



Email: committeeservices@horsham.gov.uk
Direct line: 01403 215465

Licensing Committee

Monday, 26th February, 2024 at 10.00 am
Goodwood Room, Parkside, Chart Way, Horsham

Councillors:

Nick Grant

Richard Landeryou

Josh Potts

You are summoned to the meeting to transact the following business

Jane Eaton
Chief Executive

Agenda

	Page No.
1. Apologies for absence	
2. Minutes	3 - 4
<i>To approve as correct the minutes of the meeting held on 18 December (Note: If any Member wishes to propose an amendment to the minutes they should submit this in writing to committeeservices@horsham.gov.uk at least 24 hours before the meeting. Where applicable, the audio recording of the meeting will be checked to ensure the accuracy of the proposed amendment.)</i>	
3. Declarations of Members' Interests	
To receive any declarations of interest from Members of the Committee	
4. Application for the Review of a Premises Licence under the Licensing Act 2003	5 - 98
To consider an application for the review of a Premises Licence	

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Licensing Committee
18 DECEMBER 2023

Present: Councillors: Nick Grant, Richard Landeryou and Dennis Livingstone

LI/9 **ELECTION OF CHAIRMAN FOR THE MEETING**

It was proposed and seconded that Councillor Richard Landeryou be the Chairman of the Licensing Sub-Committee

RESOLVED

That Councillor Richard Landeryou be elected Chairman for the meeting.

LI/10 **DECLARATIONS OF MEMBERS' INTERESTS**

There were no declarations of interest.

LI/11 **APPLICATION FOR THE REVIEW OF A PREMISES LICENCE UNDER THE LICENSING ACT 2003**

The Licensing Sub-Committee was held to review the Premises Licence as requested by the applicant, on the grounds that the following Licensing Objectives under the Licensing Act 2003 (the 'Act') are not being effectively promoted:

- i) Prevention of Crime and Disorder; and
- ii) The Protection of Children from Harm.

The Licensing Officer presented the report, which set out details of the events.

The Sub-Committee heard from the applicant who, by way of background, advised of a national crackdown on underage selling launched in October 2021 and WSCC Trading Standard's Zero Tolerance policy launched in January 2022. He outlined the events that had occurred and evidence of the sale of age-restricted products to children.

The Premises Licence holder attended the sub-committee, with a representative. The representative spoke in support of the continuation of the current premises licence, on behalf of the Premises Licence holder. Additionally, he put forward that if the committee chose to suspend the licence that a level three accredited Designated Licence Supervisor could be put in place at the business and the current Designated Licence Supervisor be removed.

The Members of the Sub-Committee considered the statements and responses from the Premises Licence holder and the applicant, and all the evidence presented in the appendices to the report together with footage from the premises CCTV.

The Licensing Sub-Committee considered their decision under the following licence objectives, as required under the Licensing Act 2003:

- Prevention of Crime and Disorder
- Protection of Children from Harm

RESOLVED

i) That the Premises Licence be suspended for three months, the current Designated Premises Supervisor be removed and replaced with a new Designated Premises Supervisor with a level three training accreditation.

ii) That the Premises Licence current conditions be amended in respect of the CCTV requirements under the heading of Prevention of Crime and Disorder and an amendment to the condition under the heading of Protection of Children from harm.

The Premises Licence Holder has 21 days from receipt of the decision on the 21st of December in which to appeal.

The meeting closed at 11.40 am having commenced at 10.00 am

CHAIRMAN

Report to Licensing Committee

Date of Hearing: Monday 26 February 2024
Report Author: Charlene Ellis, Licensing Officer

DECISION REQUIRED



For Publication – Not Exempt

Application: Review of Premises Licence

Premises Details: Choice of Horsham, 1 Park Way, Horsham, RH12 1DP

Executive Summary

A review of Premises Licence, sort by Responsible Authority West Sussex County Council Trading Standards (WSCCTS) on the grounds that the following Licensing Objectives under the Licensing Act 2003 (the 'Act') are not being effectively promoted:

- i) Prevention of Crime and Disorder; and
- ii) Public Safety

WSCCTS believes that this premises has been conducting criminal activity, including the storage and supply of illicit tobacco and oversize non-UK compliant vapes that cannot be legally supplied in the United Kingdom.

WSCCTS deem it both proportionate and necessary to invite the committee to review the existing premises licence, to limit further criminal activity by the licence holder and to act as a deterrent to other operators considering such illegal conduct. The Responsible Authority have suggested an appropriate outcome of the review would be the revocation of Premises Licence.

Recommendations

It is recommended:

- i) That the Sub-Committee considers and determines the application initially made by WSCSSTS Service seeking a review of the current Premises Licence granted in respect of the premises known as Choice of Horsham under the Licensing Act 2003 (the 'Act').
- ii) That the Sub-Committee considers the contents of this report and any oral or documented evidence during the hearing and determines the review application in accordance with the Act.
- iii) The Sub-Committee give reasons for its decision.

Reasons for Recommendations

- i) The Sub-Committee is required to determine the application by taking steps, as it considers appropriate for the promotion of the Licensing Objectives under the Act

Having both regard to the review application and any relevant representations received, appropriate considerations for the promotion of the Licensing Objectives are outlined in point 4, next steps.

Background Papers

- Licensing Act 2003 (as amended)
- Home Office Guidance issued under Section 182 of the Licensing Act 2003 (August 2023)
- Horsham District Council's current Statement of Licensing Policy

Appendices to Report

Appendix 1: Current Premises Licence – Choice of Horsham

Appendix 2: Application for Review of Premises Licence

Appendix 3: Map of Local Area (Premises Locality)

Appendix 4: Further Evidence Submitted by Trading Standards in Support of Review

- Appendix 4a) Witness Statement – Boden
- Appendix 4b) Witness Statement - Jillett
- Appendix 4c) Witness Statement - Rogers

Appendix 5: Photo Exhibits Submitted by Trading Standards in Support of Review

Appendix 6: Historic Intervention/ Reports /Exhibits Submitted by Trading Standards

- Appendix 6a) Trading Standards Warning Correspondence December 2022
- Appendix 6b) Review Decision Notice 14 March 2023

Appendix 7: Public Health Representation in Support of Review

Appendix 8: Sussex Police Representation Support of Review

- Appendix 8a & 8b) – Supporting Police Data

Appendix 9: Public Representation Against the Review

Appendix 10: Unannounced LA03 Inspection February 2024 by Horsham District Council

- Appendix 10a) Officer Inspection Feedback to Site & 10b) Supplementary templates Good Practice Guide for Licensed Premises

Wards affected: Town Centre

Contact: Charlene Ellis, Licensing Officer Charlene.Ellis@horsham.gov.uk

Background Information

1 Introduction and Background

- 1.1 The premises known as Choice of Horsham has been licensed by Horsham District Council since March 2016. The current licence and the position of Premises Licence Holder is held by licensee Mr Harinder Singh Anand, who also took over the role as Designated Premises Supervisor in December 2022.
- 1.2 The premises is authorised for The Sale by Retail of Alcohol, operating between the hours of 08:00- 23:00 Monday to Sunday. A full copy of the premises licence is attached at **Appendix 1**
- 1.2 At any stage following the grant of a Premises Licence, any person or Responsible Authority may request the Licensing Authority to review a premises licence because of matters, arising at the premises which raise concerns in connection with the promotion of one or more of the Licensing Objectives as part of the Act.

The licensing objectives are:

- The Prevention of Crime and Disorder;
- Public Safety;
- The Prevention of Public Nuisance; and
- The Protection of Children from Harm.

Each objective is of equal importance. The promotion of the four objectives is a paramount consideration at all times.

- 1.2 On 11 January 2024, the Licensing Service received an application for Review of Premises Licence from Mr Peter Aston, West Sussex County Council (WSCC) Trading Standards Service Team Manager.

Review applications sit within the provisions of Section 51 of the Act and a full copy of the application, including the grounds for review, is included at **Appendix 2**

- 1.3 It falls to the Sub-Committee to consider and determine the review application.
- 1.4 A map showing the location of the premises is attached at **Appendix 3**

2 Relevant Council policy

- 2.1 Horsham District Council Statement of Licensing Policy

3 Details

- 3.1 The grounds for this review by WSCC Trading Standards are that the following Licensing Objectives under the Act are not being promoted:

- i) Prevention of Crime and Disorder; and
- ii) Public Safety

3.2 The application highlights the actions taken by WSCC Trading Standards Officers from August 2022 to date:

- On the 5 August 2022 West Sussex County Council Trading Standards (WSCCTS) received a complaint from a member of the public alleging that Ashmans Express Ltd/ta Choices of Horsham was selling vapes to children, this was followed by a further complaint on 3 October 2023 to WSCCTS stating that the same premises was selling oversize vapes.
- The business received a warning letter from WSCCTS concerning the following items, these were found by WSCCTS Officers during an inspection of the premises on 16 August 2022
 - 520 oversize E-cigarettes
 - 3 unsafe electrical adapters
- On 14 December 2022, as part of an Underage Sales operation a 17 year old Trading Standards volunteer was sold a bottle alcohol
- On 14 March 2023, Ashmans Express Ltd/ta Choices of Horsham was subject to a Premises Licence Review, this resulted in a 1-month suspension of licensable activities. Relevant historic papers are attached at **Appendix 6a and 6b**
- On the 11 October 2023, Officers from WSCCTS, Sussex Police, a sniffer dog and its handler and Senior Accredited Financial Investigator visited Ashmans Express Ltd/ta Choices of Horsham. During the inspection the following items were found and seized: -
 - 95 oversize 'ENE' Legend 3500 Puff disposable vapes. Located in a cardboard box in a small cupboard under the counter at the point of sale. (The Tobacco and Related Products Regulations 2016 sets out the legal requirements for such products, which is equivalent to around 600 puffs)
 - 80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total), were found in the toilet area of the premises. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation. The packaging did not display the mandatory specifically worded 'Smoking kills quit now' health warning in English, or the mandatory 'UK Duty Paid' label.
- Witness statement from the attending dog handler on 11 October 2023 is attached at **Appendix 4a**
- Witness statement from the attending Senior Accredited Financial Investigator on 11 October 2023 is attached at **Appendix 4b**
- Witness statement from the attending Trading Standards Enforcement Officer is attached at **Appendix 4c**

- Supporting photo exhibits submitted by Trading Standards in support of review are attached at **Appendix 5**

3.3 WSCCTS, acting as a Responsible Authority have outlined that they do not have confidence that the licensing objectives are being promoted, believing that Choice of Horsham have been conducting criminal activity, including the storage and supply of illicit tobacco and oversize non-UK compliant vapes which cannot be legally supplied in the United Kingdom.

