4100 ROAKEAge if under 18: 018 (if over 18 insert 'over 18') Occupation: Control Room Operator

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 anything in it, which I know to be false, or do not believe to be true.

Signature:

Date: 26/01/2013☐ X if witness evidence is visually recorded (Supply witness details on rear)

On the evening of Saturday 26th January 2013 I was involved in a plain clothes operation conducting test purchases of licensed premises in Swindon Town Centre.

At 20:44 I attended Longs, Old Town, Swindon in company with SPC 4011 BUNDHOO. I positioned myself in a location within the premises with a view of the Bar. It was busy and there were many people at the Bar.

To enter the premises I had used the front door which had one male door staff who I believe to be MIKE SHERIDAN.

Shortly after entering the premises I witnessed two persons known to be test purchase subjects, one male and one female, both of whom are under the age of eighteen enter using the same entrance we had used. They approached the Bar and asked for an alcoholic drink.

At 20:44 I saw the bar tender serve the female and male who were stood together. They were served with two Coronas. I was not within earshot of the Bar, however, they received the alcoholic beverages without being visibly challenged. The test purchasers took the drinks which they had purchased and moved away from the Bar into the smoking area.

I would describe the bar tender as a white male, slim build with blond hair. He was wearing a black uniform.

I had a clear view of the transactions and was no more than 3 meters away. The Bar was dark but there was sufficient light for me to see and despite it being very full I had positioned myself such that I could see the transaction take place.

Signature:



Signature witnessed by:

RESTRICTED (when complete)

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RESTRICTED (when complete)**WITNESS STATEMENT**

(CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1)

URN

Statement of: Constable 2509 RACHAEL LAWAge over 18: 'O' 18 (if over 18 insert 'over 18') Occupation: Police service

This statement (consisting of _____ 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 anything in it, which I know to be false, or do not believe to be true.

Signature:



Date:

☐ X if witness evidence is visually recorded (Supply witness details on rear)

On the evening of Saturday 26th January 2013 I was on duty involved in a plain clothes operation conducting test purchases of licensed premises in the Swindon town centre.

At around 2255 hours I attended Longs bar, Swindon town centre in company with SPC 4008 LYFORD I positioned myself in a location within the premises with a clear view of the bar which was busy at that time. The bar was only one person deep.

To enter the premises I had used the front door which is the main entrance and at this time there was a member of door staff on duty. I would describe this male as late 40's with gray hair. He had a portly stomach and was wearing a dark jacket with reflective bits on it. When myself and SPC LYFORD entered we were asked to produce identification, which we did.

Shortly after I had entered the premises two persons who I know to be a test purchasers, 2 females under the age of 18, entered via the front entrance, the same entrance I had used. They approached the bar.

At 2300 hours I saw both the females at the bar and they were both served a bottle of Smirnoff Ice each. They then took the drink to a table.

I would describe the bar tender as follows:

Mixed race male, early 20's, short afro style hair, light birth mark on his left forearm. He was very slim. I have never seen this male before.

I was stood around 3 steps away from the sale, the area was dark but lit and there were no obstructions between me and the sale.

Signature:



Date:

This page is intentionally left blank

Kalynka, Sian

From: Kalynka, Sian
Sent: 28 January 2013 17:49
To: 'Craig Titchener'
Subject: Test purchase failures. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Craig,

Thank you for meeting with Andy and I this afternoon to discuss the test purchase fails at Longs and The GW.

As promised I have attached the link from the Home office guidance on persistently selling alcohol to children so that you are aware of the legislation that we are using. <http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/selling-alcohol-to-children?view=Binary>

I have also attached the conditions that we would require to be added to the GW licence which can be made by variation. We will be seeing Mark WYLIE later on in the week to issue him with a FPN for the sale as well as the member of bar staff. When we met with them today they did suggest that they would be changing the DPS.



The GW Conditions
for TP failu...

I will forward over the training and other documents that might be useful on Wednesday when I'm back in the office.

Thanks

Sian

Sian Kalynka 6454
Police Licensing Officer
Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon. SN3 4RB



NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Craig Titchener [craig@arkells.com]
Sent: 28 January 2013 18:07
To: Kalynka, Sian
Subject: RE: Test purchase failures. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

Thanks Sian,
I have just spoken to Mike regarding the closure dates, can we agree next Monday/Tuesday the 4th and 5th February 2013.
Hope that is ok with you and I await any training record information you can send me

Thanks again,

Craig Titchener
Director of Arkells Brewery
Kingsdown
Swindon
SN2 7RU
01793823026
07768348537

-----Original Message-----

From: Kalynka, Sian [mailto:Sian.Kalynka@wiltshire.pnn.police.uk]
Sent: 28 January 2013 17:49
To: Craig Titchener
Subject: Test purchase failures. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Craig,

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<http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/alcohol-supporting-guidance/selling-alcohol-to-children?view=Binary>

I will forward over the training and other documents that might be useful on Wednesday when I'm back in the office.

Thanks

Sian

Siân Kalynka 6454
Police Licensing Officer
Community Safety Department

**Phone: 01793 507874 101 ext 760417 mob: 07968514384

* E-mail:

sian.kalynka@wiltshire.pnn.police.uk<mailto:kerryann.ball@wiltshire.pnn.police.uk>

* Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon. SN3 4RB

NOT PROTECTIVELY MARKED/UNCLASSIFIED

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This e-mail has been scanned for all viruses by Star. The service is powered by MessageLabs. For more information on a proactive anti-virus service working around the clock, around the globe, visit:
<http://www.star.net.uk>

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<http://www.star.net.uk>

Kalynka, Sian

From: Kalynka, Sian
Sent: 30 January 2013 11:35
To: 'Craig Titchener'
Subject: training documents

Craig,

Attached is a document providing websites etc that you can get information about what to include in a training package for licensees and their staff. By doing a Google search many things come up as well as companies such as abv training that do training for pubs. There is also the Challenge 25 website link that provides posters and banners etc.



Training
advice.docx



Refusal Record.doc



Example staff
training coverin...

Thanks

Sian

Sian Kalynka 6454

Police Licensing Officer
Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon, SN3 4RB



Kalynka, Sian

From: Kalynka, Sian
Sent: 30 January 2013 13:34
To: 'Craig Titchener'
Subject: Longs closure notice.docx [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED



Longs closure
notice.docx

Craig,

Attached is the formal notice for the closure. If you can just reply in agreement then that is all that needs to be done on your part. We will go and deliver it to Longs this afternoon on our way to a hearing.

Regards

Sian

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Kalynka, Sian
Sent: 31 January 2013 13:57
To: 'Craig Titchener'
Subject: Web based training. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Craig,

As promised I have been in touch with TPs and they have sent me the link of the company that they get their web based training from.

<http://www.cpltraining.co.uk/elearning/elearning.aspx>

regards

Sian

Siân Kalynka 6454
Police Licensing Officer
Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon, SN3 4RB



NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Kalynka, Sian
Sent: 07 February 2013 09:29
To: 'Craig Titchener'
Subject: FW: training. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Craig,

See below link from trading standards as may be something you want to roll out to your premises.

Thanks

Sian

Sian

With reference to below, as Russell mentioned we used the issue SWERCOTS training packs, but they have now been replaced by an online "toolkit" version, which traders have to subscribe to. The whole toolkit is run by the film and interactive video player, allowing the viewer to access materials at regular intervals throughout the film. A taster chapter can be viewed from the site, which is at:

<http://www.swercots.org.uk/SWERCOTS%20public%20site/No%20Proof%20of%20Age%20-%20No%20Sale/NPOANS%20homepage.php>

Alternatively, the following websites have access to various documents/posters and limited advice on training etc. but includes Challenge 25 type stuff.

<http://www.noidnosale.com/>

<http://www.challenge25.org/downloads.html>

I hope that is of help

Peter Morgan
Swindon Trading Standards
Tel : 01793 466119

-----Original Message-----

From: Russell Sharland
Sent: 01 February 2013 09:15
To: 'Kalynka, Sian'
Subject: RE: Test purchase op [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

Hi Sian

Sorry for the late reply - I only work 2 days a week, which are usually Mondays and Fridays.

We used to have the Swercots DVD and a stack of laminated Challenge 25 posters. I'm not quite sure if they are still issuing these. I will speak to Peter when he is back in the office and get back to you early next week?

Cheers

Russell

Siân Kalynka 6454

Police Licensing Officer

Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,

South Marston, Swindon, SN3 4RB



NOT PROTECTIVELY MARKED/UNCLASSIFIED

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Kalynka, Sian
Sent: 31 January 2013 13:58
To: 'Mike@longsbar.co.uk'
Subject: FW: Web based training. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Mike,

FYI see below link which you might wish to consider when training your staff.

Sian

Siân Kalynka 6454

Police Licensing Officer
Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon, SN3 4RB



NOT PROTECTIVELY MARKED/UNCLASSIFIED

From: Kalynka, Sian
Sent: 31 January 2013 13:57
To: 'Craig Titchener'
Subject: Web based training. [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Craig,

As promised I have been in touch with TPs and they have sent me the link of the company that they get their web based training from.

<http://www.cpltraining.co.uk/elearning/elearning.aspx>

regards

Sian

Siân Kalynka 6454

Police Licensing Officer
Community Safety Department

? Phone: 01793 507874 101 ext 760417 mob: 07968514384

E-mail: sian.kalynka@wiltshire.pnn.police.uk

Swindon Police Station Gablecross, Shrivenham Road,



NOT PROTECTIVELY MARKED/UNCLASSIFIED

CLOSURE NOTICE FOR PERSISTENTLY SELLING ALCOHOL TO CHILDREN

Section 169A(2) of the Licensing Act 2003

This notice offers a period of closure as an alternative to criminal prosecution for an offence of repeatedly selling alcohol to underage persons. It is addressed to the person(s) (which may include a company etc.) who hold the relevant premises licence for the premises concerned. A copy of this closure notice will be sent to the holder of the premises licence at the address for that person set out in the licence.

The premises licence holder(s) should read parts 10, 11, 12 and 13 of this notice with particular care as they contain information concerning their rights. If you have been handed this notice and are not the premises licence holder, you may wish to inform the premises licence holder(s) that this notice has been served.

1. Name and rank of the police officer (must hold the rank of superintendent or above) / name of the inspector of weights and measures [delete as appropriate] giving this closure notice.	
SUPERINTENDENT 1430 WILLIAMS	
2. Name of the police, community support or trading standards officer <i>[delete as appropriate]</i> serving this closure notice. (A closure notice may be served by being handed to a person on the premises who appears to have control of or responsibility for the premises and who need not be the premises licence holder).	
PC 0092 ALEXANDER	
3. Date on which closure notice is given.	3 0 0 1 2 0 1 3

Details of premises and premises licence holder(s).	
4. Address of premises in respect of which this notice is being given.	LONGS BAR, VICTORIA ROAD, SWINDON, SN1 3BB
5. Premises licence reference number and issuing licensing authority.	881050944PREM
6. Name of premises licence holder(s).	ARKELLS BREWERY LIMITED
7. Address of premises licence holder(s). (This is the address to which a copy of this closure notice will be sent).	KINGSDOWN BREWERY, UPPER STRATTON, SWINDON SN2 7RU

8. Particulars of alleged offence under section 147A of the Licensing Act 2003, including:	
<ul style="list-style-type: none"> • particulars of unlawful sales made to persons under 18; • dates of the sales; and • the individuals making the sales (so far as known). 	
(Note: you can be liable for the offence if you were a premises licence holder at the time each unlawful sale took place on the premises).	
First unlawful sale:	Two underage persons entered the premises and purchased alcohol on Saturday 27/10/2012 at 21.15hours. The individual that made the sale is Becky PARSONS
Second unlawful sale:	Two underage persons entered the premises and purchased alcohol on Saturday 26/01/2013 at 20.44hours and 23.00hours. The males that made the sales are John REES and Giorgio WRONA

9. Proposed period (at least 48 hours but not more than 336 hours (14 days)) during which sales of alcohol by retail are to be prohibited (commencing not less than 14 days after this closure notice was served):

From	Time: 08.00hours	To	Time: 08.00hours
	Date: Monday 04/02/2013		Date: Wednesday 06/02/2013

10. Effect of accepting of the proposed prohibition (closure)

If you decide to accept the proposed closure (on how to do this, see part 12 below), all sales by retail of alcohol at the premises during the period specified in part 9 of this notice will be unauthorised. An unauthorised sale is a criminal offence (see section 136 of the Licensing Act 2003). A person guilty of an offence under that section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

11. Right to elect to go to trial

You do not have to accept the proposed closure. As an alternative, you may elect to be tried in a court of law for the offence described in part 8 above. That right may exercised by informing the officer named in part 14 in writing or by e-mail.

12. How to accept the proposed prohibition

In order to accept the proposed closure, all premises licence holder(s) should notify the officer named in part 14 of their decision in writing or by e-mail **within 14 days** of this notice being served. Failure to notify the officer named in part 14 of acceptance of the prohibition within 14 days will be taken as a decision to elect for trial for the alleged offence described in part 8.

13. Effect of a failure by one or more of the premises licence holders to accept the proposed prohibition.

The right to be tried for the alleged offence described in part 8 of this closure notice will be taken to have been exercised unless every person who was a holder of the premises licence at the time this notice was given accepts the proposed prohibition.

14. Name of the police officer or trading standards officer to whom notice exercising the option to accept the prohibition should be given, or election to go to trial must be sent, within 14 days.

6454 Sian KALYNKA

The address of the officer in part 14.

Licensing Dept, Gablecross Police Station, Shrivenham Road, Swindon SN3 4RB.

E-mail address of the officer in part 14.

sian.kalynka@wiltshire.pnn.police.uk



Mr M Sheridan,
Longs Bar,
Victoria Road,
Swindon,
SN1 3BB

Swindon Police Station Gablecross,
Shrivenham Road,
South Marston,
SWINDON
Wiltshire SN3 4RB

Telephone: 101 ext. 760417
Direct Dial: 01793 507874
Facsimile: 01793 507816
Website: www.wiltshire.police.uk
Email:
sian.kalynka@wiltshire.pnn.police.uk

Date: 06/2/13

Our ref: Longs TP Fail

Reply contact name is **Siân Kalynka**

Dear Mr Sheridan,

Longs Bar, Victoria Road - Test Purchase Failures.

As you are aware Wiltshire Police carried out a test purchase operation on the 26th January 2013 in Swindon Old Town and Town Centre Night Time Economy areas. Overall 20 premises were tested and this was a repeat of the operation that was carried out in October 2012.

As a result your premises have failed both these operations and your staff have served alcohol to persons under 18. The premises licence holder has accepted a closure notice instead of prosecution for the offence of persistently selling alcohol to children. This offence occurs when a sale to a person under 18 is made twice within 3 months.

Wiltshire Police would normally take premises to a second review following another test purchase failure particularly when 2 sales are made in the same night. However on this occasion as we do not have the current licence for Longs Bar following the review of the premises licence in December we cannot enforce any of the conditions. Wiltshire Police also believe that it would be unfair to take the premises licence before the licensing committee when we do not have the licence from a previous review and that if we did little action would be taken on this occasion.

We are pleased that you have taken the two day closure of the premises to train your staff appropriately and that you now have a training package in place.

We would like to take this opportunity to remind you of the significance of test purchase failures and that if your premises fail on the next operation Wiltshire Police will be left with no option other than to seek a review of the premises licence. We would make the recommendation to the licensing panel for suspension or revocation of premises licence.

Yours Sincerely
Sian Kalynka 6454
Police Licensing Officer



INVESTOR IN PEOPLE

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RESTRICTED (when complete)**WITNESS STATEMENT**

(CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

The MG11 back sheet must be completed and submitted with this statement

URN

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Statement of: Kelham SHEARINGAge if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Constable 2565

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

Signature: Date: 14/07/2013
☐ X if witness evidence is visually recorded (Supply witness details on rear)

I am Pc 2565 SHEARING based at Gablecross Police Station, Swindon. On Saturday 13th July 2013 I was on duty and in plain clothes. I was in company of Pc 2306 MAPSON and we were on an operation conducting Test Purchases of licensed premises in Swindon Town Centre.

At approximately 2225 hours on the same day we attended LONGS BAR, VICTORIA ROAD, OLD TOWN, SWINDON. On approaching the bar we were asked for identification and as proof of age from a Security Officer on the door. This male I would describe as being a white male, approximately 30 years old, of muscular build, around 5ft 8 tall. He had a bald head and was wearing a Black T-shirt that was open, black trousers and shoes. I could see that he had an SIA badge in a Yellow Hi-Vis colour strapped to his arm. This was the male who asked us for identification which we produced and that he allowed us into the bar with.

Also on the door was another male, who at the time I believed to be the Land Lord of the bar. I would describe this male as being a white male, around 35 years old, of a medium to large build, around 5ft 9 tall as he was slightly taller than the Security Officer. I could see that he had dark brown spiked hair which also had quite a bit of grey in it as well. He had a dark grey coloured shirt on which looked like it was a 'well washed' colour and light beige coloured trousers on, which I believe could have been in a combat style with pockets on the side.

On entering the bar we took up a position at the end of the bar furthest away from the front door. At the bar there were approximately 10 persons at the bar and due to its size it gave the impression that it looked quite busy. At the time I could see that there were 3 members of staff working behind the bar. There was a White Female with Blonde Hair, a White Female with Dark Brown Hair and finally also a Male member of bar staff as well.

A short time later I could see the two test purchase subjects approach the front door of the premise. I could see that it looked as if the 2 males had been let into the bar, however after about 2 steps forward I could see that they were stopped again by the same Security Officer we had dealt with.

However I then saw the male I believed to be the Land Lord say something to the Security Officer at which point the two test purchase subjects were then let into the premise.

Signature: 

Signature witnessed by: _____

RESTRICTED (when complete)

RESTRICTED (when complete)Continuation statement of Kelham SHEARING

I then saw that the two test purchase subjects stand at the opposite end of the bar towards us. I had a clear line of sight to them from the waist upwards and at that point they were approximately 5 meters away from us. Although the light was darkened it was still light enough to see everything and there were no obstructions between us.

Once at the bar the two test purchase subjects were then being served by the Male member of bar staff. Due to the distance away from them and that the music was quite loud, I was unable to hear what was being said.

I then witnessed the Male member of the bar staff serve the two test purchase subjects 1 bottle of Bulmers Cider between them both. I saw him give them 1 pint glass to pour it into before they then paid him.

The two test purchase subjects took the bottle they had just purchased and then moved away from the bar and sat on a table behind us.

I would describe the Male member of Bar staff that served the two test purchase subjects as being a white male, approximately early 30's, he was a medium to large build, around 5ft 9 tall. He had dark coloured brown hair that was spiky on top and was slightly thinning as well. He was wearing a Black Shirt that again was open buttoned at the top, with Black trousers, and shoes unknown. At the time he was the only male behind the bar serving.

Once the Male Bar staff member had served the two test purchase subjects I then saw him be asked by one of the female members of bar staff to go into the cellar to change the barrel. He then disappeared from the bar via the door on the bar floor.

At approximately 2235 hours we then signalled to the two test purchase subjects to leave the bar. We then walked down the stairs and walked out of the side door of the premise, shortly followed by the two test purchase subjects, who had discretely left their drink on site.

Signature: 

Signature witnessed by: _____

RESTRICTED (when complete)**WITNESS STATEMENT**

(CJ Act 1967, s9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

The MG11 back sheet must be completed and submitted with this statement

URN

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Statement of: Jon MAPSONAge if under 18: O18 (if over 18 insert 'over 18') Occupation: Police Officer 2306 - Wiltshire Police

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

Signature:



Date:

14/07/2013
☐ X if witness evidence is visually recorded (Supply witness details on rear)

I am the above named police officer currently employed by Wiltshire Police and stationed at Swindon Gablecross Police Station. On Saturday the 13th of July 2013 I was on duty and involved in a plain clothes operation, conducting test purchases of licensed premises in Swindon Town Centre.

At 22:25hrs I attended Longs Bar, Victoria Road, Old Town, Swindon in company with PC 2565 SHEARING. Upon attempting to enter the premises we were stopped by the doorstaff who asked us for ID. We both showed our driving licenses and were let in. The doorstaff member who challenged us was a white male, 35years old, stocky build and 5ft 9inches in height. He was dressed in all black and I noticed an SIA badge attached to his right arm. Also on the door was a male who I believe to be Mike SHERIDAN who is the landlord of Long's. I would describe him as a white male, 35-years old, medium build, 5ft 10inches in height and he was wearing beige/sandy colour trousers and a mottled dark grey shirt.

After we entered we went to the bar area on the left immediately after you walk in the main doors and stood at the far end of the bar. The bar had some people in it but wasn't what I would class as busy. There were about 10 people waiting along the length of the bar.

Shortly after we had entered I noticed the 2 person's who were known to me as the test purchase subjects, both males, attempt to gain entry to the premises. We were about 15 meters away from them and my view was slightly obstructed at this point by the others waiting at the bar. I saw that they appeared to have been stopped by the 2 males on the door who I have described above but after briefly speaking to them they appeared to be let in. I was too far away to hear what was being said. They approached the bar at the opposite end to where PC SHEARING and I were and as the bar was curved at the end I could clearly see them from the waist up. They were about 5 meters away from us. The lighting was good as there were lights above the inside of the bar.

After a short wait they were approached by a bartender who began speaking to them. I couldn't hear what was being said because the music inside was very loud. I saw one of the test purchase subjects speak to the bartender who then served him a glass bottle of Bulmer's original which had a yellow label and gave him a pint glass as well. The test purchase subject handed over some money and was given change and then they both moved away from the bar and sat in a seating booth right next to where I was stood. They sat for a couple of minutes. PC SHEARING and I then left the premises via a side entrance at 22:35hrs and the test purchase subjects followed us.

Signature:



Signature witnessed by:

RESTRICTED (when complete)Continuation statement of Jon MAPSON

The bartender who served the male I would describe as a white male, 5ft 9 inches tall and medium to large build, late 20's to early 30's. He had short spikey hair which appeared to be thinning and looked a light brown colour although the lights directly above his head could have made his hair seem lighter than it was. He was wearing a black shirt and trousers.



Signature: _____ Signature witnessed by: _____

RESTRICTED (when complete)

Kalynka, Sian

From: Kalynka, Sian
Sent: 17 July 2013 13:57
To: 'Mike@longsbar.co.uk'
Subject: ID scanning equipment [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED



scannet_brochure.pdf



scannetreducescrime.pdf



How_we_reduced_false-id-guidance.pdf



ScannetMeasurements.pdf



ScannetMeasurements.pdf

Mike

Please see attached details reference the ID scanners.

Regards

Sian

scannet^{HD}SAFER CLUBBING AT NIGHT NETWORK

Thank you for selecting SCANNET the world's most advanced scanning, marketing, membership, security and age verification system.

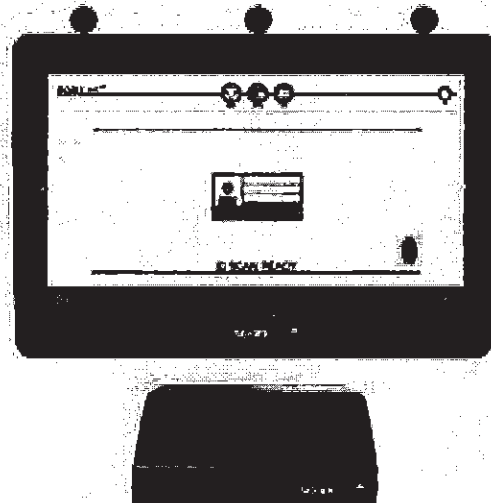
We offer SCANNET in three separate hardware options, each hardware option has the same SCANNET software features.

We call the hardware options:

- 1. FLEX**
- 2. FIX**
- 3. FLOOR**

Flex

~~£55~~
per week
£45
per week



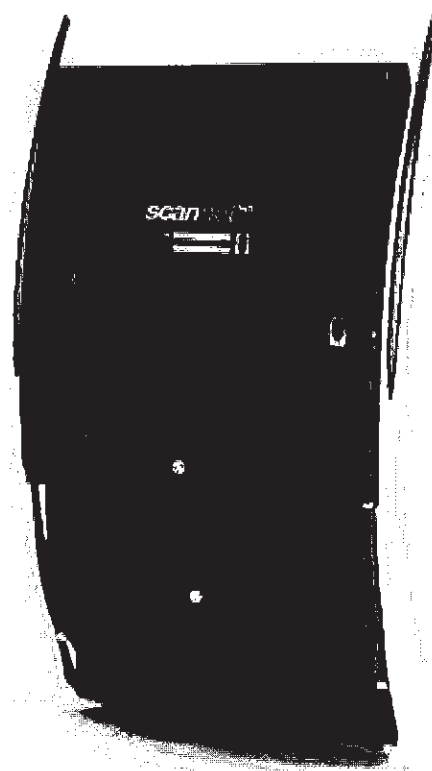
1. Flex:

Flex is the most popular option with nightclubs and bars, it uses a lightweight all in one super-fast i5 processor and all in one built in high definition touchscreen which can be placed in venues where space is a premium, or can be moved outside into a dry area. The all in one form acts almost like a painting meaning you can lift it on and off a bracket for ultimate convenience. The SCANNET scanner works with both passports and ID cards is secured in a "Mini Kiosk" which can easily be mounted and removed on a wall or desk.

You can see a list of our 3500+ documents by clicking [here](#).

Fix

~~£65~~
per week
£55
per week

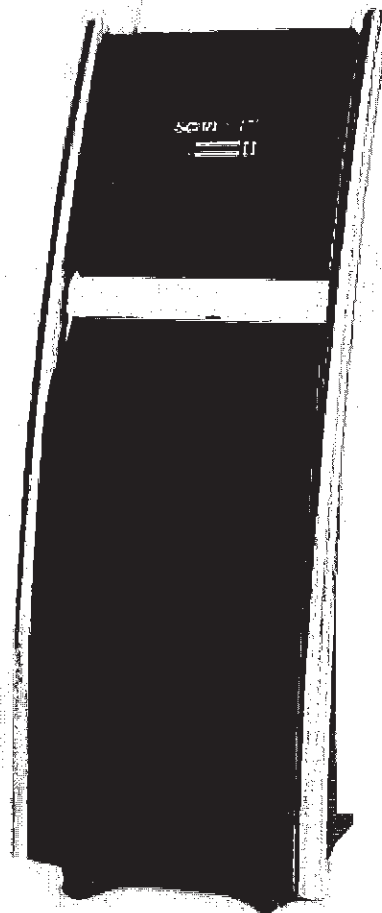


2. Fix:

Fix is a purpose built kiosk ideal for venues which have a safe, secure wall where SCANNET can be permanently fixed, like all options it just needs a power supply and internet connection, either Wi-Fi or Ethernet.

Floor

~~£75~~
per week
£62.50
per week



3. Floor:

Floor is a full standing kiosk, ideal for lobbies or areas that are totally protected from the weather. If you use several different entrances on different nights this could be ideal. The kiosk option has proven very popular with casinos and event organisers, especially those venues that need to authenticate documents. Click [here](#) to find out how SCANNET spots fake ID's.

Sale ends 30th April 2013

After you have selected your hardware option, you need to select the financial solution that best suits your circumstances.

Summary

- Option 1** Purchase from £4750 sale £4250 + £99 monthly licence & support
- Option 2** Lease Rental Subscription 36 months from £55 sale £45 per week
- Option 3** Down Payment & Rental of £299 per month – rolling contract

OPTION 1 | Purchase £4750 + £99 monthly licence

You may wish to own our bespoke hardware and then subscribe to the software, support, software upgrades and management of your system on a monthly basis.

You can select from any of the hardware solutions: Flex, Fix & Floor

Example

SCANNET £4,250 plus £99 per month subscription. Includes Flex Option hardware

Upgrades

Add one off payment of £425 to upgrade to a Fix or Floor hardware option.

Add one off payment of £225 to include biometric membership.

Add one off payment of £175 to add one HD CCTV cameras.

Add one off payment of £180 to add magnetic stripe membership card.

All rentals, subscriptions and licence fees must be paid by Direct Debit – those accounts not settled by direct debit carry a £39 per month administration fee per licence.

subject to terms and conditions

OPTION 2 | Subscription 36 months from £55

Lease rental subscriptions can be available with approved finance through third party finance, bank or other financial institution. You will need to have 3 years trading history, no CCJS, accounts filed on time and be able to offer three months, bank statements. Please complete this form and we will assist in finding you a finance partner, decisions are typically taking 7 to 10 days.