WSCCTS deem it both proportionate and necessary to invite the committee to review the existing premises licence, to limit further criminal activity by the licence holder and to act as a deterrent to other operators considering such illegal conduct. The Responsible Authority have suggested an appropriate outcome of the review would be the revocation of Premises Licence.

4 Next Steps

4.1 Where the Sub-Committee considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition)
- exclude a licensable activity from the scope of the licence
- remove the designated premises supervisor
- suspend the licence for a period not exceeding three months;
- revoke the licence

The Sub-Committee may also choose not to take any action or may issue an informal warning.

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

5 Outcome of Consultation

5.1 The application was advertised by way of a Blue A4 Notice at the premises for public viewing, as required by the Licensing Act 2003. This was in addition to publication on the authorities website.

5.2 A copy of the application was served on all statutory consultees in accordance with the provisions contained within the Licensing Act 2003

5.3 **Environmental Health and Licensing** – no representation

5.4 **Local Planning Authority** – no representation

5.5 **Home Office** – no representation

5.6 **Public Health** – supporting representation attached at **Appendix 7 West Sussex**

5.7 **Fire and Rescue** – no representation

5.8 **Sussex Police** – supporting representation attached at **Appendix 8**

5.9 **Public Health** - representation against review x1 attached at **Appendix 9**

5.10 During the consultation process, the premises was visited by Horsham District Council Licensing Officer Charlene Ellis. The visit was unannounced and a copy of the inspection report and resulting correspondence and advice can be viewed at **Appendix 10, 10a and 10b**

6 Other Courses of Action Considered but Rejected

6.1 None

7 Resource Consequences

7.1 None

8 Legal Considerations and Implications

8.1 The Committee must determine the application in accordance with the Licensing Act 2003 (LA03), HDC Licensing Policy and the Home Office Guidance issued under Section 182 Licensing Act 2003, whilst having due regard to the information and documentation introduced in this report and Appendices.

8.2 The legal threshold is on the balance of probabilities and the Committee must be satisfied that on the evidence, the occurrence of the event or events was more likely than not.

9 Risk Assessment

9.1 This application does not relate to any of the specific risks on the Corporate Risk Register.


10 Procurement implications

10.1 None

11. Consequences of Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>The Sub-Committee are to determine the application under the four licensing objectives. The prevention of crime and disorder is one of the licensing objectives.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The operation of the Licensing Sub Committee is a quasi-judicial function and as such particular regard is to be had to Article 6 'the right to a fair trial'.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>There are no specific equality issues.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There are no specific sustainability issues.</p>

**Part A
Licensing Act 2003 Premises Licence**

<p align="center">Horsham District Council <i>working in partnership to secure a better quality of life for all</i></p> <p>Public Health and Licensing, Parkside, Chart Way, Horsham, West Sussex. RH12 1RL 01403 215402</p>	
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Premises Licence Number**LI/11/0132/PREM****Part 1 – Premises Details**

<p>Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code</p> <p align="center">Choice of Horsham 1 Park Way Horsham West Sussex RH12 1DP</p>
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<p>Where the licence is time limited the dates</p> <p align="center">Not Applicable</p>
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<p>Licensable activities authorised by the licence</p> <p align="center">The Sale by Retail of Alcohol Only</p>
--

<p>Times the licence authorises the carrying out of licensable activities</p> <p align="center">Everyday 08:00 - 23:00hrs</p>
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<p>The opening hours of the premises</p> <p align="center">Everyday ~ 07:00 - 23:00hrs</p>

<p>Where the licence authorises supplies of alcohol whether these are on and / or off supplies</p> <p align="center">For consumption Off the premises only</p>

Part 2

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

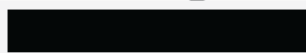


Registered number of holder, for example company number, charity number (where applicable)

Not Applicable

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

Harinder Singh Anand



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

Personal Licence Number: LBHIL 3123

Licensing Authority: London Borough of Hillingdon

Note

This licence is issued pursuant to the legislation/regulations specified in it only and does not constitute a licence/approval/consent for any other purpose whatsoever, including other legislation, etc., administered by Horsham District Council.

The recipient of this licence is responsible for ensuring that all necessary licences/ approvals/consents/planning permissions, etc., are obtained and the grant of this licence does not constitute a representation that any necessary licences/approvals/consents/planning permissions, etc., will be granted, because each application must be considered separately.

Mandatory Conditions

All Premises Licence authorising supply of alcohol

The licence is granted subject to the Mandatory conditions for sale of alcohol as set out in the Licensing Act 2003 as amended by the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 and Order 2014.

1. No supply of alcohol may be made under the Premises Licence –
 - (a) At a time when there is no Designated Premises Supervisor in respect of the Premises Licence; or
 - (b) At a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.
2. Every supply of alcohol under the Premises Licence must be made, or authorised by a person who holds a Personal Licence.
3. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to –
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

5.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:-
 - (a) a holographic mark or
 - (b) an ultraviolet feature.
6. The responsible person shall ensure that –
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures –
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
 - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

Minimum Drinks Pricing

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 –
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) “permitted price” is the price found by applying the formula –
$$P = D + (D \times V)$$

Where –

- (i) P is the permitted price
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence –
 - (i) The holder of the premises licence
 - (ii) The designated premises supervisor (if any) in respect of such a licence, or
 - (iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

If the Premises Licence allows Exhibition of Films

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.

3. Where

- (a) The film classification body is not specified in the licence, or
- (b) The relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,

admission of children must be restricted in accordance with any recommendation made by that licensing authority.

4. In this section “children” means any person aged under 18; and “film classification body” means the person or persons designated as the authority under Section 4 of the Video Recordings Act 1984(c39) (authority to determine suitability of video works for classification).

If the Premises Licence has conditions in respect of Door Supervision except theatres, cinemas, bingo halls and casinos

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of the Act.

2. But nothing in subsection (1) requires such a condition to be imposed:

- (a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or
- (b) in respect of premises in relation to:
 - (i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or
 - (ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

3. For the purposes of this section:

- (a) “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and
- (b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

General Licensing Objectives

Digital CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises internally to cover all public areas with sufficient numbers of cameras as agreed with Sussex Police.

CCTV footage will be retained for a minimum of 28 days and the management will give full and immediate co-operation and technical assistance to the police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime.

The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy and will be changed when British Summer Time starts and ends.

Except for mechanical breakdown beyond the control of the proprietor CCTV images shall be made available upon request to the Police.

Any breakdown or system failure will be notified to the police immediately and remedied as soon as practicable.

It will be the responsibility of the Designated Premises Supervisor to ensure that any request from the police for a recording to be made for evidential purposes is carried out as soon as possible.

Prevention of crime and disorder objectives

See above

Public safety objectives

See above

Prevention of public nuisance objectives

See above

Protection of children from harm

A "Challenge 25" policy operates throughout the store whereby any person attempting to buy alcohol who appears to be under 25 years of age will be asked for photographic identification.

The only forms of identification that will be accepted are passports, driving licences which have a photograph thereon, Portman Group Citizen Card or any other valid proof of age cards bearing the "PASS" mark hologram.

The list of approved forms of identification may be amended or revised with prior written agreement of the Sussex Police.

Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations throughout the premises.

All staff members engaged, or to be engaged, in the sale of alcohol on the premises shall have received the following training in age restricted sales:

- Induction training which must be completed and fully documented prior to the staff member being allowed to sell alcohol and said staff member will receive refresher training at intervals of no less than 8 weeks.
- All age restricted sales training undertaken by staff members shall be fully documented and all training records shall be made available to the Sussex Police and the local Trading Standards Service upon request.

The Designated Premises Supervisor will ensure that at all times a sales refusals book is kept and maintained. It is his/her responsibility to regularly check this book at intervals of no less than four weeks and where appropriate give feedback to the staff.

The refusals book shall be made available upon request to Police, Local Authority and/or Trading Standards Staff

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

Not Applicable

<i>Signed by Head of Public Health and Licensing</i>	<i>Date</i>
<div data-bbox="620 562 911 741" style="background-color: black; width: 182px; height: 80px; margin: 0 auto;"></div> <p data-bbox="702 860 933 891">28 December 2022</p>	<p data-bbox="1007 553 1249 584">Determined/Issued</p> <p data-bbox="1043 598 1212 629">16 June 2011</p>

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Horsham District Council

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

**I Peter Aston, Trading Standards, Team Manager,
West Sussex County Council Trading Standards Service**

(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

Ashman Express Ltd t/a Choices of Horsham
Burtons Court, Park Way

Post town Horsham

Post code (if known) RH12 1PY

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

Harinder Singh **ANAND**

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

LI/11/0132/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

Please tick yes

I am 18 years old or over

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 FOR & ON BEHALF OF THE RESPONSIBLE AUTHORITY APPLICANT: Mr Peter Aston Team Manager West Sussex County Council Trading Standards Service Parkside Chart Way Horsham RH12 1XH
Telephone number (if any) 0330 222 7661
E-mail address (optional) peter.aston@westsussex.gov.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 2)

West Sussex County Council Trading Standards Service (the 'responsible authority') contends the following licensing objectives have been undermined by the carrying on of licensable activities at these premises:

- the prevention of crime and disorder
- Public Safety

Full particulars in support of the application are to be found in the next section, but in summary:

On the 11th October 2023, during a Trading Standards Inspection at Ashman Express Ltd t/a Choices of Horsham, 95 oversized 'ENE' Legend 3500 Puff disposable vapes were found in a cardboard box in a small cupboard under the counter at the point of sale. The Tobacco and Related Products Regulations 2016 set out requirements for nicotine inhaling products, otherwise known as E-cigarettes, vapes and e-liquids. E-cigarettes/Vapes should contain no more than 2 ml of liquid, which is equivalent to around 600 puffs. It is a criminal offence to supply nicotine containing liquid in a disposable electronic cigarette with a tank capacity greater than 2ml.