Option	Subscription per week
SCANNET Flex	£55 sale £45
SCANNET Fix	£65 sale £55
SCANNET Floor	£75 sale £62.50

***** NEW 24 Month Subscription £60 per week for Flex hardware only**

Please click [here](#) to complete an application form.

Subscriptions are **100% tax deductible** and offered through third party finance providers.

If you are unable to have finance agreed there are a number of options including shorter terms which you may wish to consider. In the right circumstances we may consider to loan you some of the lease rental finance or rent directly to you.

Upgrades

Option 2 includes all support, updates, CCTV and biometric upgrades

Add one off payment of £180 to add magnetic stripe membership card.

subject to terms and conditions

OPTION 3 | Down Payment & Rental of £299 per month (rolling contract)

Increasingly we have been asked by our customers to provide finance in-house.

Under certain circumstances we maybe able to offer this, businesses that qualify pay just £299 + VAT per month, with a £999 down payment (this is a down payment not a deposit) minimum 6 month rental term. Please [click here](#) to apply.

This is strictly on an offer basis from IDscan, you will need to complete this [form](#) and we hope to have an answer for your within 24hrs.

Upgrades

Add one off payment of £425 to upgrade to a Fix or Floor hardware option.

Add one off payment of £225 to include biometric membership.

Add one off payment of £175 to add one HD CCTV cameras.

Add one off payment of £180 to add magnetic stripe membership card.

Rentals must be paid monthly in advance by direct debit.

All rentals, subscriptions and licence fees must be paid by Direct Debit – those accounts not settled by direct debit carry a £39 per month administration fee per licence.

subject to terms and conditions

OPTION 4 | Deposit payment 3 year term with cash back.

If you would like to commit to a three year term we are able to cash back the deposit in stage payments during the 3 year lease rental term.

£999 down and £276 per month 3 year contract with cash back:

Months 12 cash back £250

Months 24 cash back £250

Months 36 cash back £499

Total cash back £999.

Subscription must be paid monthly by direct debit cash back requires renters invoice and qualifies by:

- 1) No late payments
- 2) No missed payments
- 3) Completing full term
- 4) Your system to be connected to the internet each 7 days for re-licensing

Upgrades

Add one off payment of £425 to upgrade to a Fix or Floor hardware option.

Add one off payment of £225 to include biometric membership.

Add one off payment of £175 to add one HD CCTV cameras.

Add one off payment of £180 to add magnetic stripe membership card.

All rentals, subscriptions and licence fees must be paid by Direct Debit – those accounts not settled by direct debit carry a £39 per month administration fee per licence.

subject to terms and conditions

OPTION 5 | Step & GO

This option is ideal if you need **SCANNET** for a short term rental for a busy period, during freshers weeks or during a review

£1500 deposit £425 per week short term rental, may be used equipment minimum 1 month rental and first month paid in advance.

subject to [terms and conditions](#)

Installation, Shipping, VAT, Terms & Conditions

An additional one time fee of £270+VAT is charged is with all options installed options other than software only or direct shipping, this covers installation, training and an optional one night baby-sit, should you require one which involves a trainer attending your venue from 10pm to 2am. All prices are subject to VAT and carriage where applicable all rentals and support fees must be paid by standing order or direct debit. Items that are shipped directly will incur national or international shipping charges. Please ensure that you have read our terms and conditions.

We ship globally.

subject to [terms and conditions](#)

Support

Your system support and management is conditional upon the following:

1. Your account is up-to-date SCANNET will cease operating if payments are late;
2. You are able to connect to the internet when requiring support;
3. System is operated within normal operating temperature of 5c to 34c;
4. Your system is connected to the internet once every 7 days to re-issue your license.

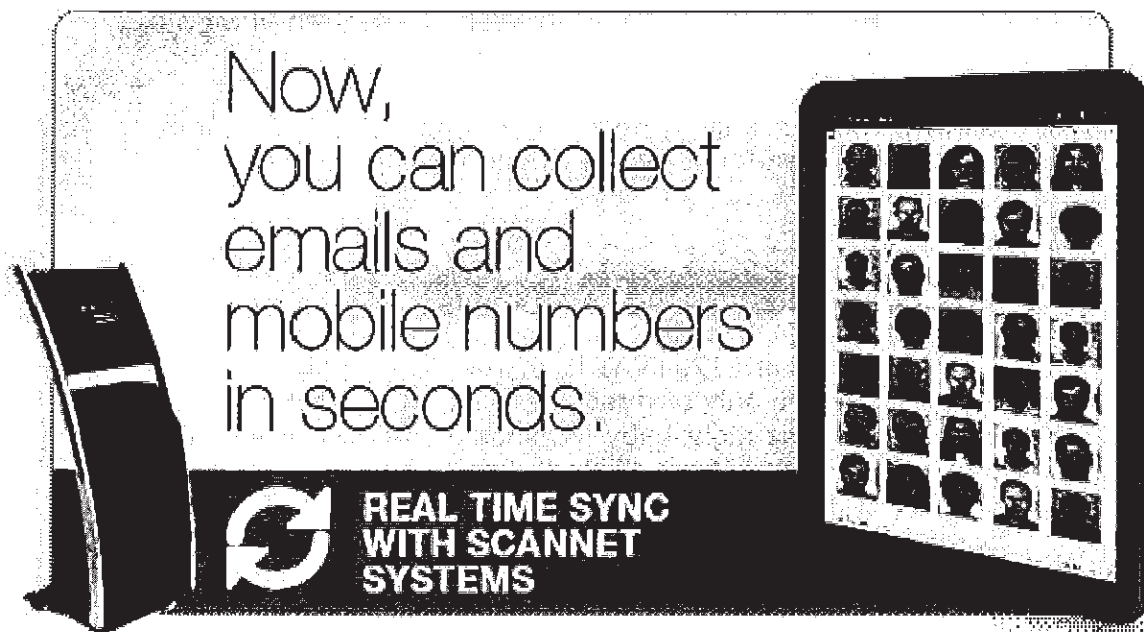
If you are unable to connect your system to the internet for remote support and the case is not terminal there is a minimum £95 call out charge or £20 each way courier collection and delivery charge your systems are Wi-Fi enabled or £45 for each incident.

Full terms and conditions are available [here](#)


What Next

- 1) Decide the option that works for you
- 2) Contact us and let us know
- 2) Complete this application [form](#)

Please feel free to contact me at anytime for a live online Demonstration, if there is anything I can be of assistance with on 07958 301 563, or contact any of the sales team on 02079879977.



Now,
you can collect
emails and
mobile numbers
in seconds.

 **REAL TIME SYNC
WITH SCANNET
SYSTEMS**

Thanks again for your interest in IDscan.

Kind regards,

IDscan Biometrics Team
02079879977

IDSCAN BIOMETRICS TERMS AND CONDITIONS <http://www.idscan.co.uk/tc.php>

IDScan products must be connected to the internet for full operation, support, upgrades and re-licensing of your software, failure to do so will invalidate your license and support and cause your system to stop operating after 7 days.

Sian Kalynka 6454

Licensing Officer
Wiltshire Police

☎ Phone: 01793 507874 101 ext 760417 mob: 07968514384

✉ E-mail: sian.kalynka@wiltshire.pnn.police.uk

📍 Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon. SN3 4RB

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Kalynka, Sian
Sent: 18 July 2013 18:31
To: 'Mike@longsbar.co.uk'
Subject: Challenge 25 posters [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Mike,

Following your question yesterday about challenge 25 documents this website provides the English versions.

They are at the bottom of the web page.


<http://www.wsta.co.uk/challenge-25.html>

Thanks


Sian

Siân Kalynka 6454

Licensing Officer
Wiltshire Police

 Phone: 01793 507874 101 ext 760417 mob: 07968514384

 E-mail: sian.kalynka@wiltshire.pnn.police.uk

 Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon. SN3 4RB

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Kalynka, Sian

From: Mike Sheridan [mike@longsbar.co.uk]
Sent: 20 July 2013 10:55
To: Kalynka, Sian
Subject: Re: ID scanning equipment [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

Follow Up Flag: Follow up
Flag Status: Flagged

Hi Sian

Is it ok for myself to run my own test purchasing ?? I think it would be a good idea for myself and the staff and door team. Thanks for all the emails etc also getting quotes for door scanner . We have started to use the stamps on the door so when I D is checked there stamp there hand and the bar staff will ask to see there hand do you think this is a good idea ?? The new cd recorder has arrived (£1250) later !!! So I am doing my best if there is any other ideas you can think to help please say . And sorry for being over stupid on the radio last week it will not happen again

Regards

Mike Sheridan

Sent from my iPhone

On 17 Jul 2013, at 14:50, Mike Sheridan <mike@longsbar.co.uk> wrote:

> Thanks for that really want to get this sorted thanks for your help

>

> Regards

>

> Mike

>

> Sent from my iPhone

>

> On 17 Jul 2013, at 13:57, "Kalynka, Sian" <Sian.Kalynka@wiltshire.pnn.police.uk> wrote:

>

>> NOT PROTECTIVELY MARKED/UNCLASSIFIED

>>

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>>

>> Mike

>> Please see attached details reference the ID scanners.

>>

>> Regards

>>

>> Sian

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>> 1. Flex:

>> Flex is the most popular option with nightclubs and bars, it uses a lightweight all in one super-fast i5 processor and all in one built in high definition touchscreen which can be placed in venues where space is a premium, or can be moved outside into a dry area. The all in one form acts almost like a painting meaning you can lift it on and off a bracket for ultimate convenience. The SCANNET scanner works with both passports and ID cards is secured in a "Mini Kiosk" which can easily be mounted and removed on a wall or desk.

>> You can see a list of our 3500+ documents by clicking here<<http://www.idscan.co.uk/document-library>>.

>>

>>

>> 2. Fix:

>> Fix is a purpose built kiosk ideal for venues which have a safe, secure wall where SCANNET can be permanently fixed, like all options it just needs a power supply and internet connection, either Wi-Fi or Ethernet.

>>

>>

>> 3. Floor:

>> Floor is a full standing kiosk, ideal for lobbies or areas that are totally protected from the weather. If you use several different entrances on different nights this could be ideal. The kiosk option has proven very popular with casinos and event organisers, especially those venues that need to authenticate documents. Click here<<http://www.idscan.co.uk/videos.php>> to find out how SCANNET spots fake ID's.

>>

>>

>> Sale ends 30th April 2013

>>

>>

>> After you have selected your hardware option, you need to select the financial solution that best suits your circumstances.

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>> Purchase from £4750 sale £4250 + £99 monthly licence & support

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>> Lease Rental Subscription 36 months from £55 sale £45 per week

>>

>>

>>

>>

>> Down Payment & Rental of £299 per month - rolling contract

>>

>>

>> OPTION 1 | Purchase £4750 sale £4,250 + £99 monthly licence

>>

>>

>> You may wish to own our bespoke hardware and then subscribe to the software, support, software upgrades and management of your system on a monthly basis.

>> You can select from any of the hardware solutions: Flex, Fix & Floor

>>

>>

>> SCANNET £4,250 plus £99 per month subscription. Includes Flex Option hardware

>>

>>

>> Add one off payment of £425 to upgrade to a Fix or Floor hardware option.

>> Add one off payment of £225 to include biometric membership.

>> Add one off payment of £175 to add one HD CCTV cameras.

>> Add one off payment of £180 to add magnetic stripe membership card.

Kalynka, Sian

From: Kalynka, Sian
Sent: 22 July 2013 08:41
To: 'Mike Sheridan'
Subject: RE: ID scanning equipment [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

NOT PROTECTIVELY MARKED/UNCLASSIFIED

Mike,

You are not able to carry out test purchasing yourself using persons under 18 as you are not able to do that under law. You can do what other premises do and use people over 18 to ensure your staff are correctly using the challenge 25 but under no circumstances can you allow people under 18.

The hand stamping seems like a good idea and should prevent any further mistakes from happening.

Thanks

Sian

Sian Kalynka 6454
Licensing Officer
Wiltshire Police

WPhone: 01793 507874 101 ext 760417 mob: 07968514384
E-mail: sian.kalynka@wiltshire.pnn.police.uk
Swindon Police Station Gablecross, Shrivenham Road,
South Marston, Swindon. SN3 4RB

-----Original Message-----

From: Mike Sheridan [mailto:mike@longsbar.co.uk]
Sent: 20 July 2013 10:55
To: Kalynka, Sian
Subject: Re: ID scanning equipment [NOT PROTECTIVELY MARKED/UNCLASSIFIED]

Hi Sian

Is it ok for myself to run my own test purchasing ?? I think it would be a good idea for myself and the staff and door team. Thanks for all the emails etc also getting quotes for door scanner . We have started to use the stamps on the door so when I D is checked there stamp there hand and the bar staff will ask to see there hand do you think this is a good idea ?? The new cd recorder has arrived (£1250) later !!! So I am doing my best if there is any other ideas you can think to help please say . And sorry for being over stupid on the radio last week it will not happen again

Regards

Mike Sheridan

Sent from my iPhone

On 17 Jul 2013, at 14:50, Mike Sheridan <mike@longsbar.co.uk> wrote:

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> Regards
>
> Mike
>
> Sent from my iPhone
>
> On 17 Jul 2013, at 13:57, "Kalyinka, Sian" <Sian.Kalyinka@wiltshire.pnn.police.uk> wrote:
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>> NOT PROTECTIVELY MARKED/UNCLASSIFIED
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>> Mike
>> Please see attached details reference the ID scanners.
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>> Regards
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>> Sian
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>> 1. Flex:
>> Flex is the most popular option with nightclubs and bars, it uses a lightweight all in one super-fast i5 processor and all in one built in high definition touchscreen which can be placed in venues where space is a premium, or can be moved outside into a dry area. The all in one form acts almost like a painting meaning you can lift it on and off a bracket for ultimate convenience. The SCANNET scanner works with both passports and ID cards is secured in a "Mini Kiosk" which can easily be mounted and removed on a wall or desk.
>> You can see a list of our 3500+ documents by clicking
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>> Fix is a purpose built kiosk ideal for venues which have a safe, secure wall where SCANNET can be permanently fixed, like all options it just needs a power supply and internet connection, either Wi-Fi or Ethernet.
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here<<http://www.idscan.co.uk/videos.php>> to find out how SCANNET spots fake ID's.
>>
>>
>> Sale ends 30th April 2013
>>
>>
>> After you have selected your hardware option, you need to select the financial solution that best suits your circumstances.
>>
>>

CLOSURE NOTICE FOR PERSISTENTLY SELLING ALCOHOL TO CHILDREN

Section 169A(2) of the Licensing Act 2003

This notice offers a period of closure as an alternative to criminal prosecution for an offence of repeatedly selling alcohol to underage persons. It is addressed to the person(s) (which may include a company etc.) who hold the relevant premises licence for the premises concerned. A copy of this closure notice will be sent to the holder of the premises licence at the address for that person set out in the licence.