80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total), were found in the toilet area of the premises during the inspection. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation 11(4) Tobacco and Related Products Regulations 2016, and thereby constitute offences under regulation 48 (a) (i) Tobacco and Related Products Regulations 2016. It is an offence to produce or supply a tobacco product (or herbal products for smoking) in breach of the requirements under the Standardised Packaging of Tobacco Products Regulations 2015, or the Tobacco and Related Products Regulations 2016.

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

1.1 On the 5th of August 2022 West Sussex County Council Trading Standards (WSCCTS) received a complaint from a member of the public (this was another local business) alleging that Ashmans Express Ltd/ta Choices of Horsham was selling vapes to children. On the 3rd of October 2023 WSCCTS received a further complaint from a member of the public (again this was a local business) alleging that Ashmans Express Ltd/ta Choices of Horsham were selling oversized vapes. This business has previously received a warning letter from WSCCTS regarding 520 oversized E-cigarettes, and 3 unsafe electrical adapters found by WSCCTS Officers during an inspection of the premises on 16 August 2022, along with a further warning letter relating to Underage sales of alcohol on 14th of December 2022. Ashmans Express Ltd/ta Choices of Horsham has also previously been subject to a Licence Review on the 14th of March 2023, subsequently resulting in a 1-month suspension of the licence following the sale of alcohol to a person under 18 during a WSCCTS Underage Sales Operation.

1.2 On the 11th of October 2023, Officers from WSCCTS, along with a sniffer dog and its handler, and a Sussex Police Constable visited Ashmans Express Ltd/ta Choices of Horsham. The WSCCTS Officers present introduced themselves and requested that the shop be closed while an inspection of the premises took place.

1.3 During the inspection 95 oversized 'ENE' Legend 3500 Puff disposable vapes were found in a cardboard box in a small cupboard under the counter at the point of sale. The Tobacco and Related Products Regulations 2016 sets out requirements for nicotine inhaling products, otherwise known as E-cigarettes, vapes and e-liquids. E-cigarettes/Vapes should contain no more than 2 ml of liquid, which is equivalent to around 600 puffs. It is a criminal offence to supply nicotine containing liquid in a disposable electronic cigarette with a tank capacity greater than 2ml. The product requirements are listed in regulation 36 of The Tobacco and Related Products Regulations 2016. Regulation 36 (2) (b) states "Nicotine-containing liquid which is presented for retail sale must be in — (b) a disposable electronic cigarette, a single use cartridge, or a tank, in a volume not exceeding 2 millilitres." The tank of the vapes exceeded the maximum capacity allowed.

A person guilty of an offence under these Regulations is liable, on summary conviction to imprisonment for a term not exceeding three months, or a fine or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both. If an offence is proved, that has been committed by the body corporate (the limited company) proceedings can be taken against officers of the company, where the offence has been committed with the consent or connivance of officers of the company.

1.4 80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total), were found in the toilet area of the premises during the inspection. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation 11(4) Tobacco and Related Products Regulations 2016, and thereby constitute offences under regulation 48 (a) (i) Tobacco and Related Products Regulations 2016. It is an offence to produce or supply a tobacco product (or herbal products for smoking) in breach of the requirements under the Standardised Packaging of Tobacco Products Regulations 2015, or the Tobacco and Related Products Regulations 2016.

In this case the cigarettes packaging did not display the mandatory specifically worded 'Smoking kills quit now' health warning in English, or the mandatory 'UK Duty Paid' label.

1.5 It is also an offence contrary to Section 144 of the Licensing Act 2003 to keep smuggled, non-duty paid goods on licenced premises. Given the non-UK compliant standard packaging, the lack of the legally required 'UK Duty paid' Stamp and the absence of the legally required specifically worded English language warning "Smoking kills, quit now", it is reasonable to believe that they are non-duty paid, and of non-UK origin, therefore keeping these items on licenced premises, is an offence contrary to the Licencing Act 2003, Section 144, (3). A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

1.6 Selling illicit tobacco products fails to prevent further crime and disorder by funding those who illegally import and produce such products. Revised guidance issued under Section 182 of the Licencing Act 2003 (December 2023) 11.27 states: 'There is certain criminal activity that may arise in connection with licenced premises which should be treated particularly seriously. These are the use of the licenced premises, for the sale or storage of smuggled tobacco and alcohol'. 11.28 states: 'It is envisaged that the licencing authorities, the Police, the Home Office (Immigration enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures to deter such activities and crime. Where reviews arise and the licencing authority determines that the crime prevention objectives are being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered'.

No meaningful conditions can be put on a premises licence to deal with smuggled goods. Therefore, WSCCTS seek a revocation of the licence. This would send a clear message that Horsham District Council and the county of West Sussex will not tolerate the sale or storage of smuggled tobacco.

1.7 All forms of tobacco products are harmful whether purchased from an illicit seller or a legal source. Due to the low prices which make it harder for smokers to quit, easier for non-smokers to start and ex-smokers to relapse, the trade in illegal tobacco harms local communities, affects honest businesses operating within the law and undermines local and national efforts that have been made to reduce smoking and improve health. The availability and typically lower price of illicit tobacco also encourages young people to take up smoking.

In view of the above, the Responsible Authority do not believe the licensing objectives are being continually upheld at these premises and deem it both proportionate and necessary to invite the committee to consider a review of the premises licence, to limit further criminal activity by this licence holder and to act as a deterrent to other operators considering such illegal conduct.

WSCCTS believes that this premises has been conducting criminal activity, including the storage and supply of illicit tobacco and oversize non-UK compliant vapes that cannot be legally supplied in this Country, the Responsible Authority respectfully suggest an appropriate outcome of the review would be a revocation of the alcohol licence.

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
27	01	2023

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

A previous licence review application was made by the Responsible Authority in January 2023. That application was dated 27/01/2023. An outline of that application and the date of the review hearing can be found below:

On the 16th August 2022 Officers from the Responsible Authority carried out an inspection at the business and discovered a large number of disposable electronic cigarettes that contained nicotine in a capacity greater than the permitted amount.

In total 520 disposable electronic cigarettes were seized from the business.

Officers from the Responsible Authority also discovered and seized 3 Universal Travel Adaptors that posed a known risk of electrocution to consumers.

On the 14th December 2022, as part of an Underage Sales operation the Responsible Authority were carrying out, a 17 year Trading Standards volunteer was sold a bottle of WKD Pink Gin.

A licence review hearing was held by Horsham District Council Licensing Sub-Committee on Tuesday 14th March 2023.

Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS

APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

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

Signature 
.....

Date 11/01/2024
.....

Capacity Team Manager
.....

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.



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**West Sussex County Council
STATEMENT OF WITNESS**

STATEMENT OF
WITNESS

Age of Witness: **24** Over 18: **YES**

Occupation of Witness: **Dog Handler**

This statement, consisting of 1 page signed by me, is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

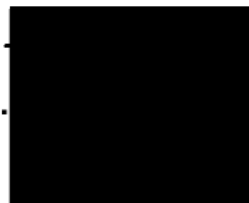
Date: 29th January 2024

I am employed by Wagtail UK LTD and hired out by West Sussex County Council within the Trading Standards service to carry out tobacco and vape searches within the area of West Sussex. On the date of 11-10-23 I had entered the premises of Ashmans Express/ta Choices of Horsham, with Trading standards officers. I entered with my detection dog, Billy (Springer spaniel, trained to detect tobacco, cash and vapes). I proceeded to start my search in the far end of the shop which was a small break room containing a kitchen space, and a bathroom.

Billy showed a large amount of interest towards the bathroom so I gave him an extended lead allowing him to follow whatever scent had caught his attention. Within minutes Billy indicated on his hind legs on boxes of alcohol stacked along the right-hand side of the room. Indicating on his hind legs shows that the scent is at height so after moving some boxes he made his way along until he got to the specific area and indicated on a black bin bag containing cigarettes. I now produce the photo I took of Billy **JB/01**

After leaving the toilet area, I worked Billy around the shop floor and headed towards the counter. Billy immediately pulled me to a small cupboard situated underneath the till area with a broken door. Upon opening the cupboard, I discovered vapes. I rewarded Billy and then exited the shop.

(Signed) **JESSICA BODEN**



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STATEMENT OF WITNESS

*(Criminal Procedure Rules 2020, Rule 16.2,
Criminal Justice Act 1967, s. 9)*

STATEMENT OF: Natalie Elaine JILLETT

Age of witness: Over 18

Occupation of Witness: Senior Accredited Financial Investigator

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

Dated the 30th day of January 2024

Signed 

On the 11th October 2023 I participated in an operational day with the aim of discovering illicit tobacco and illegal electronic cigarette devices within shops in West Sussex.

At approximately 1430 Hours I entered a convenience shop called Choices of Horsham which is on Park Way, Horsham, West Sussex, RH12 1PY. Individuals who attended the premise alongside me were Paul Rogers, Enforcement Officer from West Sussex Trading Standards, PC James Munden from Sussex Police and a dog handler from Wagtail UK Ltd.

After entering the premise, I introduced myself to Mr Ziaul Haque who was working behind the counter of the shop. I filled in a PACE Code B Form which Mr Haque signed, I then gave Mr Haque his white copy. I produce in evidence a duplicate copy of the PACE Code B Form number 62163 as exhibit number NJ/1.

I told the dog handler that they could begin searching the premise. I followed the dog handler around the premise and into the stock room. Off the stock room was a toilet which had stock inside it. The dog indicated on a black bin bag which was placed on top of the pile of stock. I quickly looked inside the bag and noticed it had

tobacco products inside that were foreign labelled and in non-standardised packaging, I took the bag to the shops front counter. I opened the bag some more to show Mr Haque, whom stated that the bag must have been there from when I visited last time which was the 16th August 2022. Mr Haque then phoned the Director of the company who owns the shop, Asmans Express Ltd, Mr Harinder Singh Anand. I spoke to Mr Anand, who stated the same as Mr Haque, that the bag must have been there since my previous visit. I took a photograph of the black bin bag with tobacco products and produce this photograph in evidence as exhibit number NJ/2.

Meanwhile the dog handler found some oversized vapes behind the shop counter in a cupboard behind the till. Again, Mr Haque stated that they had been there since my last visit.

I counted the foreign labelled tobacco found in the bin bag and there were 80 x Marlboro Gold, which I placed in an evidence bag and gave it sample number NJ/CH/1 and sealed with number XC00088493. I produce in evidence sample number NJ/CH/1 as exhibit number NJ/3. Paul Rogers counted the vapes and put them in an evidence bag.

I filled in the Inspection Notice Form which Mr Haque signed and gave him a duplicate copy. I produce the Inspection Notice Form number 4065 in evidence as exhibit number NJ/4. I also filled in a Disclaimer for Goods and Schedule of Goods so that the non compliant tobacco and vapes seized could be signed over to West Sussex County Council Trading Standards Service. I produce these forms in evidence as exhibit number NJ/5.

After the visit we placed the seized goods in the evidence room in our Horsham office.

Witness details

Address: Parkside, Chart Way, Horsham, West Sussex, RH12 1XH

Email address:

Mobile number:

Other number(s):

Date and place of birth:

Maiden name:

Dates to be avoided. Delete dates of non-availability of witness:

Month of :							Month of :							Month of :						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				
Month of :							Month of :							Month of :						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
15	16	17	18	19	20	21	15	16	17	18	19	20	21	15	16	17	18	19	20	21
22	23	24	25	26	27	28	22	23	24	25	26	27	28	22	23	24	25	26	27	28
29	30	31					29	30	31					29	30	31				

Contact details if different from above

Address:

Email address:

Mobile number:

Other number(s):

CRIMINAL PROCEDURE AND INVESTIGATIONS ACT 1996

Record below anything that may affect the credibility of the person making this statement, e.g.; previous convictions, relationship to defendant. If there is nothing state 'none' below.

None

Dated the 30th day of January 2024

Signed 

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STATEMENT OF WITNESS

*(Criminal Procedure Rules 2020, Rule 16.2,
Criminal Justice Act 1967, s. 9)*

STATEMENT OF: Paul Joseph Rogers

Age of witness (if over 18, enter "over 18"):

Occupation of Witness: Enforcement Officer

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

Dated the 30th day of January 2024

Signed 

I am employed as an Enforcement officer by West Sussex County Council Trading Standards Service On the 11th of October 2023, I was on duty in Horsham, West Sussex. At approximately 14.30 hours, along with Senior Trading Standards Officer (STSO) Jillett, Dog Handler Boden, and PC CM888 Munden of Sussex Police, I entered premises at Ashmans Express/ta Choices of Horsham, 1 Burton Court Way, Horsham, West Sussex RH12 1PY.

On entering the premises STSO Jillett issued Mr Haque the member of staff on duty at the premises, a Trading Standards Notice of Powers and Rights form No 62163, an inspection of the premises then commenced. I inspected the stock of tobacco and cigarettes in the cabinet behind the counter, the tobacco and cigarettes stored behind the counter was all in order and compliant with current UK regulations.

I also inspected a selection of vapes in glass display cabinets on the counter of the shop, the vapes in the display cabinets were also all in order and compliant with current UK regulations.

Whilst I was engaged on this element of the inspection, the Dog handler and STSO Jillett inspected other areas of the premises.

As I completed my inspection of the legitimate goods in the display cases, and in the cabinet behind the counter, STSO Jillett and Dog Handler Boden approached the area near the counter with a black bin bag containing nonstandard packaged 'Marlboro Gold', brand cigarettes, now marked **NJ/CH/1**. STSO Jillett counted the 'Marlboro Gold' brand cigarettes and placed them into a clear plastic tamper evident bag under seal number **XC00088493**.

Dog handler Boden then commenced an inspection of the area behind the counter with her dog. The dog subsequently indicated on an area in the vicinity of a small cupboard beneath the counter below the till.

Inside the cupboard was a brown cardboard box which when I examined it was found to contain ninety-five oversized, e-cigarette 'ENE legend' brand, 3500 puff vapes. which I now produce marked **PR/CH/01**. Using my Trading Standards Service issued mobile phone, I took three photographs of the vapes which I now produce marked **PR/CH/02**. I placed the vapes into a clear plastic bag under seal number **XC00088694**.

STSO Jillett requested that Mr Haque, the member of staff on duty at the premises sign Disclaimer of Goods Notice, Mr Haque complied with her request. At this point along with STSO Jillett, Ms Boden and PC Munden, I left the premises at approximately 15.10 hrs with the goods, Ninety-five ENE 3500 puff vapes, now marked **PR/CH/1** and 80 x packs of 20 Marlboro Gold Cigarettes, now marked **NJ/CH/1**, as listed on the Disclaimer of Goods Notice signed by Mr Haque, the member of staff on duty in the premises, on our returning to the office the goods listed were placed in the West Sussex County Council Trading Standards evidence storage facility.

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CHPR2 – Photo 1 of 3



CHPR2 – Photo 2 of 3



CHPR2 – Photo 2 of 3



Photo – NJ2



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HORSHAM DISTRICT COUNCIL**Licensing Sub-Committee 14 March 2023**

Councillors: John Blackall, Lynn Lambert, Diana van der Klugt

Review of Premises Licence – Choice of Horsham, 1 Park Way, Horsham**DECISION:**

1. Our decision is made in consideration of the Licensing Act 2003, the Secretary of State's Guidance issued under section 182 of that Act, the Equality Act 2010 and Horsham District Council's Statement of Licensing Policy.
2. Our decision is based upon the clear failure, admitted by the Premises Licence Holder, to promote the two Licensing Objectives: Prevention of Harm to Children and the Prevention of Crime and Disorder on 14 December 2022.
3. Each member of the sub-committee has read and considered the report put forward by the Licensing Officer, and the late-arriving personal licence holder (PLH) material.
4. The sub-committee listened carefully to the representations from the Applicant and from the PLH.
5. The sub-committee felt that there was a weakness in the training regime at Choice of Horsham. The sub-committee noted a history of trading irresponsibly in the past. Proper records should have been kept, and should now be kept of all training received. The PLH has expressed a determination to keep better records of training.
6. The applicant, West Sussex Trading Standards, and the Sussex Police, argued in favour of a three-month suspension. The sub-committee felt that the PLH was apologetic, and keen to do better. The PLH did not argue against a suspension, but suggested that less than three months would be a more appropriate length. The PLH agreed that the conditions at pages 53-55 of the report, as recommended by the Sussex Police, would be better than the existing conditions.
7. The decision of the sub-committee is:
 - (i) to suspend the alcohol licence for a period of one calendar month;
 - (ii) that the licensing conditions at pages 53-55 of the report are substituted for the existing conditions to the licence.

Continued/...

HORSHAM DISTRICT COUNCIL

8. There is a right to appeal this sub-committee's decision through an appeal to the Magistrates' Court. The rights are set out in the Licensing Act, and parties are reminded that an appeal must be commenced within 21 days of notification of the decision to a relevant party.



Diana van der Klugt

Chairman of the Licensing Committee, 14 March 2023

Date: 14 March 2023

The prevention of crime and disorder:

Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
- Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
- Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.
- In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

All off sales of alcohol will be made in sealed containers.

Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

For the Protection of Children from Harm:

The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the "PASS" mark hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.

Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.

The Premises Licence Holder shall ensure that all staff members (including family members, friends and all temporary staff) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- the lawful selling of age restricted products
- refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed three months, with the date and time of the verbal reinforcement/refresher training documented.

All such training and refresher training undertaken by staff members shall be fully documented and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.

The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor (with the date and time of each review documented) at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the log/refusals register will be retained on the premises for a minimum of twenty four months.

Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

A list of staff members who are authorized to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences.

At all times the premises is open and undertaking licensable activities, members of staff must be able to communicate sufficiently to enable them to promote the four licensing objectives, specifically, the ability to make effect age and identification challenges and to ensure alcohol is retailed responsibly.

*** Conditions for alcohol delivery service:**

Alcohol deliveries will only be made to a residential or business address and not to a public place.

The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.

At the time the order is placed a declaration will be required from the person placing the order that that person is aged 18 years or over, and that the intended recipient are over 18 years or over. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

1. For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.
2. For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.
3. Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:
 - only employs delivery employees or agents aged 18 and over;
 - is aware that alcohol is included in the delivery;
 - that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
 - that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.

*If the premises does not want to accept the alcohol delivery conditions, then we would be content with an alternative condition that there will be no alcohol delivery services provided by the premises either directly or via third party delivery providers.

Yours sincerely,

West Sussex Licensing Inspector
Sussex Police



Horsham
District
Council

Mr Peter Aston
West Sussex County Council
Trading Standards Service
Parkside
Chart Way
Horsham
West Sussex
RH12 1XH

Our ref: RI/AB/002896
Email:
Alison.Bruce@horsham.gov.uk
Direct tel: 01403 215481

Date: 20 March 2023

Dear Mr Aston,

Decision Letter following Review of Premises Licence Sub-Committee on 14th March 2023 in respect of Choice of Horsham, 1 Park Way, Horsham, West Sussex RH12 1DP

Please find enclosed the full decision of Horsham District Council's Licensing Sub-Committee on 14th March 2023.

Yours sincerely,



Alison Bruce
Legal Assistant
On behalf of Interim Head of Legal and Democratic Services

Enc



Harinder Singh Anand



Our ref: RI/AB/002896

Email:

Alison.Bruce@horsham.gov.uk

Direct tel: 01403 215481

Date: 17th March 2023

Dear Mr Anand,

Decision Letter following Review of Premises Licence Sub-Committee on the 14th March 2023 in respect of the premises licence held by Mr Harinder Singh Anand for the premises trading as Choice of Horsham, 1 Park Way, Horsham, West Sussex, RH12 1DP (the Premises.)

I am writing to provide you with the written decision made by the Licensing Authority Sub-Committee (the Sub-Committee) in respect of a Review requested by a Responsible Authority, West Sussex County Council Trading Standards Service (the TS) made under Section 51 of the Licensing Act 2003.

When carrying out its functions under the Licensing Act 2003, the Licensing Authority is required to do so with a view to promoting the Licensing Objectives. These Licensing Objectives are:

- 1) The prevention of crime and disorder
- 2) Public safety
- 3) The prevention of public nuisance, and
- 4) The protection of children from harm.

In carrying out its licensing functions, a Licensing Authority must also have regard to:

- 1) Its licensing statement published under Section 5 of the Licensing Act 2003;
- 2) Its statement of licensing policy; and
- 3) Any guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003.