The premises licence holder(s) should read parts 10, 11, 12 and 13 of this notice with particular care as they contain information concerning their rights. If you have been handed this notice and are not the premises licence holder, you may wish to inform the premises licence holder(s) that this notice has been served.

1. Name and rank of the police officer (must hold the rank of superintendent or above) / name of the inspector of weights and measures [delete as appropriate] giving this closure notice.	
SUPERINTENDENT 1430 WILLIAMS	
2. Name of the police, community support or trading standards officer [delete as appropriate] serving this closure notice. (A closure notice may be served by being handed to a person on the premises who appears to have control of or responsibility for the premises and who need not be the premises licence holder).	
PC 0092 ALEXANDER	
3. Date on which closure notice is given.	3 0 0 1 2 0 1 3

Details of premises and premises licence holder(s).	
4. Address of premises in respect of which this notice is being given.	LONGS BAR, VICTORIA ROAD, SWINDON, SN1 3BB
5. Premises licence reference number and issuing licensing authority.	881050944PREM
6. Name of premises licence holder(s).	ARKELLS BREWERY LIMITED
7. Address of premises licence holder(s). (This is the address to which a copy of this closure notice will be sent).	KINGSDOWN BREWERY, UPPER STRATTON, SWINDON SN2 7RU

8. Particulars of alleged offence under section 147A of the Licensing Act 2003, including: <ul style="list-style-type: none"> particulars of unlawful sales made to persons under 18; dates of the sales; and the individuals making the sales (so far as known). <p>(Note: you can be liable for the offence if you were a premises licence holder at the time each unlawful sale took place on the premises).</p>	
First unlawful sale:	Two underage persons entered the premises and purchased alcohol on Saturday 27/10/2012 at 21.15hours. The individual that made the sale is Becky PARSONS
Second unlawful sale:	Two underage persons entered the premises and purchased alcohol on Saturday 26/01/2013 at 20.44hours and 23.00hours. The males that made the sales are John REES and Giorgio WRONA

9. Proposed period (at least 48 hours but not more than 336 hours (14 days)) during which sales of alcohol by retail are to be prohibited (commencing not less than 14 days after this closure notice was served):

From	Time: 08.00hours	To	Time: 08.00hours
	Date: Monday 04/02/2013		Date: Wednesday 06/02/2013

10. Effect of accepting of the proposed prohibition (closure)

If you decide to accept the proposed closure (on how to do this, see part 12 below), all sales by retail of alcohol at the premises during the period specified in part 9 of this notice will be unauthorised. An unauthorised sale is a criminal offence (see section 136 of the Licensing Act 2003). A person guilty of an offence under that section is liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding £20,000, or to both.

11. Right to elect to go to trial

You do not have to accept the proposed closure. As an alternative, you may elect to be tried in a court of law for the offence described in part 8 above. That right may exercised by informing the officer named in part 14 in writing or by e-mail.

12. How to accept the proposed prohibition

In order to accept the proposed closure, all premises licence holder(s) should notify the officer named in part 14 of their decision in writing or by e-mail **within 14 days** of this notice being served. Failure to notify the officer named in part 14 of acceptance of the prohibition within 14 days will be taken as a decision to elect for trial for the alleged offence described in part 8.

13. Effect of a failure by one or more of the premises licence holders to accept the proposed prohibition.

The right to be tried for the alleged offence described in part 8 of this closure notice will be taken to have been exercised unless every person who was a holder of the premises licence at the time this notice was given accepts the proposed prohibition.

14. Name of the police officer or trading standards officer to whom notice exercising the option to accept the prohibition should be given, or election to go to trial must be sent, within 14 days.

6454 Sian KALYNKA

The address of the officer in part 14.

Licensing Dept, Gablecross Police Station, Shrivenham Road, Swindon SN3 4RB.

E-mail address of the officer in part 14.

sian.kalynka@wiltshire.pnn.police.uk

**IN THE MATTER OF AN APPLICATION BY THE CHIEF CONSTABLE OF
WILTSHIRE POLICE FOR A LICENSING REVIEW OF LONGS BAR, 86-87
VICTORIA ROAD, SWINDON, SN1 3BB.**

STATEMENT OF SIAN KALYNKA

I, **SIAN KALYNKA**, Licensing Officer, Licensing Department, Divisional Police
Headquarters, Gablecross Police Station, Swindon, Wiltshire SN3 4RB will say as follows:

1. I am a Police Licensing Officer for Wiltshire Police, having joined the Force in November 2009. I make this statement on behalf of the Appellant in these proceedings.
2. Operation Drink was set up in 2010 in Swindon in response to intelligence received to the effect that a number of premises in the Swindon Town Centre and Old Town area were selling alcohol to persons under 18 years old. Such sales amount to criminal offences and are to be taken extremely seriously by licensing authorities.
3. Since 2010 12 test purchase operations have been carried out, 8 of those being in the Swindon Town Centre and Old Town areas.

4. Since inception the operation has been run with regard to and in accordance with the relevant non-statutory guidance. This guidance was issued initially by the Local Authorities Coordinators of Regulatory Services (LACORS). In March 2013, it was replaced by a new 'Code of Practice: Age Restricted Products' ['the Code'], issued by the Better Regulation Delivery Office. This Code represents the relevant guidance at the time of the most recent test purchase operation on 13th July 2013.
5. The Code is freely available online, but I produce a copy of it as my exhibit SK1. The Code describes good practice in regulators and enforcers by setting out a series of recommendations (in bold type) supported by explanatory guidance. It is not and does not purport to be binding or mandatory. Recommendations 13 – 27 deal with test purchasing by young people as a tactic for conducting spot checks on compliance. These recommendations were fully complied with so far as relevant on 13th July 2013. In particular:
 - a. Directed surveillance authority was obtained pursuant to the Regulation of Investigatory Powers Act 2000 (recommendation 13). Such authority is necessary where covert surveillance (where people subject to the surveillance are unaware that it is or may be taking place) is to be carried out. Authorisation for such surveillance is only forthcoming where the proposed surveillance is necessary and proportionate and meets the test for collateral intrusion. No question of covert human resources arose on 13th July 2013 since, as the guidance makes very clear, the deployment of a young person on a single occasion at any one premises '*is unlikely to be construed as a CHIS*';

- b. Test purchasers were selected, authorised, instructed and deployed in accordance with recommendations 14, 20-24 and 27. Police officers and staff and volunteers were fully briefed in respect of methodology, welfare arrangements, evidence gathering, communication, staffing and welfare. These briefings were founded on the risk assessment completed in respect of the operation 13/07/13;
- c. Written notifications pursuant to recommendations 15 - 18 were completed as appropriate. Where, as in the case of Long's Bar, there had been a purchase of alcohol by the volunteer, all relevant parties were informed as soon as practicable after the operation had concluded, and a fixed penalty notice was issued to the persons that sold alcohol to the test purchase volunteers. In the case of Long's Bar, the DPS (Michael Sheridan) and PLH (Arkells Brewery) were informed by telephone on 15th July 2013, and a meeting arranged for 17th July 2013 (per my original witness statement at paragraphs 36-47). This meeting was followed by email correspondence referring to the test purchase. Where there was no sale of alcohol to the volunteers the relevant parties were informed of this as soon as possible.
- d. Prior to the operation parents/guardians and volunteers were fully briefed on all aspects of the operation and signed a provision of assistance form and young person consent form, and evidence of test purchasers' dates of birth was obtained: recommendations 26-27.

Statement of Truth

I confirm that the contents of this statement are true to the best of my knowledge and belief.

Signed..........
SIAN KALYNKA

Dated.....9/10/13.....



Department
for Business
Innovation & Skills

Better
Regulation
Delivery Office

Code of Practice

Age Restricted Products



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Introduction to the Code

The Age Restricted Products and Services Framework, developed with businesses, regulatory bodies and other stakeholders and published in November 2011, sets out an agreed set of shared responsibilities and reasonable expectations for young people, their parents and carers, businesses, employees and regulators with regard to access to age restricted products and services.

The controls put in place by legislative age restrictions on diverse products and services are essential for the protection of young people, particularly the most vulnerable. Local regulation needs to deliver the protection that individual young people need, and in doing so, to contribute to better outcomes for local communities, citizens and businesses. To achieve this, local regulators and enforcers must target those that represent the greatest risks to young people, taking effective action where businesses do not take a responsible approach to compliance.

This Code of Practice for Regulatory Delivery (hereafter 'Code') has been developed in collaboration with business and regulators in support of the Age Restricted Products and Services Framework, and represents a non-statutory approach to improving regulation in this area, having regard to relevant practice and guidance. It sets out a way of working that is rooted in the statutory principles of good regulation¹: that regulation should be proportionate, consistent, accountable, transparent and targeted. It applies the requirements of the statutory Regulators' Compliance Code, which promotes '*a positive and proactive approach towards ensuring compliance by: helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and, responding proportionately to regulatory breaches*'.

In 2010, the Local Authorities Coordinators of Regulatory Services (LACoRS) published updated guidance for practitioners working with children and young people in test purchasing² operations regarding age restricted products. This guidance has played an important role in establishing and sharing good practice in relation to the welfare of test purchasers³ and much of the content of that guidance has been brought forward to this Code. The Local Government Association has welcomed the broader focus of this Code, and the incorporation of the relevant good practice guidance developed by LACoRS.

This Code sets out an approach for those that are responsible for regulatory delivery that underpins the principles set out in the Age Restricted Products and Services Framework. (The responsibilities of regulators and enforcers in respect of compliance and enforcement activities are listed in Annex 2.) The recommendations of this Code are produced in bold print and are accompanied by supporting explanatory guidance and details of relevant resources. A number of supporting templates that regulators and enforcers may choose to use will be made available on BRDO's website, alongside this Code.

¹ Legislative and Regulatory Reform Act 2006, section 21

² The use of young people to test compliance with legal age restrictions on access to products or services. A test purchase attempt will usually involve an attempt to purchase but the term also covers attempts to enter an agreement to provide a product or service, including online, and attempts to access premises or specific areas of a premises.

³ A young person who is assisting in a test purchase exercise or exercises on behalf of an enforcing authority.

This Code sets out a process that follows the steps that an enforcing authority will work through, from prioritising the use of its resources, through its proactive work to support compliance, to targeted checks on compliance where these are warranted, and appropriate responses to non-compliance that is identified, including taking swift and firm action where necessary.

Scope

This Code is applicable to all local regulatory activities undertaken in England and Wales. It covers all products and services for which statutory age restrictions are in place, and all relevant compliance and enforcement activities, whether in relation to premises, or to the online supply of these products and services. Annex 3 contains a summary of the age restrictions in place at the time of publication of this Code.

This Code is primarily aimed at local authorities and others with responsibilities under the Regulators' Compliance Code⁴. However other enforcement agencies will find it of value. Those responsible for regulatory delivery are referred to throughout the document as 'enforcing authorities'.

This Code also acknowledges that local authorities play a significant role in regulatory delivery through their responsibilities in relation to local licensing.

⁴ Or other statutory guidance issued under section 22 of the Legislative and Regulatory Reform Act 2006.

A) Prioritisation

- 1. An enforcing authority should understand and communicate the contribution that its regulatory activities in respect of age restricted products and services make to the outcomes that it is committed to delivering.**

Guidance:

- 1.1 A local authority's expressed outcomes are likely to include protecting young people from harm, keeping communities safe, and supporting vibrant business communities, all of which will be of relevance here.
- 1.2 Enforcing authorities could consider using a tool such as BRDO's Outcomes and Impacts Toolkit⁵ to help them to demonstrate the impact of their regulatory activities in this area.
- 1.3 A local authority's annual determinations of the extent to which it will carry out a programme of enforcement activity in relation to tobacco products⁶ and spray paints⁷ provide it with an opportunity to articulate its outcomes, and the contribution that its enforcement activities will make to delivering those outcomes in respect of those products.
- 1.4 An annual service plan or business plan provides a mechanism for communicating the contribution that regulatory activities in this area make to the enforcing authority's outcomes, as does a published compliance and enforcement policy.
- 1.5 A licensing authority's preparation and publication of its Licensing Policy⁸ and its Statement of Principles⁹ under the Gambling Act provide it with an opportunity to articulate its outcomes in respect of the protection of children from harm, and the contribution that its enforcement activities will make to delivering those outcomes.

- 2. An enforcing authority should ensure that its regulatory resources are allocated on the basis of an assessment of the priority risks in its area.**

Guidance:

- 2.1 An evidence-based approach will enable an enforcing authority to make informed decisions on what needs to be done and why, so that it can allocate the required resources. At this stage, the enforcing authority is not considering the targeting of individual businesses, but is making strategic decisions about its response to the most significant risks to its local community, including its local businesses. In considering relevant evidence, a local authority might ask itself, for example:
 - What are the problems in our local area? What sources of information and data are available to us in addition to public complaints?
 - Is there a high level of alcohol consumption by young people, and by under 15s in particular? This may be evidenced by high levels of anti-social behaviour or by high levels of alcohol-related hospital admissions for young people.