The Sub-Committee, consisting of Councillor Diana van der Klugt (the Chair), Councillor John Blackall and Councillor Lynn Lambert, considered the Licensing Officer report (the Report) together with its 11 appendices. These included: (1) the Premises Licence, (2) the Review application, (3) a witness statement from a Senior Trading Standards Officer, (4) a witness statement from a Trading Standards Officer, (5) a witness statement from a trainee Trading Standards Officer, (6) A warning letter sent to H.S. Anand, the director of Ashman Express Ltd, (7) An email of advice re disposable e-cigarettes, (8) Four reports from TS following visits to Choice of Horsham between 06.06.2016 and 16.08.2022, (9) a letter in support of the Review from Sussex Police, (10) an email in support of the Review from Horsham Denne Neighbourhood Council, and (11) a neutral email from the Alcohol and LNR Licensing Team, Interventions Sanctions and Compliance, at the Home Office.

At the Review, the Sub-Committee admitted the late-arriving petition submitted on behalf of H.S. Anand, the licence holder, after consent was made to its late admission by all parties present.

The Sub-Committee considered that it had enough information in the Report to allow it to consider the matter.

At the Review, the Sub-Committee heard verbal representations from Andy Neale from Trading Standards and verbal representations from Mr H. S. Anand himself, and Mr S. Panchal from Personal Licence Courses UK Ltd, as his representative.

Andy Neale took the Sub-Committee through the Report and its appendices submitted by TS as part of the application for a Review, setting out the reasons for the TS seeking a suspension of the premises licence of Choice of Horsham for the maximum 3 months. He outlined the circumstances of the previous interactions between TS and this Premises Licence Holder (PLH):

- a) On 05.08.2022, the Responsible Authority received an incident report from a member of the public alleging the supply to children of electronic cigarettes, and that the business was selling e-cigarettes with a nicotine capacity greater than that permitted by law.
- b) On 16.08.2022, TS officers from the Responsible Authority carried out an inspection at the Premises and discovered a large number of disposable e-cigarettes that contained a nicotine capacity greater than that permitted by law. In total, 520 such e-

cigarettes were seized from the Premises. It is a criminal offence to supply nicotine-containing liquid in a disposable e-cigarette with a tank capacity greater than 2 millilitres, under the Tobacco and Related Products Regulations 2016.

TS officers also seized three universal travel adaptors from the Premises, that posed a known risk of electrocution to consumers. It is a criminal offence to supply equipment that does not meet the essential safety requirements under the Electrical Equipment (Safety) Regulations 2016.

The business was issued a warning letter dated 06.12.2022, following discovery of these offences, and in that letter was advised that any breach of the Licensing Act 2003 by that business might lead to a licence Review.

- c) On 14.12.2022, as part of the underage sales operation being conducted by the TS officers of the Responsible Authority on that date, a 17-year-old female TS volunteer was sold a bottle of WKD Pink Gin at the Premises. The male member of staff working behind the counter scanned the bottle of WKD before he asked the volunteer if she had any age identification, to which she replied “no.” He told her that she should “bring it next time.”

When spoken to by TS officers, minutes later, the member of staff told them, under caution, that he remembered selling the volunteer the bottle of WKD. He said that he had thought she looked over 25 years old. He was asked why then he had told her to bring ID next time, and said that, in fact, he had doubted her age and should have stopped the sale and refunded her money. He said he had worked at the shop for about 6 years and had been trained on the sale of age-restricted products when he had started work at the Premises. He confirmed that the Premises used the ‘Challenge 25’ policy. In answer to subsequent written questions from TS to the PLH, Mr H.S. Anand said that the Premises used the ‘Challenge 25’ policy, and that all members of staff were trained in the prevention of underage sales. He said that his member of staff on 14.12.2022 had misjudged the age of the volunteer. He provided training records showing that two members of staff, including the male at work on 14.12.2022, had received training as recently as 01.09.2022, and had received pocket guides to the sale of alcohol.

It is a criminal offence to sell alcohol to a child under 18 years of age, under Section 146 of the Licensing Act 2003.

Asked by the Chair of the Sub-Committee, Mr Neale confirmed that Mr Anand had been the licence holder and director of the previous companies operating from the Premises - Redhill Food and Wine Ltd in 2016, Choices of Horsham Ltd in 2017 and Kakkar Food and Wine Ltd in 2019.

He further confirmed that the email sent to Mr H.S. Anand was advisory, and the letter dated 06.12.22 was a formal warning letter.

Following these submissions from TS, the Sub-Committee heard from the PLH.

Mr S. Panchal from Personal Licence Courses UK Ltd addressed the Sub-Committee:

- a) He agreed with the accuracy of the accounts given about the August 2022 and December 2022 visits to the Premises.
- b) He asked TS to confirm that the PLH had supplied the invoices TS had asked for, in respect of the vapes seized in August.
- c) He said that the shop was otherwise compliant with TS rules on each occasion: for instance, the illegal vapes that had been seized in August 2022 were not present again in December 2022.
- d) He said that Mr H. S. Anand had been involved with the Premises since 2017 onwards and that no previous underage sales had taken place. He confirmed that training had been provided when the male member of staff had been first employed, and that there was regular refresher training given to staff.
- e) He said that Harinder Singh Anand is now the Designated Premises Supervisor (the DPS) and checks compliance on a regular basis. He confirmed that H.S. Anand had arrived at the Premises that morning at 0930 hrs.
- f) He said that, when questioned that morning, the seller had given answers to questions showing he understood the 4 Licensing Objectives.
- g) He said that the seller had reported that he was under pressure at the time of the sale, that there was a delivery, and that the person had looked over 25. He confirmed that ID must be checked.
- h) He confirmed that the PLH would be happy for the proposed conditions laid out by Sussex Police at page 53-55 to be imposed as a replacement for the existing conditions to the licence.

- i) He submitted that the suspension period of three months would be too long, given 25% of the shop is laid out for alcohol sales. He referred to the petition-signers and said that they would not attend the shop if no alcohol sales could take place. He submitted that a shorter term of suspension was appropriate.
- j) In answer to questions from the Chair, he confirmed that the Premises is a general convenience store. It has disabled access, has ladies with prams coming in, and sells good quality wines and beers.
- k) He said that on 14.12.22, Manmeet Singh was the DPS. He was not there at the time of the day when the sale took place. He confirmed that the Premises keeps training records, that there was training in January 2023 and will be further training, which will be logged in to the training record every three months. Pocket guidance books will be given to all staff.
- l) He said a sales refusal book is kept. He agreed the TS statement reporting that the member of staff had said on 14.12.2022 that the Refusal Book was full and they were awaiting the arrival of the new one. There was also an incident book to record refusals, TS visits, and when CCTV is not working and the making of no sales without CCTV.
- m) He said that Mr H.S. Anand attends the Premises 3 or 4 times per week. He has two shops – this one and one in Redhill, and travels alternately to both. He stays at each for 3-4 hours.

The Sub-Committee retired to consider its decision. The Sub-Committee decided to suspend the Premises Licence for one calendar month and to substitute the licensing conditions proposed by Sussex Police (and reproduced at Appendix 1) for the existing conditions to the licence. It declared its decision as follows:

1. Our decision is made in consideration of the Licensing Act 2003, the Secretary of State's Guidance issued under section 182 of that Act, the Equality Act 2010 and Horsham District Council's Statement of Licensing Policy.
2. Our decision is based upon the clear failure, admitted by the Premises Licence Holder, to promote the two Licensing Objectives: Prevention of Harm to Children and the Prevention of Crime and Disorder on 14 December 2022.

3. Each member of the sub-committee has read and considered the report put forward by the Licensing Officer, and the late-arriving personal licence holder (PLH) material.
4. The sub-committee listened carefully to the representations from the Applicant and from the PLH.
5. The sub-committee felt that there was a weakness in the training regime at Choice of Horsham. The sub-committee noted a history of trading irresponsibly in the past. Proper records should have been kept, and should now be kept of all training received. The PLH has expressed a determination to keep better records of training.
6. The applicant, West Sussex Trading Standards, and the Sussex Police, argued in favour of a three month suspension. The sub-committee felt that the PLH was apologetic, and keen to do better. The PLH did not argue against a suspension, but suggested that less than three months would be a more appropriate length. The PLH agreed that the conditions at pages 53-55 of the report, as recommended by the Sussex Police, would be better than the existing conditions.
7. The decision of the sub-committee is to suspend the alcohol licence for a period of one calendar month. The licensing conditions at pages 53-55 of the report are substituted for the existing conditions to the licence.
8. There is a right to appeal this sub-committee's decision through an appeal to the Magistrates' Court. The rights are set out in the Licensing Act, and parties are reminded that an appeal must be commenced within 21 days of notification of the decision to a relevant party.

The reasons for the Sub-Committee's decision are as follows:

1. The facts surrounding the failed test purchase on 14.12.2022 were agreed by the PLH.
2. The PLH did not argue against a suspension but suggested that less than three months would be a more appropriate length. The Sub-Committee agreed that a suspension of three months was not proportionate in the circumstances.

3. The Sub-Committee were not convinced that the training records and refusals book had previously been taken seriously by the business but noted that the PLH was apologetic and keen to do better with his record-keeping.
4. The Sub-Committee noted that the DPS had been changed following the failed test purchase on 14.12.2022 and that the PLH is now the DPS.
5. The Sub-Committee expressed some concern that there was limited immediate control over the Premises, since the PLH lives in Middlesex and also has responsibility for another shop in Redhill. However, the Sub-Committee also noted that the PLH is in attendance at the shop 3 – 4 times a week, for 3 – 4 hours at a time.

The date upon which this suspension will come into force is **0800 hrs on 06.04.2023**. This period of suspension will end at 2300 hrs on 05.05.2023. This period of suspension will, in the event of an appeal being lodged within the 21 days, not come into force until the appeal has been concluded in the Magistrates' Court.

Subject to an appeal being lodged, the Premises Licence must also be returned to the Licensing Officer by 06.04.2023.

The date upon which the substituted licence conditions will take effect is **0800hrs on 06.05.2023**. These conditions will, in the event of an appeal being lodged within the 21 days, not come into effect until the appeal has been concluded in the Magistrates' Court. The existing licence conditions will, however, remain in place until the date that the substituted conditions take effect.

Yours sincerely



Alison Bruce
Legal Assistant

CC Peter Aston WSCC Trading Standards Service
Mr S. Panchal, Personal Licence Courses UK Ltd

The prevention of crime and disorder:

Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.