⁵ Outcomes and Impacts Toolkit Summary, Local Better Regulation Office, 2010

⁶ Children and Young Persons (Protection from Tobacco) Act 1991, section 5

⁷ Anti-Social Behaviour Act 2003, s.54A

⁸ Licensing Act 2003, section 5

⁹ Gambling Act 2006, section 349

- Are smoking levels higher in some communities or groups than others? Youth smoking survey data, smoking prevalence data and visual sights of groups of young people smoking may indicate areas where youth smoking rates are high.
 - Is graffiti in a particular area incurring costs for the local authority and local businesses? Are young people producing the graffiti?
 - Is there a problem with street gangs in the area? Are there high levels of knife crime? Are there high levels of hospital admissions as a result of knife crime?
 - Are online retailers based in your area a priority?
- 2.2 Enforcing authorities should consider how they can best work with local communities to understand and tackle priority issues within those communities.
- 2.3 Not all age restricted products and services present the same level of potential harm. An enforcing authority's assessment will need to take into account the potential harm associated with non-compliance, as well as the likelihood of non-compliance.
- 3. An enforcing authority should work collaboratively with partner organisations that have shared outcomes, to tackle the risks identified. In particular:**
- a) A local authority will want to consider its contribution to public health initiatives that focus on protecting young people from the harm associated with age restricted products such as alcohol and tobacco.**
 - b) Where enforcing authorities work with others who are involved in educating young people, they should promote awareness and use of the Age Restricted Products and Services Framework.**
 - c) Where a local authority and the police share enforcement responsibilities, they should co-ordinate their approach.**
 - d) Where a local authority and a national regulator (such as the Gambling Commission) share enforcement responsibilities, the local authority and the national regulator should co-ordinate their approach and should share information that will improve the targeting of resources and minimise any potential for duplication of effort.**

Guidance:

- 3.1 Tackling the problems associated with age restricted products and services requires a holistic approach, and involves collaborative working between a range of organisations. Some approaches will be best led by the enforcement agency, particularly where the focus is on the role that business plays, whilst some approaches will be led by other agencies, often with support from the enforcing authority.

3.2 Forums for co-ordinating activity might include:

- Crime and Disorder Reduction Partnerships;
- Responsible Authorities Working Groups;
- Health and Wellbeing Boards;
- Community Alcohol Partnerships¹⁰ and other retail and community initiatives
- Local Enterprise Partnerships;
- Business Improvement Districts;
- Town Centre Partnerships; and
- regional tobacco control groups.

3.3 Growing evidence¹¹ shows that age restricted products are often sourced by young people by routes other than traditional retail supplies. Community engagement and educational activities are sometimes more appropriate responses to issues such as proxy purchases by parents, friends and relatives, and illicit supplies, which can impact in areas where conventional enforcement activities are not appropriate.

¹⁰ Further information available at www.communityalcoholpartnerships.co.uk

¹¹ See source material at Annex 1, Research and Project Evaluation

B) Working with businesses and communities

- 4. Enforcing authorities should ensure that their compliance and enforcement approach to age restricted products and services legislation, including their approach to targeting their compliance and enforcement activities in this area, is transparent^{12&13}.**

Guidance:

- 4.1 The enforcing authority's policy on compliance and enforcement should be published¹⁴ and should be easily accessible to those that it regulates. For example, links to the policy would usually be made available on the enforcing authority's website.
- 4.2 The scope of the enforcing authority's policy on compliance and enforcement should be clear, so that those regulated in relation to age restricted products and services legislation are able to easily identify that the policy is relevant to them.
- 4.3 Where an enforcing authority targets some or all of its compliance and enforcement activities on the basis of a nationally produced risk methodology, then it should make this known to those that it regulates, for example by including a link to published details of the scheme in its compliance and enforcement policy, or elsewhere on its website.
- 4.4 Where an enforcing authority targets some or all of these activities on the basis of its own risk methodology, then it should involve those it regulates and other interested parties in designing this risk methodology, should publish details of it, and should review it regularly, taking into account any feedback provided by those it regulates and other interested parties¹⁵.

- 5. An enforcing authority should select compliance and enforcement activities that offer the greatest opportunity to deliver improved outcomes for young people, local communities and businesses.**

Guidance:

- 5.1 An enforcing authority will usually have a wide range of options available to it, including: raising awareness of the legislation and compliance issues with business; providing advice and guidance to business; working through primary authorities; conducting checks on compliance; and dealing appropriately with compliance breaches, including taking swift and firm action where necessary.
- 5.2 In choosing the most appropriate option, the enforcing authority will need to think about the outcomes that it is trying to achieve, the public interest, and where its intervention, or an intervention by others, is likely to have the greatest impact¹⁶.

¹² Legislative and Regulatory Reform Act 2006, section 21, requires relevant regulatory functions to be carried out in a way which is transparent.

¹³ The Better Regulation Delivery Office has produced a template Compliance and Enforcement Policy, and associated guidance to assist local authorities in developing a policy that is in line with the requirements of the Regulators' Compliance Code, or to review their existing policy.

¹⁴ Regulators' Compliance Code, section 8.4 (applicable to local authorities and to the Gambling Commission).

¹⁵ Regulators' Compliance Code, section 4.4 and 4.5

¹⁶ See material at Annex 1, Research and Project Evaluation, including NHS Scotland's study of the impact of measures used to enforce underage alcohol sales regulations.

6. An enforcing authority should ensure that clear information and guidance on relevant legislation are readily available to those that it regulates.

Guidance:

6.1 Enforcing authorities will need to ensure, in particular, that:

- They provide appropriate means for businesses to seek and access compliance advice.
- Legal requirements are promptly communicated or made available to those regulated¹⁷.
- General information, advice and guidance are provided in clear, concise and accessible language, using a range of appropriate formats and media¹⁸.
- Compliance advice clearly distinguishes between statutory requirements and other advice or guidance¹⁹. This section is of particular relevance in relation to age restricted products and services legislation, where much of the advice and guidance offered relates not to interpreting statutory requirements but to the controls that a business puts in place in order to meet those requirements.

6.2 An enforcing authority may choose to signpost to nationally available information, guidance and training provision.

6.3 In responding to requests for advice, an enforcing authority's primary concern should be to provide the advice and guidance necessary to help ensure compliance²⁰, and enforcing authorities should consider how they can create an environment in which businesses have confidence in this approach and feel able to seek advice without fear of directly triggering enforcement action.

7. An enforcing authority should prioritise the support that it offers to businesses to those that are least likely to have robust compliance arrangements in place, particularly those businesses in priority risk areas²¹ (see section 2).

Guidance:

7.1 Risk assessment should precede and inform all aspects of an enforcing authority's approaches to its regulatory activities²², including its advice and guidance activities.

7.2 In prioritising the support that it offers, the enforcing authority will want to consider the particular needs of pre-start up and new businesses.

7.3 In prioritising the support that it offers, the enforcing authority will want to consider its responsibilities in respect of businesses based in its area that trade across council boundaries, for example by offering Primary Authority or, where this is not appropriate, acting as a Home Authority.

¹⁷ Regulators' Compliance Code, section 5.1

¹⁸ Regulators' Compliance Code, section 5.2

¹⁹ Regulators' Compliance Code, section 5.5

²⁰ Regulators' Compliance Code, section 5.6

²¹ Products, sectors or geographic areas

²² Regulators' Compliance Code, section 4.1

- 7.4 Businesses that are in a Primary Authority partnership covering the Age Restricted Sales category²³ are able to receive authoritative advice in this area from their primary authority. This means that any locally identified need for proactive advice and guidance should be referred to the primary authority.
- 7.5 Enforcing authorities may find that they can communicate most effectively with local businesses by utilising existing mechanisms, where these exist, for example:
- through trade associations;
 - through existing local schemes such as Pubwatch, Business Crime Reduction partnerships, Local Enterprise Partnerships, Purple Flag, Business Improvement Districts, and Community Alcohol Partnerships; and
 - through local and trade press.
8. **An enforcing authority should ensure that the information and guidance that it provides to businesses, their staff, and others, supports a clear and consistent message that valid proof of age must always be required where young people seek to access age restricted products and services through face to face transactions. This information and guidance should be clear in relation to acceptable forms of proof of age.**

Guidance:

- 8.1 Enforcing authorities will be aware of the risks for young people in relying on a passport or driving licence as proof of age and should consider the advantages of promoting PASS²⁴ cards as the preferred form of proof of age for businesses and young people in relation to face to face transactions. However, the enforcing authority should acknowledge that there are other acceptable forms of proof of age, as detailed in current Home Office guidance and Gambling Commission guidance.
9. **A local authority acting as a licensing authority must have regard to the statutory principles of good regulation²⁵ when considering the attachment of conditions to licences.**

²³ The application of Primary Authority to age restricted products is determined by secondary legislation made under the Regulatory Enforcement and Sanctions Act 2008.

²⁴ The national Proof of Age Standards Scheme, which accredits card issuers to issue proof of age cards bearing the 'PASS hologram'. Information on the Proof of Age Standards Scheme is available at www.pass-scheme.org.uk.

²⁵ The principles set out in section 21 of the Legislative and Regulatory Reform Act 2006, that regulation should be exercised in a way that is transparent, accountable, proportionate and consistent, and is targeted only at cases where it is needed.

Guidance:

- 9.1 Statutory guidance on the Licensing Act 2003²⁶ highlights the importance of tailoring licensing conditions to particular premises and ensuring that conditions are appropriate to promote the statutory licensing objectives (ie preventing crime and public nuisance, public safety, and protecting children from harm) and proportionate and do not duplicate other statutory requirements. The guidance rules out standardised conditions which ignore the size, type, location and characteristics and activities taking place at a particular premises, and requires all operational restrictions to be considered and imposed on a case by case basis.
- 9.2 Statutory guidance on the Gambling Act 2005²⁷ requires that conditions imposed by the licensing authority should be proportionate to the circumstances which they are seeking to address, and sets out particular factors to be considered in determining proportionate conditions.
- 9.3 In considering the need for consistency, the licensing authority should not be seeking consistency between all venues in its own area but should ensure that it considers how it can be consistent with advice or guidance that the business has received and relied on in managing its compliance with the licensing objectives.
- 9.4 Licensing authorities should not impose licensing conditions concerning acceptable forms of proof of age that exclude PASS accredited proof of age cards.

²⁶ Amended Guidance Issued Under Section 182 of the Licensing Act 2003, Home Office, 2012, paragraphs 1.16 and 10.10

²⁷ Guidance to Licensing Authorities, 4th Edition, Gambling Commission 2012

C) Conduct of checks on compliance

This Code recognises that checks on compliance in relation to age restricted products and services vary in both their nature and their purpose, and may include inspections of records, processes and procedures, or test purchases. Checks may be undertaken as part of a programme of proactive checks (see 10 below), as part of the response to a local issue (see 11 below), or in response to specific complaints or intelligence about an individual business (see 12 below).

Targeting: Proactive checks on compliance

- 10. Where an enforcing authority chooses to allocate resources to proactive checks on business compliance with legal age restrictions, these should be targeted on the basis of a robust model, scheme or framework for risk assessing the businesses²⁸.**

Guidance:

- 10.1 Risk assessment of businesses may be on the basis of a nationally produced risk methodology²⁹ or on the basis of the enforcing authority's own model. The risk assessment should take account of all relevant, available information and intelligence to make an informed assessment of both the level of hazard, and the likelihood of compliance.
- 10.2 In relation to the level of hazard consideration should be given to:
- the potential harm associated with the products or services supplied by the business; and
 - the number of young people that might access age restricted products and services through the business. For example, consideration should be given to whether the business trades online and, if so, whether it represents a greater risk.
- 10.3 In relation to the likelihood of compliance³⁰, ie. the enforcing authority's confidence that the business will manage the hazard appropriately, consideration should be given to the following, where available:
- past compliance records, particularly recent information;
 - the existence of systems for managing compliance within the regulated entity;
 - evidence of recognised external accreditation, retailer self-testing, or third party tests; and
 - management competence and willingness to comply.

²⁸ Regulators' Compliance Code, section 4

²⁹ For example, the Revised National Trading Standards Board Risk Assessment Scheme, National Trading Standards Board, 2012.

³⁰ A Common Approach to Risk Assessment, Local Better Regulation Office, 2011

10.4 External sources of information and intelligence should be considered where available, for example:

- The secure Primary Authority IT System³¹ is used by primary authorities to share details of business compliance systems and may be used to publish details of retailer self-testing or the results of National Inspection Strategies³² coordinated by the primary authority to seek a picture of compliance across the business's operations.
- The Gambling Commission^{33&34} encourages operators to share the results of third party test purchasing with both themselves and with local authorities. Where such information sharing takes place and the operator can satisfy regulators that they are managing the business risk of underage access themselves this would usually reduce the propensity of the Commission and local authorities to conduct their own compliance checks.
- Operators of schemes³⁵ that may place relevant requirements on businesses, eg. in relation to age verification policies.

10.5 Where a proactive risk-assessed visit to a business is carried out, the opportunity should be taken to check the operation of the controls that the business has in place to manage its compliance with age restrictions. For example, checks could be carried out on training records or the operation of electronic till prompts.

10.6 Local authorities will need to consider how they will comply with the requirements of the Primary Authority scheme in relation to published inspection plans³⁶. Statutory guidance on the scheme³⁷ requires local authorities to have regard to a published inspection plan when conducting its risk assessment of the business and its programmed activity at the business.

Targeting: Reactive checks on compliance

This part of the Code distinguishes between responding to complaints and information that are not premises-specific (section 11) and complaints or intelligence that relate to a specific business (section 12).

11. An enforcing authority should ensure that its response to complaints or intelligence about issues in a particular geographic location, or a specific sector, is proportionate.

³¹ The Primary Authority IT System can be accessed only by registered users. Guidance for local authority officers on registering as a user of the system is available on the BRDO website. Registration enquiries from other organisations should be addressed to pa@brdo.bis.gsi.gov.uk.

³² A primary authority may use an Inspection Plan to put in place a National Inspection Strategy in relation to a partner business. Guidance on Inspection Plans is available on the BRDO website.

³³ Guidance to Licensing Authorities, 4th Edition, Gambling Commission 2012

³⁴ Approach to test purchasing – England and Wales only, Gambling Commission, 2011

³⁵ For example, Best Bar None or the Safer Socialising Award

³⁶ Primary Authority Handbook, Module 1, Part 3: Inspection Plans, Better Regulation Delivery Office, 2012

³⁷ Primary Authority Guidance, Local Better Regulation Office, 2009. BRDO is committed to a full review of this statutory guidance in 2013. This review will ensure that the guidance is meeting the needs of local authorities and businesses, and will take into account the development of the Primary Authority scheme since its inception in 2009.