- The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
- CCTV footage will be stored for a minimum of 31 days
- The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
- The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy. The time will be amended promptly when British Summer Time starts and ends.
- Subject to GDPR guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
- Any breakdown or system failure will be notified to the Police Licensing Department immediately (and retain documentary evidence in the form of an acknowledgement or receipt that this has been done) & remedied as soon as practicable.
- In the event of the CCTV system hard drive being seized as evidence as part of a criminal investigation by Sussex Police or for any other reason, the premises will be expected to install a replacement hard drive or a temporary replacement drive as soon as practicable.

All off sales of alcohol will be made in sealed containers.

Spirits will be stored and displayed behind the server/service counter out of the reach of the public.

For the Protection of Children from Harm:

The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The recommended forms of ID that will be accepted are passports, driving licenses with a photograph, photographic military ID or proof of age cards bearing the "PASS" mark hologram, official photographic identity cards issued by EU states bearing a hologram or ultraviolet feature.

Suitable and sufficient signage advertising the "Challenge 25" policy will be displayed in prominent locations in the premises, including the point of sale and the area where the alcohol is displayed.

The Premises Licence Holder shall ensure that all staff members (including family members, friends and all temporary staff) engaged or to be engaged, in selling alcohol at the premises shall receive induction training. This training will take place prior to the selling of such products:

- the lawful selling of age restricted products
- refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed three months, with the date and time of the verbal reinforcement/refresher training documented.

All such training and refresher training undertaken by staff members shall be fully documented and signed and dated by both the employee and the DPS. All training records shall be kept on the premises and made available to officers of any responsible authority upon request.

The premises shall at all times maintain and operate an incident log and refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor (with the date and time of each review documented) at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book will be kept at the premises and made available to officers of any responsible authority upon request. All incidents recorded in the log/refusals register will be retained on the premises for a minimum of twenty four months.

Feedback will be given to staff to ensure these are used on each occasion that a refusal or incident occurs at the premises.

A list of staff members who are authorized to sell alcohol on the premises will be kept. This shall be endorsed by the DPS with the date of such authorisation commences.

At all times the premises is open and undertaking licensable activities, members of staff must be able to communicate sufficiently to enable them to promote the four licensing objectives, specifically, the ability to make effect age and identification challenges and to ensure alcohol is retailed responsibly.

*** Conditions for alcohol delivery service:**

Alcohol deliveries will only be made to a residential or business address and not to a public place.

The age verification policy (including challenge 25) shall clearly be advertised at each stage of the order and on all advertising. All forms of advertising and promotional literature detailing the delivery service (including internet sites and flyers/leaflets) will clearly state that alcohol should only be purchased for delivery to intended recipients (or persons who will accept delivery on behalf of the named recipient) who are aged over 18. Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person aged under 18.

At the time the order is placed a declaration will be required from the person placing the order that that person is aged 18 years or over, and that the intended recipient are over 18 years or over. This process will be documented, (tick box before proceeding, record of verbal acknowledgement or similar). These records must be retained for no less than twelve months and produced on request to an officer of a Responsible Authority.

1. For deliveries where the alcohol is delivered by a third party, the alcohol is concealed in a secure sealed package, and the DPS has no direct supervision or control over the delivery (such as an independent courier or Royal Mail), there cannot be an age verification challenge on delivery, but the above conditions will be followed.
2. For deliveries made directly by the DPS or their employees, staff or agent or persons instructed by the DPS/PLH, the person accepting the delivery must be aged 18 years or over. Where the person accepting delivery appears to be under 25, a recognised photographic ID must be produced prior to delivery. No ID, no delivery.
3. Where the premises contracts a third party to deliver alcohol on their behalf and the person collecting the alcohol from the premises delivers it directly to the customer within a short timescale (such as Deliveroo, Just Eats), the premises will ensure that the third party:
 - only employs delivery employees or agents aged 18 and over;
 - is aware that alcohol is included in the delivery;
 - that the delivery person actively engages with the person receiving delivery and operates a challenge 25 policy rather than just handing the delivery over;
 - that in the event that the recipient of the alcohol is challenged for ID and does not provide appropriate and valid ID, the delivery person will retain the alcohol and return it to the premises.

*If the premises does not want to accept the alcohol delivery conditions, then we would be content with an alternative condition that there will be no alcohol delivery services provided by the premises either directly or via third party delivery providers.

Yours sincerely,

West Sussex Licensing Inspector
Sussex Police

Peter Aston
 Team Manager
 Trading Standards Service
 0330 222 7611 (Direct)
 (01403) 249987 (Fax)
 peter.aston@westsussex.gov.uk
 www.westsussex.gov.uk

Parkside
 Chart Way
 Horsham
 West Sussex
 RH12 1XH
 01243 642124



Mr Harinder Singh Anand
 Director
 Ashman Express Ltd t/a Choices of
 Horsham
 1 Parkway, Burtons Court
 Horsham
 West Sussex
 RH12 1PY

6th December 2022

Dear Mr Anand,

WARNING LETTER

The Tobacco and Related Products Regulations 2016
The General Product Safety Regulations 2005
The Electrical Equipment (Safety) Regulations 2016
Food Information to Consumers Regulations (EU) No 1169/2011

Ref: T164797

I have received information from an Officer within this service, Mrs Natalie Jillett, detailing a breach of the above legislation.

I have been advised that on the 16th August 2022, Mrs Jillett visited your shop and seized 520 x Elux 3500 Puff vapes.

The product requirements are listed in regulation 36 of The Tobacco and Related Products Regulations 2016. Regulation 36 (2) (b) states "Nicotine-containing liquid which is presented for retail sale must be in — (b) a disposable electronic cigarette, a single use cartridge, or a tank, in a volume not exceeding 2 millilitres." The tank of the vapes exceeded the maximum capacity allowed.

A person guilty of an offence under these Regulations is liable, on summary conviction in England and Wales to imprisonment for a term not exceeding three months, or a fine or both, or on conviction on indictment to imprisonment for a term not exceeding 2 years, or a fine, or both. If an offence is proved, that has been committed by the body corporate (the limited company) proceedings can be taken against officers of the company, where the offence has been committed with the consent or connivance of officers of the company.

Con/d

Mrs Jillett also seized 3 International Adaptors we have previously had these products tested and they have been found to be unsafe as they did not comply with The Electrical Equipment (Safety) Regulations 2016 and have a risk of harm to the user. Please ensure the products you supply are compliant with the relevant safety legislation.

Mrs Jillett also noticed that you were selling American sweets that did not contain the mandatory information required by the Food Information Regulations. It is a requirement under Regulation 1169/2011 that all packaged food must have mandatory information. Please ensure you only sell food that contains all the mandatory information on the labels, it is an offence to sell food without this information. In addition, there is a risk that someone could purchase food with an allergen in it which they are unaware of and therefore there are serious safety issues.

I understand Mrs Jillett has given you comprehensive advice and guidance on the above subject areas. I wanted to take this opportunity to warn you that it is a criminal offence to sell age restricted products to persons below the legal minimum age limit. Under Section 146 of the Licensing Act 2003 it is a criminal offence to sell alcohol to a person who is under the age of 18 years old.

As well as prosecution the Act allows for an application to be made to the licensing authority for an alcohol licence to be reviewed if it can be shown age restricted products are being sold to children. Such a review could lead to your licence being suspended or revoked.

You don't necessarily have to sell alcohol to a child to lose your licence, the sale of other age restricted products could also result in prosecution and can also lead to your alcohol licence being suspended or revoked if you or your business sell to an underage person.

In order for you and your staff to be compliant with the law, you should always ask young people to produce proof of their age. For example, a driving licence photocard or passport. If a person cannot prove they are over 18, the sale should be refused.

After taking everything into account, I have decided to deal with this incident on this occasion by way of this warning letter. Please note that a further inspection may be carried out in the future by an officer from the Service to ensure that you are compliant with all relevant legislation. Please also be aware that this Service carries out test purchase exercises using children to purchase age restricted products.

If you are found not to be in compliance with the Licensing Act 2003 in any future visits, then you may face prosecution and this warning letter may be referred to. Additionally, a licence review will be instigated, and this could lead to you losing your alcohol licence.

Con/d

DISCLAIMER FOR GOODS

I: Mr Harinder Singh Anand (Director)

Of: Ashman Express Ltd t/a Choices of Horsham, 1 Park Way, Burton Court, Horsham, West Sussex, RH12 1PY

Hereby now, and for all time in the future, renounce completely all claims, rights and ownership in the goods described in the attached signed schedule(s) in favour of the West Sussex County Council Trading Standards Service.


These goods were seized

At: Choices of Horsham, 1 Park Way, Burton Court, Horsham, West Sussex, RH12 1PY

On: 16th August 2022

In furtherance to this disclaimer, I also indemnify the Head of Trading Standards Service and each member of the West Sussex Trading Standards Service from all claims and demands that may be made in respect thereof, and all proceedings, actions and costs as between a solicitor and his client that may arise in connection therewith.

Dated this day of 14.12.2022

Signed: 

Signed:.....

Name: HARINDER Singh
Anand

Name:.....

SCHEDULE OF GOODS

Total Goods Seized	520
Elux 3500 Puff disposable vapes	520

Dated this day of

Signed:.....

Name:.....

I have enclosed two copies of this letter and a Disclaimer for Goods form. Please sign and date one copy of the letter to acknowledge receipt and complete the Disclaimer for Goods form to sign over the seized items to West Sussex County Council for destruction. Please return both documents in the prepaid envelope supplied within the next 10 days.

Yours sincerely,



Peter Aston
Team Manager

Cc: Environmental Health, Horsham District Council
Licensing, Horsham District Council

I confirm receipt of this letter

Name: HARINDER Singh Anand

Position: Director

Signature: 

Date: 14.12.2022

Name (Sophie Krousti)
 Public Health Lead for Alcohol
 Public Health Department
 03302222579
 PublicHealth.Licensing@westsussex.gov.uk
 www.westsussex.gov.uk

First Floor, The Grange
 Tower Street
 Chichester
 West Sussex
 PO19 1RQ



Licensing Team
 Horsham District Council
 Parkside, Chart Way
 Horsham
 West Sussex
 RH12 1RL

19th January 2024

Dear Sir or Madam,

Re: Ashman Express Ltd t/a Choices of Horsham, Burtons Court, Park Way, Horsham, RH12 1PY.

The West Sussex County Council (WSCC) Public Health Directorate wishes to support the application by Trading Standards to review the licence of: Ashman Express Ltd t/a Choices of Horsham, Burtons Court, Park Way, Horsham, RH12 1PY.

The Public Health Directorate do not have confidence that the Licensing Objectives of:

- (1) The Prevention of Crime and Disorder
- (2) Public Safety
- (4) The Protection of Children from Harm

are being promoted. This is demonstrated by the range of offences outlined in the Trading Standards application for a review of the premises licence. The offences, which relate to the sale of non-compliant/illicit vape & tobacco products are extremely concerning from a public health perspective, especially considering that the premises has previously been subject to a licence review in March 2023. These offences suggest that the premises has once again acted in a manner that does not appear to uphold the licensing objectives. WSCC Public Health are therefore supportive of the recommendation by Trading Standards to consider a review of this premises licence.

Summary of failures to comply with tobacco & related products regulation.

11th October 2023

95 oversize 'ENE' Legend 3500 Puff disposable vapes were found on the premises during an inspection by Trading Standards. The tank of the vapes exceeded the maximum capacity allowed under The Tobacco and Related Products Regulations 2016.

80 packets of 20 Polish 'Marlboro Gold' cigarettes (1600 sticks in total) were found during an inspection by Trading Standards. The cigarettes were not in the mandatory, legally required, UK compliant standard packaging, and were not labelled in English as required by regulation 11(4) Tobacco and Related Products Regulations 2016.

Illicit tobacco & vaping products undermine public safety and increase crime and disorder:

- Cigarette warning labels are an effective source of information for smokers on the harms caused by tobacco smoking, particularly when they are large and graphic. Many illicit brands carry no health warnings at all or are imported illegally from countries with smaller health warnings or warnings written in other languages (therefore unreadable to a UK audience)¹.
- Illicit tobacco also plays a significant role in funding organised criminal gangs with strong links to drug dealing, money laundering and people trafficking².
- Illicit trade takes tax revenue away from the Government, which could have otherwise been spent on the provision of public services, instead directing such funds into the hands of criminals.
- Illicit trade strengthens corruption and weakens good governance.
- Illicit tobacco trade reduces the public health impact of tobacco tax rises and increases demand for tobacco products – undermining efforts to reduce harm from smoking.
- The Tobacco and Related Products Directive, 2016 is in place to regulate the sale of vaping products in the UK. The purpose of this regulation is to ensure minimum standards for the safety and quality of all vapes and refill containers and to provide information for consumers to make an informed choice³. The sale of illicit vape products undermines this approach.

Illicit tobacco and vape products put children at risk of harm:

- Illicit tobacco products hook young people into tobacco experimentation and use because they are often more affordable, putting children and young people at risk.

¹ [Dodgy Cigs \(ashscotland.org.uk\)](http://ashscotland.org.uk)

² [LGA: Illegal cigarettes risk widening health disparities during cost-of-living crisis | Local Government Association](#)

³ <https://www.gov.uk/guidance/e-cigarettes-regulations-for-consumer-products#:~:text=The%20requirements%3A,no%20more%20than%2020mg%2Fml>

- Illicit tobacco products also mislead young tobacco users by not displaying health warnings and sometimes involving children in illegal selling activities.
- Regulation of vape products through the Tobacco and Related Products Directive 2016 is in place to create an environment that protects children from starting to use these products. Whilst vaping has been shown to pose a small fraction of the risk of smoking, it is not risk free, particularly for people who have never smoked⁴. The sale of illicit vape products undermines this approach and increases the risk of children and young people using these products.

According to the Local Government Association (LGA)², illicit tobacco risks widening health disparities during the current cost-of-living crisis. Illicit tobacco can exacerbate existing health inequalities between low-income groups and the wider population because it is most readily available in poorer communities, where smoking rates are disproportionately high. In 2021, West Sussex had an adult smoking prevalence of 12.4%, which was higher than South East regional average of 11.9%⁵.

According to the LGA, the sale of cheap, illegal tobacco by rogue traders in shops, private homes and through social media resulted in a loss of £2.3 billion in taxable income in 2019/20, income which would otherwise fund vital public services.

From a Public Health perspective, the sale of illicit tobacco and vape products by Ashman Express Ltd. is of extreme concern, as it fails to promote the licencing objective of the prevention of crime and disorder, public safety, and the protection of children from harm. WSCC Public Health note that Ashman Express Ltd. has also only recently been subject to a review for the sale of alcohol to a child and is concerned that this pattern of events demonstrates a disregard for the licensing objectives. This raises serious questions over whether the Designated Premise Supervisor of Ashman Express Ltd is fit and proper to be trusted with the responsibility of selling alcohol, tobacco and nicotine products.

In summary, West Sussex County Council's Public Health Directorate fully support the recommendation made by Trading Standards for the Licensing Committee to review the premises licence and respectfully agree that an appropriate outcome of this review would be the revocation of the licence. West Sussex Public health feel that these measures are proportionate and reasonable to prevent further undermining of the licensing conditions.

Yours sincerely,



Sophie Krousti
Public Health Lead for Alcohol
On behalf of the Director of Public Health

⁴ Office for Health Improvement and Disparities (2022) Nicotine vaping in England: 2022 evidence update main findings

⁵ [Local Tobacco Control Profiles - Data - OHID \(phe.org.uk\)](https://www.phe.org.uk/publications/local-tobacco-control-profiles-data)

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Licensing Manager,
Horsham District Council,
Chart Way,
Horsham,
West Sussex.
RH12 1RL

Neighbourhood Licensing Team West Sussex Division

8th February 2024

RE: APPLICATION FOR REVIEW OF THE PREMISES LICENCE FOR ASHMAN EXPRESS T/A CHOICES OF HORSHAM, BURTONS COURT, 1 PARK WAY, HORSHAM, WEST SUSSEX RH12 1DP - UNDER THE LICENSING ACT 2003.

I write on behalf of the Chief Officer of Police for Sussex to raise a representation in respect of this review application on the grounds of the prevention of crime and disorder.

This is a review hearing upon the application of West Sussex County Council Trading Standards following interactions with the premises.

Sussex police support the review application by Trading Standards requesting a revocation of the premises licence, in particular the Licensable activity "the sale of retail of alcohol", due to the failing to maintain the following Licensing Objectives:

PREVENTION & DETECTION OF CRIME AND DISORDER.

PROTECTION OF CHILDREN FROM HARM.

The revised S. 182 Guidance to the Licensing Act 2003 (April 2018) issued by The Home Office states:

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- *for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- *for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- *for prostitution or the sale of unlawful pornography;*
- *by organised groups of paedophiles to groom children;*
- ***as the base for the organisation of criminal activity, particularly by gangs; 102 | Revised Guidance issued under section 182 of the Licensing Act 2003***

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- and for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence — even in the first instance — should be seriously considered.

Sussex Police Neighbourhood Licensing Team (Known hereafter as the NLT) have concerns regarding the motive of the management, and the operations from within the premises.

Sussex Police are concerned to learn that following a Trading Standards routine inspection conducted on the 11th of October 2023, that multiple seizures of illegal tobacco products were made. This included illegal oversized Vapes, approximately 1600 cigarettes from a different country of origin (Poland) which did not contain the appropriate health warnings required to be printed in English.

Sussex Police are concerned that selling these illegal cigarettes which are believed to have been smuggled into the country to avoid the higher value of duty that would have needed to be paid if genuinely sold in the UK.

The NLT team questions that if the staff at the premises are engaging in the illegal sale of these cigarettes purely driven for an illegal financial profit, that if they are still suitable to be responsible persons with regards to the retail and dispensing of alcohol, including the diligence to prevent underage sales.

This is not the first incident at the premises and the NLT wish to make the committee aware of the following:

- On the 14th of December 2022, the premises failed an underage test purchase conducted by Trading Standards. This initiated a **Licence Review on the 14th of March 2023**, resulting in a 1-month suspension of the licence. This sale was made to a 17-year-old child, and as such the premises presented a danger to young people and failed to Protect Children from Harm. This would have presented the management the opportunity to address staff training including the sale of alcohol to underage children.
- On the 15th of June 2023, Sussex Police Neighbourhood Licensing Team received an intelligence report that a group of youths were outside the premises, drinking alcohol and spitting whilst sat nearby on a wall. The informant believes that the youths are getting the alcohol from this premises, which is causing ASB outside the shop. Street drinking and spitting in the street is unwanted is disorderly behaviour and undermines the objective of Preventing Crime and Disorder.

Sussex Police Licensing concur with Trading Standards that due to the severity of the allegations and the evidence presented to support the application obtained, that we fully support the request to seek the revocation of the premises licence.

Yours sincerely,

Inspector Mike Butler CB238
West Sussex Licensing Inspector
Sussex Police

Inspector MIKE BUTLER CB238
West Sussex Licensing Inspector Sussex Police

Sussex Police, Neighbourhood Licensing Team
Centenary House, Durrington Lane, Worthing,
West Sussex. BN13 2PQ
Telephone: 01273 404030

Visit 67171**VISIT DETAIL SHEET****CHOICES OF HORSHAM (COSTCUTTER)**

Printed: 08/02/2024

Visit Details:

Premises ID: 7129	
Reference:	
Date: 30/11/2023	Time: 16:00
Address: COSTCUTTER 1 PARK WAY	Main Phone: 01403 230066
	Alt Phone:
	Email:
	Fax:
HORSHAM WEST SUSSEX RH12 1DP	

Description:

LICENSING CHECK COMPLETED. NO CONCERNS OTHER THAN THE CCTV BEING 1 HOUR AHEAD OF THE TIME IT SHOULD HAVE READ.

Officers:42977 FITZPATRICK ZAC
29348 FOSTER GRAEME**Responsible People:****Notes:****Narratives:**

CHOICES OF HORSHAM (COSTCUTTER)

Printed: 08/02/2024

Visit Details:

Premises ID: 7129	Time: 12:00
Reference: LICENSING TEAM VISIT	
Date: 26/01/2024	
Address: COSTCUTTER 1 PARK WAY HORSHAM WEST SUSSEX RH12 1DP	Main Phone: 01403 230066 Alt Phone: Email: Fax:

Description:

LICENSING TEAM VISIT

I ATTENDED THE VENUE AS PART OF AN UNNANOUNCED VISIT TO THE VENUE. THE VISIT WAS AS A RESULT OF AN APPLICATION BY TRADING STANDARDS TO REVIEW THE LICENCE DUE TO THE SALE OF AGE RELATED PRODUCTS.