Guidance:

- 11.1 Complaints from local communities often focus on issues in a particular locality eg. drinking in the local park or fireworks being thrown in an area, but information about the source of the age restricted products is not always available. The credibility, quality and quantity of information about potential sources of age restricted products will need to be considered.
 - 11.2 Further information on a local issue may be gathered through community and business engagement, or through the use of observation of the locality³⁸.
 - 11.3 Businesses may be able to provide the enforcing authority with insight into the nature and extent of any issue, or into any difficulties that they are experiencing, for example, with proxy purchasing, shoplifting, or abusive / threatening behaviour from young people. The enforcing authority may choose to engage with businesses in a locality or sector on an individual basis or through established mechanisms such as through a local Pubwatch scheme or Community Alcohol Partnership.
 - 11.4 When considering its response to such complaints or intelligence the enforcing authority should consider whether the businesses in the locality or sector have been advised of the legal requirements, and may choose to provide or reinforce advice and guidance, as appropriate, or to carry out inspections or other overt checks on the businesses' controls and records³⁹.
- 12. An enforcing authority should ensure that its response to complaints or intelligence about a specific business is proportionate.**

Guidance:

- 12.1 The credibility, quality and quantity of information about possible breaches of age restricted products and services legislation by a specific business will need to be considered.
- 12.2 In determining whether action is required, and what action might be taken, the enforcing authority should review its knowledge of the business's approach to compliance, its history of compliance, and any mechanism that is available to the enforcing authority to deal with any problems.
- 12.3 Where the business is in a Primary Authority partnership in relation to Age Restricted Sales, has an active Home Authority relationship, or is regulated by another local or national regulator in respect of age restricted sales, the enforcing authority should consult with that organisation before deciding on the appropriate course of action. For example, where a complaint is received about a business that operates in the gambling sector, the enforcing authority should consult with the Gambling Commission and should establish whether the business has shared compliance data or agreed an action plan with the Gambling Commission.
- 12.4 Before considering covert test purchasing, the enforcing authority may consider whether it is appropriate to first discuss the complaint(s) or intelligence received with the business.

³⁸ Section 13 of this Code of Practice refers to statutory requirements for authorisation under the Regulation of Investigatory Powers Act 2000, which should be considered here.

³⁹ It is unlikely that authorisations under RIPA for covert methods will be considered proportionate without demonstration that overt methods have been attempted and failed.

Test purchasing

This part of the Code addresses the use of test purchasing by young people⁴⁰ as a tactic for conducting spot checks on compliance.

- 13. Where an enforcing authority is considering conducting a test purchase exercise, consisting of one or more test purchase attempts, it should consider the statutory requirements for authorisation under the Regulation of Investigatory Powers Act 2000, as amended. It is unlikely that authorisations under RIPA for covert methods will be considered proportionate without demonstration that overt methods have been attempted and failed.**

Guidance:

- 13.1 Authorisation is required for 'directed surveillance' and the use of 'covert human intelligence sources' (CHIS). Guidance published by the Office of Surveillance Commissioners includes the following:

'When a young person, pursuant to an arrangement with an officer of a public authority, carries out a test purchase at a shop, he is unlikely to be construed as a CHIS on a single transaction but this would change if the juvenile revisits the same establishment in a way that encourages familiarity. If covert recording equipment is worn by the test purchaser, or an adult is observing the test purchase, it will be desirable to obtain an authorisation for directed surveillance because the ECHR has construed the manner in which a business is run as private information and such authorisation must identify the premises involved. In all cases a prior risk assessment is essential in relation to a young person.'

'When conducting covert test purchase operations at more than one establishment, it is not necessary to construct an authorisation for each premise to be visited but the intelligence must be sufficient to prevent 'fishing trips'. Premises may be combined within a single authorisation provided that each is identified at the outset. Necessity, proportionality and collateral intrusion must be carefully addressed in relation to each of the premises. It is unlikely that authorisations will be considered proportionate without demonstration that overt methods have been attempted and failed.'

Decisions to deviate from the guidance will have to be justified to the Office of Surveillance Commissioners.

- 13.2 There are specific provisions in relation to working with covert human intelligence sources who are under eighteen in the Regulation of Investigatory Powers (Juveniles) Order 2000, which enforcing authorities should be aware of.
- 13.3 Statutory codes of practice in relation to authorisations for directed surveillance⁴¹ and the use of CHIS⁴² are produced by the Home Office and are available on its website, along with guidance⁴³ on the recent changes to the authorisation requirements implemented under the Protection of Freedoms Act 2012.

⁴⁰ In the context of this code, 'young people' includes any child, young person or young adult.

⁴¹ Covert Surveillance and Property Interference Revised Code of Practice, Home Office, 2010

⁴² Covert Human Intelligence Sources Code of Practice, Home Office, 2010

⁴³ Protection of Freedoms Act 2012 – changes to provisions under the Regulation of Investigatory Powers Act 2000. Home Office Guidance to local authorities in England and Wales on the judicial approval process for RIPA and the crime threshold for directed surveillance, Home Office, 2012

13.4 A request for authorisation of test purchasing would usually set out the tactics to be used, the reasons for using these tactics, and the factors considered in determining their necessity and proportionality. In considering necessity and proportionality, the following pointers may be useful:

- Is there evidence that the business will only sell to young people that it recognises, that means that repeated test purchasing by the same young person is envisaged?
- Does the context in which the test purchase will take place mean that the test purchaser might be endangered by answering questions about his or her age honestly?
- Has the business failed to follow previous advice eg. by continuing to ask a prospective purchaser his or her age, rather than asking for valid proof of age?

14. Where a decision is made, in accordance with the preceding provisions of this Code, to conduct a test purchase exercise:

a) A test purchaser should be selected, with regard to:

- his or her age and appearance (see Section 23);
- his or her suitability for the type of premises to be visited eg. 'on' licence or 'off' licence premises;
- his or her suitability for the tactics to be deployed, understanding that his or her welfare⁴⁴ is paramount; and
- the likelihood that he or she will be recognised in the locations to be visited (eg. proximity to their home or school).

b) The test purchaser may be allowed or instructed to dress as a young person normally would for visiting the particular type of establishment where the test purchase(s) are to be attempted, and to wear such jewellery and make-up as he or she would normally wear for visiting that type of establishment⁴⁵.

c) The test purchaser may be allowed or instructed to present proof of age if they are asked for this by the business being tested. This proof of age should be genuine and should relate to the test purchaser. Where there are concerns about revealing the identity of the test purchaser, the proof of age should not include any identifying details such as name or address.

d) The test purchaser should be instructed on any particular tactics to be used; should understand the reasons for using the tactics and how they may be used; and his or her consent to use such tactics should be obtained.

e) Enforcing authorities will need to be aware that the use of a test purchaser aged under 18 should be authorised by the appropriate person in relation to test purchases under the Licensing Act 2003⁴⁶ or the Gambling Act 2005⁴⁷.

⁴⁴ See section 19 of this Code.

⁴⁵ Note that statutory defence provisions in section 146 of the Licensing Act 2003 make reference to an individual's appearance: *'...nobody could reasonably have suspected from the individual's appearance that he was aged under 18...'* Enforcing authorities will need to have regard to these provisions in determining whether the appearance of a test purchaser is suitable.

⁴⁶ A young person under 18 years who buys or attempts to buy alcohol may commit an offence (Licensing Act 2003, section 149(1)) unless this is at the request of *'a constable or a weights and measures inspector who is acting in the course of his duties'* (section 149(2)).

- 15. Where an enforcing authority conducts a test purchase attempt in relation to compliance with age restricted products and services legislation, whether or not in response to a complaint or other intelligence, the business should be notified in writing of the outcome of the test purchase attempt. Written notifications of test purchases should include the following:**
- a) The fact that a test took place, and an indication of the time period within which the test took place. (This does not require disclosure of the exact time or date though the enforcing authority may feel that it is helpful to provide this detail where they do not have specific concerns about the welfare of the test purchaser.)**
 - b) Any reason for the test eg. as part of a survey, or in response to complaints about sales of age restricted products by businesses in the area or the particular business.**
 - c) The premises address.**
 - d) The category of product and relevant legislation.**
 - e) The outcome of the test.**
 - f) Where relevant, a note that there was a failure to request valid proof of age⁴⁸.**
 - g) The name of the seller, where known.**

Guidance:

- 15.1** The publication of generic details of exercises eg. locality, number of premises visited, failure rate, product, age of volunteers etc. by the enforcing authority may be of value but is not a replacement for individual notification.
- 15.2** Template letters that enforcing authorities may choose to use will be made available on BRDO's website.

16. Written notifications pursuant to section 15 above should be sent to the following person(s):

- a) To the owner of the business, whether identified from the Companies Act 2006 notice displayed on the premises, or otherwise.**
- b) In the case of alcohol, to the Premises Licence Holder, with a copy also being sent to the legal owner of the alcohol, if a different person.**

Guidance:

- 16.1** The code does not require written notifications to be sent to employees or members of staff, unless there is a particular reason to notify them.

⁴⁷ A young person under 18 years who gambles may commit an offence (Gambling Act 2005) unless this is '*at the request of a constable, enforcement officer or authorised person acting in the performance of his functions*' (section 64).

⁴⁸ Where the enforcing authority feels that advice on improving compliance is needed, they should refer this to the primary authority where relevant.

- 16.2 Where the business is in a Primary Authority partnership for age restricted sales, regard should be had to any recommendations or advice of the Primary Authority in respect of communication, for example in an inspection plan in relation to age restricted sales.

17. Where a test purchaser accesses the age restricted product or service ('failed test'), written notifications should be made promptly after the test purchase has taken place, and should be seen as supplementary to any verbal notification that may be given at the time of the test purchase.

Guidance:

- 17.1 A timescale of up to 5 working days would be considered to be 'prompt' for the purposes of this section.
- 17.2 An enforcing authority might consider delaying notification under this section in specific circumstances, for example, where the enforcing authority has credible evidence of deliberate disregard of the law and foresees that it is likely to consider enforcement action. In this circumstance, it might be reasonable for the enforcing authority to delay written notification beyond 5 working days, whilst it carries out further test purchases in a short space of time, in order to gather further evidence.
- 17.3 It would not usually be appropriate for the enforcing authority to delay notification under this section in order to protect the identity of the test purchaser or officers involved in the test purchase operation, unless further test purchases are planned at the premises using those same individuals, within a short space of time (as outlined above).
- 17.4 Any decision to delay notification should be taken on a case by case basis and the reasons for the decision should be recorded.

18. Where a test purchaser is denied access to the age restricted product or service ('passed test'), written notifications should be made within a reasonable period of time.

Guidance:

- 18.1 A timescale of up to 10 working days would be considered to be 'reasonable' for the purposes of this section.
- 18.2 An enforcing authority might consider delaying notification under this section in specific circumstances. For example:
- where there are valid concerns about identification of the test purchaser or accompanying officers by a particular business; or
 - where the enforcing authority has credible evidence of continuing disregard of the law and wishes to follow up the test purchase with further test purchases in a short space of time.
- 18.3 It would not usually be appropriate for the enforcing authority to delay notification under this section in respect of a business that has demonstrated a responsible approach to compliance, for example through working within a Primary Authority partnership that covers age restricted sales compliance.
- 18.4 Any decision to delay notification should be taken on a case by case basis and the reasons for the decision should be recorded.

Welfare of young people

19. An enforcing authority that recruits and engages young people as test purchasers must ensure that, in the conduct of its operations, the welfare of children is always paramount⁴⁹. In particular the enforcing authority should:
- a) Consider the need to protect the identity of each test purchaser at all times.
 - b) Carry out a risk assessment⁵⁰ in respect of each test purchasing operation, in accordance with the health and safety procedures of the enforcing authority.
 - c) Consider whether officers undertaking work with young persons should complete a disclosure in accordance with the enforcing authority's policy⁵¹.
 - d) Design working arrangements with a view to optimising protection for the test purchaser. In particular, it is recommended that:
 - officers visit young people under the age of 18 (test purchasers or prospective test purchasers) only in the presence of a parent, guardian, teacher or other responsible adult;
 - arrangements for engaging a young person under the age of 18 for a test purchase operation are always made with a parent or guardian;
 - a test purchaser under the age of 18 should always be collected from and returned by officers to a place of safety that has been agreed in advance with a parent or guardian, and a parent, guardian, teacher or other responsible adult should usually be present when the test purchaser is collected and returned, unless it has been agreed in advance that this is not necessary;
 - consideration is given to whether an officer should be present in the premises during the test purchase attempt and, where this is not possible or appropriate, what other arrangements may be made to allow the test purchaser to easily contact an officer;
 - consideration is given to whether one of the officers accompanying the young person should be of the same gender as the young person;
 - consideration should be given to conducting test purchase attempts in such a way as to minimise the likelihood that the test purchaser will be called to give evidence; and that
 - an exercise or operation should be halted if at any point a young person shows signs of distress or indicates a reluctance to continue.

⁴⁹ Statutory guidance issued under s.16 of the Children Act 2004 and s.7 of the Local Authorities Social Services Act 1970 underlines the need to ensure that the welfare of children is **paramount** in the discharge of all of local authority functions.

⁵⁰ The term 'risk assessment' is used throughout this Code to refer to the assessment of the risk posed by a business. However, in this section of the Code it is used to refer to an assessment of the risks that an enforcement activity presents to the health and safety of participants in the activity.

⁵¹ Guidance on CRB checks is available on the Criminal Records Bureau website at www.homeoffice.gov.uk/agencies-public-bodies/crb/

Guidance:

- 19.1 To facilitate the protection of a test purchaser's identity, the enforcing authority may find it helpful to assign a unique identity code to each test purchaser. This code can then be used to refer to the test purchaser in all documentation associated with a test purchase. The enforcing authority may then consider marking records which link this code to the identity of the test purchaser as sensitive material.
- 19.2 A template health and safety risk assessment that may be used by enforcing authorities will be made available on BRDO's website.
- 20. Young people may be 'recruited' to participate in test purchase operations from any appropriate source. An explanation should be provided to the young people at the recruitment stage of the purpose and nature of test purchase operations, and the possible outcomes where an illegal sale is made.**

Guidance:

- 20.1 Appropriate sources for recruitment of test purchasers may include:
- through work with local schools, colleagues or youth groups;
 - from relatives of staff of the enforcing authority or partner organisations;
 - from existing employees of the enforcing authority or its partners; or
 - volunteer police cadets.
- 21. Where the enforcing authority employs young people as test purchasers it will need to have particular regard to the statutory requirements^{52&53} in respect of employing workers of the relevant age.**
- 22. The provision of any form of payment, reward or gratuity to a test purchaser should not include any element that is dependent upon the outcome of the test purchase.**
- 23. Where a young person expresses an interest in assisting the enforcing authority, consideration should be given to his or her suitability for participation in test purchase exercises.**

Guidance:

- 23.1 An assessment of suitability should give consideration to the following factors:
- **How old is the young person?** To be considered suitable for test purchase operations that aim to establish whether illegal sales are being made, the young person should be younger than the legal age limit for the product that is to be test purchased.

⁵² Working Time Regulations 1998; Children and Young Persons Act 1933 (employment of 'children', and local authority powers to make byelaws relating to the employment of children); Education Act 1996 (defines 'child' and 'compulsory school age'); Education and Skills Act 2008

⁵³ Guidance on the Employment of Children, Department for Education, 2009

- **Does the young person's appearance fairly reflect their age?** To be considered suitable for test purchase operations that aim to establish whether illegal sales are being made, the young person's appearance should lead a reasonable person to suspect that they are below the legal age limit for the product to be test purchased⁵⁴.
- **What appears to be motivating the prospective test purchaser to participate?** A young person who appears to be overly keen to 'catch out' a business should not be considered suitable as a test purchaser.

24. Where a young person is assessed as suitable, a comprehensive explanation should be provided to him or her as a prospective test purchaser of the matters listed below and his or her written agreement should be obtained. Where the prospective test purchaser is below 18 this explanation should also be given to his or her parent or guardian and the agreement of his or her parent or guardian to the young person's participation should be obtained.

- a) The purpose of test purchase operations.
- b) The practical arrangements for conduct of operations.
- c) The arrangements that are in place to ensure the welfare of test purchasers.
- d) The conditions attached to participation eg. whether the test purchaser will receive payment or reward of any kind.
- e) The possible outcomes where an illegal sale is made.

Guidance:

24.1 A template test purchaser agreement form that may be used by enforcing authorities will be made available on BRDO's website.

25. Evidence of the date of birth of the young person should be seen by an officer of the enforcing authority, prior to recruiting a young person as a test purchaser.

Guidance:

25.1 Acceptable evidence of the prospective test purchaser's date of birth might include:

- the young person's photo card driving licence;
- the young person's passport;
- a PASS accredited proof of age card; or
- a copy of the young person's birth certificate, endorsed by the young person's parent or carer.

25.2 In most circumstances, the officer will want to keep a copy of the proof of identity seen.

26. Prior to each exercise or operation, the test purchaser's consent to participation should be obtained and, where the test purchaser is below 18, consent to his or her participation in the exercise or operation should also be obtained from his or her parent or guardian.

⁵⁴ Note that the statutory defence provisions in section 146 of the Licensing Act 2003 make reference to an individual's appearance: '*...nobody could reasonably have suspected from the individual's appearance that he was aged under 18...*' Enforcing authorities will need to have regard to these provisions in determining whether the appearance of a test purchaser is suitable.

Guidance:

- 26.1 The tactics that have been authorised for an exercise or operation should be explained to the young person and the potential implications for the young person should be clear to him or her before consent is sought from the young person and his or her parent or guardian. In particular, the young person should understand that, if a situation arises where he or she is called to give evidence in Court, he or she may be questioned in relation to the use of the particular tactics.
- 26.2 The enforcing authority should determine its requirements for consent. For example, it may choose to require written consent or to accept verbal consent as long as this is recorded by an officer.
- 27. Prior to each exercise or operation in which they have agreed to participate, test purchasers should be given detailed instructions, appropriate to the nature of the exercise and the type of establishment to be visited.**

Guidance:

- 27.1 The enforcing authority may find it helpful to provide the test purchaser with written instructions as to how they should conduct the proposed test purchases, and to obtain a signature on these instructions as an indication of understanding.
- 27.2 Instructions would normally include:
- to dress as a young person normally would for visiting the particular type of establishment where the test purchase(s) are to be attempted, and to wear such jewellery and make-up as he or she would normally wear for visiting that type of establishment⁵⁵;
 - the practical arrangements for his or her welfare during the exercise or operation;
 - not to volunteer information about his or her age or identity to the seller;
 - not to enter into conversation with the seller where a sale is refused or to make any attempt to persuade the seller to make a sale;
 - to leave the premises immediately if he or she feels uncomfortable with the situation that he or she is in;
 - how to respond where the seller asks any questions about his or her age; and
 - how to respond if he or she is asked to produce his or her proof of age.

⁵⁵ Note that the statutory defence provisions in section 146 of the Licensing Act 2003 make reference to an individual's appearance: '*...nobody could reasonable have suspected from the individual's appearance that he was aged under 18...*' Enforcing authorities will need to have regard to these provisions in determining whether the appearance of a test purchaser is suitable.

D) Responses to non-compliance

- 28. The enforcing authority should ensure that it communicates effectively with the business in relation to any non-compliance, and with any individual who may be responsible for the non-compliance.**

Guidance:

- 28.1 The enforcing authority will need to ensure that it communicates with the most appropriate person within the business. Where the business has a primary authority or home authority, early contact with it will usually be helpful in identifying the most effective route of communication, whether this is to obtain information from the business, or to ensure that compliance issues are addressed promptly.
- 28.2 Statutory guidance on the Licensing Act 2003⁵⁶ identifies it as good practice for responsible authorities to give licence holders *'early warning of their concerns about 'problems identified at the premises concerned and of the need for improvement'*. This would involve discussions with a representative of the business who has the authority to address issues. Where the business is a multi-site operator, discussions at premises level, for example with the designated premises supervisor or other staff, may be needed but would not replace discussions with the licence holder.
- 28.3 In responding to a non-compliance, an enforcing authority's primary focus will usually be on securing future compliance. In most circumstances, this requires constructive dialogue with the business in order for both parties to understand the causes of the non-compliance and any changes that are needed. It is recognised that, where the enforcing authority is at the same time considering enforcement action and is investigating a potential criminal offence, the requirements of the investigation may inhibit this constructive dialogue. The enforcing authority will need to consider how it manages this dual role to best deliver its regulatory outcomes.
- 28.4 Where an investigation is initiated, the enforcing authority should ensure that the business is aware of the investigation and knows when it can expect updates on the progress of the investigation. The outcome of the investigation should be notified promptly to the business, whether that is a decision to take no further action, a warning letter, the initiation of enforcement action, or some other outcome.
- 28.5 The enforcing authority should ensure that it is transparent about any future implications of enforcement action that it takes. In particular, it should be clear to the business how accepting a simple caution or receiving a warning notice might influence future enforcement action. For example, where the enforcing authority might use the simple caution or warning notice as evidence of persistent selling.

⁵⁶ Amended Guidance Issued under Section 182 of the Licensing Act 2003, Home Office, 2012, paragraph 11.10

29. The enforcing authority should ensure that it responds to non-compliance in a manner that complies with that authority's published policy⁵⁷ and with the principles set out in the Macrory Review⁵⁸, namely, that their approach should:

- **aim to change the behaviour of the offender and to secure ongoing compliance;**
- **aim to eliminate any financial gain or benefit from non-compliance;**
- **be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;**
- **be proportionate to the nature of the offence and the harm caused; and**
- **aim to restore the harm caused by regulatory non-compliance, where appropriate.**

Guidance:

- 29.1 In considering a response to non-compliance that is proportionate, the enforcing authority will wish to consider all factors that it has identified as causing or contributing to the breach, and will want to make an assessment as to the business's attitude to compliance. This will help it to decide whether it can work with the business to support the achievement of ongoing compliance (see 29.2 below), or whether it is appropriate to deal firmly with the business (see 29.3 below).
- 29.2 An enforcing authority's approach to supporting the business to achieve ongoing compliance might include:
- providing advice or guidance to the business;
 - working in partnership to address issues identified in local implementation of a business's controls at a particular premises;
 - accepting a commitment from the business to take specified steps to secure ongoing compliance (agreeing an 'action plan'); and
 - agreeing a course of remedial action with a primary authority or home authority for the business, or with the Premises Licence Holder, where appropriate.
- 29.3 An enforcing authority should take firm enforcement action where it is needed, having regard to the public interest, the available evidence and the circumstances of each case. For example, factors to consider may include the following:
- Where there is evidence of criminal activity for which there is a reasonable prospect of conviction and it would be in the public interest to proceed with enforcement action, for example, because the regulatory issue in question is one which represents a particularly high priority.

⁵⁷ Regulators' Compliance Code, section 8.4

⁵⁸ Regulators' Compliance Code, section 8.3

- Where there is evidence of persistent selling^{59&60}.
 - Where there is evidence of failure to demonstrate due diligence or taking reasonable steps to establish the age of the individual.
 - Where the non-compliance involved aggravating factors. Eg. 'hide it up your sleeve'; 'I can't sell it to you now but come round the back later'; 'just wait until other customers have left the shop'. The Government's Tobacco Control Plan 'Healthy Lives, Healthy People' sets out the Government's view that: '*... enforcement action should only be needed in cases where the law is deliberately flouted, but where it happens, we support local authorities in taking strong action*'⁶¹.
 - Where advice and/ or support to the business has not been effective in improving compliance.
- 29.4 The enforcing authority should consider how it will ensure that its responses to non-compliance are proportionate where responsibility for the non-compliance rests with an employee or employees, or other individual(s) who work in the business.
- 29.5 Licensing authorities are required to act in accordance with the statutory principles of good regulation⁶² and are required to have regard to the statutory guidance issued under section 182 of the Licensing Act 2003 and section 25 of the Gambling Act 2005.

⁵⁹ Licensing Act 2003, section 147A

⁶⁰ Children and Young Persons Act 1933, sections 12A to 12D

⁶¹ Note that the Tobacco Control Action Plan for Wales does not include this statement.

⁶² The principles set out in section 21 of the Legislative and Regulatory Reform Act 2006, that regulation should be exercised in a way that is transparent, accountable, proportionate and consistent, and is targeted only at cases where it is needed.

Annex 1. Summary of resources

Policy and Guidance

HM Government

- *The Government's Alcohol Strategy*, 2012
- *Healthy Lives, Healthy People: A Tobacco Control Plan for England*, 2011

Welsh Government

- *Working Together to Reduce Harm The Substance Misuse Strategy for Wales 2008-2018*
- *Tobacco Control Action Plan for Wales*, 2012
- *You, Your child and Alcohol - Guidance on the Consumption of Alcohol by Children and Young People*

Home Office

- *Amended Guidance Issued Under Section 182 of the Licensing Act 2003*, Home Office, 2012
- *False ID Guidance*, Home Office, 2012

Department of Health

- *Local Government Leading for Public Health*, Department of Health, 2011
- *Guidance on the implementation of the Sunbeds (Regulation) Act 2010*, Department of Health, 2011
- *Guidance on the Consumption of Alcohol by Children and Young People - A Report by the Chief Medical Officer*, Department of Health, 2009

Department for Business, Innovation and Skills

- *Age Restricted Products and Services Framework*, Local Better Regulation Office, 2011
- *Priority Regulatory Outcomes*, Local Better Regulation Office, 2011
- *Outcomes and Impacts Toolkit Summary*, Local Better Regulation Office, 2010
- *Regulators' Compliance Code*, BERR, 2007
- *Template: Compliance and Enforcement Policy*, Better Regulation Delivery Office

Department for Education

- *Guidance on the Employment of Children*, Department for Education, 2009

Gambling Commission

- *Guidance to Licensing Authorities, 4th Edition*, Gambling Commission 2012
- *Licence Conditions and Codes of Practice (Consolidated Version)*, Gambling Commission, 2011
- *Code of practice for equal chance gaming in clubs and premises with an alcohol licence*, Gambling Commission, March 2012
- *Code of practice for gaming machines in clubs and premises with an alcohol licence*, Gambling Commission, March 2012
- *Approach to test purchasing – England and Wales only*, Gambling Commission, 2011

National Institute for Health and Clinical Excellence

- *Public Health Briefings for Local Government*, NICE, 2012

Retail of Alcohol Standards Group

- *Implementation Guide to Community Alcohol Partnerships*, 2010

Research and Project Evaluation

- *Protecting Young People from Alcohol Related Harm*, Research by Design Ltd and the Local Better Regulation Office, 2009
- *Building Safe, Active Communities: Strong foundations by local people*, Third report by Baroness Newlove, 2012
- *CLear Thinking – Excellence in local tobacco control*, Action on Smoking and Health, 2012
- *An Evaluation of the Kent Community Alcohol Partnership*, University of Kent, 2009
- *L CAP Young Peoples Alcohol Report Stage 2*, Ludlow Community Alcohol Partnership, 2011
- *Tackling Knife Crime Together – A Review of Local Anti-Knife Crime Projects*, Kinsella B., 2010
- *Tackling Illicit Tobacco for Better Health: Final Evaluation Report*, UK Centre for Tobacco Control Studies, 2012
- *Study of Sunbed Use in 11-17 year olds in England Final Summary Report*, Cancer Research UK, 2010
- *Study of Sunbed Use in 11-17 year olds in England Part B: The ‘Six Cities’ Study*, Cancer Research UK, 2009
- *The Alcohol Awareness Certificate: an Evaluation of Students’ Self-Perceived Awareness and Modified Behaviour Post Course*, BIIAB and University College Birmingham, 2010
- *Young People, Alcohol and Influences*, Joseph Rowntree Foundation, 2011
- *An evaluation of the implementation of, and compliance with, the objectives of the Licensing (Scotland) Act 2005: Sub-study of Test Purchasing and other measures to enforce underage alcohol sales regulations*, NHS Health Scotland, 2012
- *Smoking, Drinking and Drug Use among 13 and 15 Year Olds in England in 2010*, NHS Information Centre for Health and Social Care, 2011
- *Statistics on Smoking: England 2011*, NHS Information Centre for Health and Social Care, 2011
- *Smoking in Wales: current facts*, Wales Centre for Health, 2007
- *Smoking, Drinking and Drug Use among 13 and 15 Year olds in Scotland in 2010, SALSUS National Report*, Ipsos MORI, 2011
- *Market research report: behaviour and attitudes of 14 to 17 year olds in the North West towards alcohol*, Trading Standards North West and Ci Research, 2009 and 2011
- *Kick Ash Cambridgeshire Pilot Year Report*, NHS Cambridgeshire & Cambridgeshire County Council, 2010
- *Kick Ash Cambridgeshire 2010/11 Evaluation Report*, NHS Cambridgeshire & Cambridgeshire County Council, 2011
- *Reducing Crime and Disorder in the Night Time Economy*, Southampton Safer City Partnership (Home Office Tilley Award Overall Winner 2011)
- *Essential Elements of Tobacco Control*, East of England Trading Standards Association, 2009

Other Resources:

- Local data sources eg. analysis of local crime data, community consultation responses, information from partner organisations
- Local Tobacco Control Profiles, Public Health Observatories (England)
- Local Safeguarding Children Policies
- The Drinkaware Trust website brings together a range of resources in relation to young people and alcohol at www.drinkaware.co.uk/children-and-alcohol/professionals/research
- *Revised National Trading Standards Board Risk Assessment Scheme*, National Trading Standards Board, 2012
- *TSI Fair Trading Award, Age Restricted Sales module: 'Do you PASS?'*
- *BIIAB Level 1 Award in Responsible Alcohol Retailing*
- *Challenge 21*, British Beer and Pub Association
- *Challenge 25*, Scottish Beer and Pub Association
- *Tobacco Retailer Sanctions*, LACORS, 2009

Annex 2. Extract from the Age Restricted Products and Services Framework

Responsibilities of Regulators and Enforcers:

- To be clear about the outcomes that they are working towards, and how their activities will contribute to those outcomes
- To ensure that their compliance and enforcement approach to age restricted products and services legislation is transparent
- To work collaboratively with partner organisations and other regulators and enforcers that have overlapping areas of responsibility, to ensure that the overall approach is consistent and focussed on delivering outcomes
- To take an evidence based approach to determining priority risks to local communities and young people
- To prioritise resource allocation on activities that deliver improved protections for local communities and young people, including working in partnership with businesses and local communities to tackle issues of access to age restricted products and services
- To take a risk-based approach to targeting checks on the compliance of individual businesses, and to ensure that their risk assessment model⁶³ is transparent
- To be clear and consistent in their message that valid proof of age should always be required where young people seek to access age restricted products or services
- To be clear in their message that PASS⁶⁴ cards are the preferred form of proof of age, and to acknowledge that there are other acceptable forms of proof of age as detailed in current Home Office guidance
- To respond to complaints, intelligence and breaches in a proportionate manner that recognises the business's compliance arrangements and works with them, including through Primary Authority
- When using particular tactics, to seek the appropriate authorisations or approvals as required by legislation or as set out in a code of practice or procedure
- To communicate to businesses in writing, in a timely manner, the outcome of all checks on compliance by test purchase or inspection
- To share good practice and innovation with other regulators and enforcers
- To have regard to the welfare of test purchasers when carrying out test purchases

Reasonable Expectations:

- That businesses will take a responsible approach to complying with legal requirements in relation to age restricted products and services
- That they will receive co-operation from other public sector organisations that share a responsibility for protecting young people, local communities and animals from the harm associated with age restricted products and services

⁶³ The term 'risk assessment model' is used here to indicate a systematic use of set criteria to determine a score for a business, which is translated into a rating of the risk that is posed by the business.

⁶⁴ The national Proof of Age Standards Scheme, which accredits card issuers to issue proof of age cards bearing the 'PASS hologram'.

Annex 3. Summary of statutory age restrictions

	Product / Service	Statute / SI
1.	Aerosol spray paint	Anti-social Behaviour Act 2003
2.	Air weapons and imitation firearms	Firearms Act 1968 Violent Crime Reduction Act 2006
3.	Alcohol	Licensing Act 2003
4.	Butane lighter refills	Cigarette Lighter Refill (Safety) Regulations 1999
5.	Cinema films	Licensing Act 2003
6.	Crossbows	Crossbows Act 1987 Violent Crime Reduction Act 2006
7.	Caps, cracker snaps, party poppers etc.	Explosives Act 1875
8.	Fireworks	Fireworks (Safety) Regulations 1997
9.	Gambling	Gambling Act 2005
10.	Liqueur confectionery	Licensing Act 2003
11.	National lottery	National Lottery etc Act 1993 National Lottery Regulations 1994
12.	Petrol	Petroleum Consolidation Act 1928
13.	Pets	Animal Welfare Act 2006
14.	Publications (considered harmful to children)	Children and Young Persons (Harmful Publications) Act 1955
15.	Sale of knives and articles with a blade or point	Offensive Weapons Act 1996 Criminal Justice Act 1988
16.	Scrap metal purchasing from persons under the age of 16	Scrap Metal Dealers Act 1964
17.	Solvents	Intoxicating Substances (Supply) Act 1985
18.	Sunbeds	Sunbeds (Regulation) Act 2010 Sunbeds (Regulation) Act 2010 (Wales) Regulations 2011 (additional provisions applicable in Wales only)

Product / Service		Statute / SI
19.	Tattooing	Tattooing of Minors Act 1969
20.	Tobacco products	Children and Young Persons Act 1933 (as amended) Children and Young Persons (Protection from Tobacco) Act 1991 Children and Young Persons (Sale of Tobacco etc.) Order 2007
21.	Video works and video games	Video Recordings Act 1984

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Licensing Act 2003: Review of Premises Licence

An application has been made to the Licensing Authority for Swindon, by Wiltshire Police, for the review of the Premises Licence issued in respect of Longs Bar, Victoria Road, Swindon SN3 5AJ

The application states the grounds for review as follows:

The premises is failing to adhere to the licensing objective of the protection of children from harm and committing criminal offences by serving alcohol to children under the age of 18.

Wiltshire Police carried out a test purchase operation on Saturday 13/07/13 and tested a number of premises of which Longs Bar was one. The premise was re tested due to the failed test purchase in January. As with the previous operation premises were tested before door staff and after doorstaff were on duty. At approximately 22.25hours a sale was made to 2 test purchase volunteers aged 16 and 17

The review application relates to the licensing objectives in respect of the prevention of crime and disorder and prevention of children from harm.

The application can be viewed at the offices of the Licensing Authority at Wat Tyler House, Beckhampton Street, Swindon SN1 2JH, [licensing@swindon.gov.uk] between 09.00hrs & 16.30hrs on weekdays.

Responsible Authorities, (e.g. Police and Fire Brigade), and/or Other persons (e.g. people/businesses living or working within the vicinity), can make representations at any time between 4 September 2013 and 1 October 2013. All representations must be made in writing [including e-mail or fax].

It is an offence for anyone to recklessly or knowingly make a false statement in connection with a licensing application. The maximum fine on conviction is £5000.

Lincolns Inn Consultancy Limited

Victoria Chambers
120 Victoria Road
Swindon
Wiltshire
SN1 3BH

Telephone: 0203 137 8728
Email:- office@lincolns-inn.com

The Chief Licensing Office
Licensing Authority
Wat Tyler House
Beckhampton Street
Swindon
SN1 2JH

30th September 2013

Ref:- A response to your Public Notice (undated) inviting representations to a "Review of Premises Licence"
Longs Bar, Victoria Road, Swindon, Wiltshire :- Incident 13/07/2013

Dear Sir's,

May we please introduce ourselves. We are a Business Consultancy undertaking an independent research study into workings of the Department for Business Innovation & skills - Code of Practice Age Restricted Products - BRDO publication and how this was and is being implemented by Police and Trading Standards towards general retailers and the licensed trade. We have been asked by the DBI&S to report back to them with our experience and findings

In late July 2013 we became aware of an active issue concerning an alleged breach of the above BRDO regulations relating to Wiltshire Police and licensed premises in Victoria Road Swindon Wiltshire, which incidentally are located directly opposite from our Swindon offices. We initially provided our services to the DPS, a Mr M Sheridan, however on the 05/09/2013 he terminated our contract with the reason being given that his brewery would now be dealing with the issue on his behalf.

During our appointment we were in contact and did exchange correspondence with Wiltshire Police Inspector A Burt and during a conference on the 17th July 2013 we were informed by Inspector Burt and a Sian Kalynka (Wiltshire 6454) that the operation regarding this incident had been conducted under the code name; "*OPERATION DRINK*" as were "*all such operations currently being carried out throughout Wiltshire*" with those same operations being subject to and duly regulated by; "*The Department for Business Innovation & skills - Code of Practice Age Restricted Products - BRDO*."

We have yet to be shown any evidence that Operation Drink ever existed in 2013 and that operations conducted by Wiltshire Police relating to 'test purchases' involving (CHIS) minors was being conducted under the DBI&S - Code of practice age restricted products regulations and despite repeated requests to Wiltshire Police and the Wiltshire Crime Commissioner for confirmation together with formal assurances that all the regulations and code of practice guidelines as set down in the said DBI & S - Code of Practice Age Restricted Products - BRDO publication had, and were being fully implemented none has been received.

We take the view the operation on the 13/07/2013 was fatally flawed as it did not comply with the legislation under section 13.1 (ECHR) & (CHIS), section 14 (e) (CHIS) and section 21 (CHIS) and the guidelines set out in sections 15, 16 (a) (b), 17 & 17.1, 18, 19 & 19(b), 26 and section 27 of BRDO regulations.

If the review is to proceed using the Wiltshire Police evidence as gathered during the said Operation Drink and thereby duly conducted under and subject too the statutory requirements and guidelines as set out in the DBI&S - Code of Practice Age Restricted Products - BRDO then it is our opinion the Licensing Authority cannot be satisfied that there has been any breach of the Licensing Act 2003 where there has been a crime nor indeed at any time a danger to children.

Yours faithfully


Rupert Hollingdale,
Senior Consultant

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Licensing Team
5th Floor Wat Tyler House
Beckhampton Street
Swindon SN1 2JG
01793 466113
licensing@swindon.gov.uk

Signed

.....
Licensing Manager

Premises licence issued on 05 September 2005

Premises licence number

881050944PREM

Part 1. Premises details

Postal address of premises or if none, Ordnance Survey map reference or description
Longs Bar Victoria Road Post Town Swindon Post Code SN1 3BB Telephone
number 01793 534519

Where the licence is time limited, the dates The licence operates for every date from
24 November 2005 onward.

Licensable activities authorised by the licence The licensable activities are the sale of
alcohol, the provision of regulated entertainment, and late night refreshment.

The times the licence authorises the carrying out of licensable activities For normal
trading, the hours are from 10.00hrs until 00.00hrs Sunday to Thursday and 10.00hrs
until 01.00hrs Friday and Saturday. 10.00hrs until 01.00hrs. Good Friday, Easter
Sunday and Monday, May Bank holidays Sunday and Monday, August Bank holiday
Sunday and Christmas Eve. All activities can continue from 24.00hrs on 31st
December until 01.00hrs on 2nd January.
There are no time limits for alcohol sales where sale is to a trader or club for the
purposes of a trade or club or where supply is to an armed services mess.

The opening hours of the premises Opening hours when no licensable activities are taking place are at the sole discretion of the proprietor.

Where the licence authorises supplies of alcohol, whether these are on and/or off supplies The licence authorises on and off sales of alcohol.

Name (registered) address, telephone number and e-mail (where relevant) of holder of premises licence The licence is held by Arkells Brewery Limited. The Registered address is Kingsdown Brewery, Upper Stratton, Swindon SN2 7RU. The telephone number is 01793 823026.

Registered number of holder, for example company number, charity number (where applicable) The Registered number is 00226913.

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol The designated premises supervisor is Michael John Sheridan 7 Kent Road Old Town Swindon

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol The Personal Licence number for Michael John Sheridan is 881050186, issued by Swindon Borough Council.

Annexe 1.

Mandatory conditions No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence or at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annexe 2.

Conditions consistent with the Operating Schedule Alcohol shall not be sold or supplied unless it is paid for before or at the time when it is sold or supplied, except to a canteen or mess. Regulated entertainment does not include plays, films, indoor sport, boxing or wrestling. Musical entertainment (other than purely recorded music) shall not be provided other than in the front bar and conservatory. The back bar must be used as a 'sound buffer' after 23.00hrs. The double doors at the back are for emergency use only after 23.00hrs. The maximum overall occupancy is 200 people. The residual entertainment licence conditions apply.

Annexe 3.

Conditions attached by the licensing authority after a hearing which took place on 3 December 2012

1. The premises will have a minimum of 2 SIA door supervisors on a Friday and Saturday evening and this and other door staff provision be based upon a risk assessed basis. The door supervisors will wear high visibility clothing at all times..
2. No person under 18 shall be allowed into the premises after 9 p.m. unless accompanied by an adult.
3. A Challenge 25 policy will apply to the premises and all staff serving alcohol trained in the operation of the scheme so that anyone attempting to buy alcohol who appears to be aged 25 or under will be asked for identification of age in the form of either a valid passport, photo driving licence, government issued identity card, or PASS accredited card or its equivalent successor card, and if none is supplied or that supplied unacceptable a sale will be refused and a record kept of the refusal. Staff selling alcohol will be subject to refresher training every 3 months and records of training shall be kept. Records of refusals and training shall be made available to enforcement officers on request.
4. The Designated Premises Supervisor will belong to the Pub watch scheme and any alternative area network designed to promote the licensing objectives. The DPS will attend a majority of Pub watch meetings in each calendar year and will comply with the terms of the Pub watch scheme regarding the exchange of information and enforcement of banning procedures.
5. Separate Refusals Books, to be consecutively numbered, shall be kept and maintained by Door Supervisors and Bar Staff. Copies of the refusals books shall be made available to responsible officers.
6. The till prompt will be in operation at all times the premises is open for trade.
7. CCTV equipment which is fit for purpose and which covers all trading areas and entrance areas shall be provided and maintained in working condition when the premises are open for business. The CCTV product will be maintained for a minimum of 28 days and made available to enforcement bodies on request. There shall be someone qualified to use the equipment on site at all times during trading hours.

Annexe 4. Plans

The attached is a representation of the original plan, held on the licensing register of the Licensing Authority for Swindon.

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