AT THE TIME OF THE VISIT THE DPS WAS NOT PRESENT, HOWEVER I SPOKE TO A MEMBER OF STAFF.

AS A RESULT OF THE VISIT I MADE THE FOLLOWING OBSERVATIONS:

PART A PRODUCED
PART B DISPLAYED
DPS AUTHORISATION FORM FOR STAFF
CCTV WORKING HOWEVER THE TIME WAS OUT BY ONE HOUR
CHALLENGE 25 IN PLACE. POSTERS DISPLAYED.
INCIDENT BOOK BEING USED. HOWEVER NOT CHECKED OR SIGNED BY DPS.
LAST TRAINING WAS ON THE 20.01.23. LICENCE STATES REFRESHER TRAINING TO BE COMPLETED EVERY 8 WEEKS.

EVERYTHING WAS IN PLACE DURING THE VISIT BUT THE PREMISES IS VERY DISORGANISED.

NO OTHER ISSUES IDENTIFIED DURING THE VISIT. NO CONCERNS RAISED BY STAFF.

Officers:

CL811 LUCAS MARVIN

Responsible People:

ID: 20723 Name: HARINDER ANAND

Notes:

Narratives:

RESTRICTED

SURREY & SUSSEX POLICE**Isr Report****SXP-20230615-2037 (CLOSED Incident)**

15/06/2023 22:42:16	382 , ASB_NUISANCE	Description : UNDERAGE KIDS DRINKING/SPITTING	Priority :(3) 2.Prompt
Source : 999	Officer Dealing : 32903	Operator : 26350	Creator Wkstn : LO007
WH1	WH1001 (517449 , 130513)	Dispatcher :	

Address Information	Disposition Codes
Corporate Name : CHOICE OF HORSHAM BURTONS COURT	Disposal Code 1 : ASB NUISANCE
Address : PARK WAY #1 , , HORSHAM , RH12 1PY	Disposal Code 2 : ROWDY - INCONSIDERATE
Proximity : OUTSIDE [X] Gazeteer Validation	Disposal Code 3 : ASB NUISANCE
Location Comment :	Disposal Code 4 :
Premise Comment :	Disposal Code 5 :
	Disposal Code 6 :

Complainant Information
Name : [REDACTED] / CLI : [REDACTED] / Email :
Address : [REDACTED]
Role : INFORMANT / [?] Media Consent / [?] Contact / [?] Vulnerable / [?] NPT / [?] ETA
Ethnicity : / Date of Birth : / Sex :
Notes : / Doctor Name : / Doctor Telephone : / Surgery :

Date / Time Information		
CALL RECEIVED	15/06/2023	22:42:10
CALL ANSWERED	15/06/2023	22:42:10
INCIDENT CREATED	15/06/2023	22:42:16
ADDRESS VALIDATED	15/06/2023	22:42:56
INITIAL INPUT COMPLETE	15/06/2023	22:59:52
TRANSFER SENT	15/06/2023	23:01:16
TRANSFER ACCEPTED	15/06/2023	23:01:42
INCIDENT DISPOSED	15/06/2023	23:08:49

Alarm Details			
Alarm No :	Company Code :	Company :	Company Phone :
Corporate Name :			
Occupier :			
Comment :			

Qualifiers	
Type : DISPOSAL QUALIFIERS	Description : ASB RELATED
Type : DISPOSAL QUALIFIERS	Description : YOUTH RELATED
Type : THEME	Description : ANTI SOCIAL BEHAVIOUR

ISR Relation		
MOBILE PHONE NUMBER - INC RELATION	517442 ,130489 ,19 ,19, 96 ,0 ,OSGB36,	[REDACTED]

RESTRICTED

ISR Comments

224211	.DATA AVAILABLE 20230615	15/06/2023	22:43:13	LO007	26350
REPORTING A GROUP OF TEENS DRINKING SAT ON THE WALL AND SPITTING IN THE STREET - ONGOING ISSUE OUTSIDE SHOP BELOW CALLERS FLAT CALLED CHOICE OF HORSHAM - THE KIDS SAT ON THE WALL		15/06/2023	22:57:41	LO007	26350
ARE GETTING THE ALCOHOL FROM THE SHOP BELOW - THEY ALL LOOK UNDERAGE - ON WEEKEND IT'S PARTICULARLY BAD - PREVIOUSLY THE INFORMANT HAS HEARD KIDS SHOUTING AT EACH OTHER THREATENING		15/06/2023	22:57:41	LO007	26350
TO STAB EACH OTHER - NOT TONIGHT BUT QUITE OFTEN		15/06/2023	22:57:41	LO007	26350
CURRENTLY 6-7 MALES AND FEMALES OUT ON THE WALL NOW CAUSING ISSUES		15/06/2023	22:57:59	LO007	26350
REGULARLY SEE YOUNG FEMALES AGED APPROX 14 EXTREMELY INTOXICATED OUTSIDE THE SHOP		15/06/2023	22:58:34	LO007	26350
THE INFORMANT HAS HAD ENOUGH NOW OF THE ASB FROM THEM AND BLAMES THE SHOP OWNERS FOR SERVING THEM ALCOHOL AND ALSO FOR NOT ADVISING THEM TO MOVE ON AND KEEP THE NOISE DOWN		15/06/2023	22:59:30	LO007	26350
LOC. HISTORY VIEWED		15/06/2023	22:59:54	LO007	26350
LOC. HISTORY VIEWED		15/06/2023	23:01:01	LO007	26350
TRANSFER TO WWRAD FROM TERMINAL LO007 FOR CONTROL Incident Grade 2.Prompt [CAD065G]		15/06/2023	23:01:16	LO007	26350
ASB TAG ADDED:		15/06/2023	23:01:30	LO007	26350
LICENSING TAG ADDED:		15/06/2023	23:01:39	LO007	26350
TRANSFER ACCEPTED AT TERMINAL LR011 FOR CONTROL		15/06/2023	23:01:42	LR011	32903
NOTED - WE HAVE NO UNITS TO ATTEND - THIS IS ONE OF 115 CADS ON OUR QUEUE - ALL UNITS HEAVILY COMMITTED WITH GRADE 1'S AND HIGHER PRIORITY INCIDENTS - WILL TAG FOR NPT		15/06/2023	23:08:12	LR011	32903
NPT TAG ADDED:		15/06/2023	23:08:23	LR011	32903
CORVUS REQUEST REMOVED FROM I/F TABLE		15/06/2023	23:16:05	CORVUS	PAULD



Licensing Act 2003 – Representation Form

To make a representation in respect of an application for a Premises Licence or Club Premises Certificate please complete the following form. For representations to be considered relevant they must relate to one or more of the four Licensing Objectives:

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

Please note all representations will be made available for applicants to view. If you make a representation objecting to an application you may also be called upon to attend a hearing and present your objection before the Licensing Sub Committee.

Personal Details	
Name:	JOHN BROMLEY
Address:	4 HEATHTOLT COTTAGES
	PARK LANE
	MAPLEHURST, WEST SUSSEX
	RH13 6LL
Postcode:
Email:

Details of the Licence Application you wish to make a representation on	
Name of Applicant(s):	PETER ASTON
Name of Premises:	CHOICE OF HORSHAM
Premises Address:	1 PARK WAY, HORSHAM

	RH12 1DP
Postcode:

Reason(s) for your representation
Under the Licensing Act 2003, for a representation to be relevant it must be one that is about the likely effect of the application on the promotion of the four Licensing Objectives as listed below. Any representations that are considered to be vexatious or frivolous will not be considered.

Please fill in the reason(s) for your representation in the space provided under each Licensing Objective it relates to:

The Prevention of Crime and Disorder

I am a regular customer of this retail shop, and visit it almost daily. I have never seen any occurrence of crime or disorder and without exception the vigilance of the staff and the CC TV security systems are first class.

Public Safety

I have never felt unsafe when visiting the shop. The staff are courteous and welcoming and the aisles are free of obstructions and trip hazards.

The Prevention of Public Nuisance

I have never witnessed any unsavory customers littering outside the shop but I don't visit in the evening. However, I have driven by many times after twilight and have never see any disturbance or nuisance

The Protection of Children from Harm

Mothers and babies in prams can bring their pushchairs into the shop. They don't need to leave them outside. I have only actually seen one customer challenged for identification and have never seen under age people being sold alcohol or nicotine despite witnessing a couple of times younger people being refused sales. john bromley

Declaration

I John Bromley hereby declare that all the information I have
(please print name) submitted is true and correct

Signed:  Date: 24 January 2024

Please return the completed form to:

Alcohol Licensing Department
Horsham District Council
Parkside, Chart Way, Horsham
West Sussex, RH12 1RL
Telephone: 01403 215578
Email: licensing@horsham.gov.uk

L21_EHO



Mr Harinder Singh Anand
 Choice of Horsham
 1 Park Way
 Horsham
 West Sussex
 RH12 1DP

Our ref: LI/11/0132/PREM
 E-mail: licensing@horsham.gov.uk
 Direct line: 01403 215638
 Contact: Charlene Ellis
 Date: 14 February 2023

Dear Mr Harinder Singh Anand

The Licensing Act 2003
Choice of Horsham, 1 Park Way, Horsham, West Sussex, RH12 1DP

Re: Inspection of Premises & Designated Premises Supervisor Roles and Responsibilities

I refer to my unannounced inspection of 07 February 2024 of the above site and our subsequent telephone contact of 08 February 2024.

As discussed, I was met by Mr Sha Bhliyam on attendance to Choice of Horsham, you were noted as absent and Mr Bhliyam was in sole charge. Mr Bhliyam confirmed he was newly appointed, as part time staff in January 2024, and was covering until the general manager arrived.

During my visit I checked all aspects of the licence and related conditions, which are centred around the core application and promotion of the following licensing objectives, these are stipulated within the Licensing Act 2003 and repeated below for direct reference:

- a) the prevention of crime and disorder;
- b) public safety;
- c) the prevention of public nuisance; and
- d) the protection of children from harm

There was no awareness, shown by Mr Bhliyam, of these objectives or mandatory conditions of licence beyond age verification processes. Mr Bhliyam confirmed that he had been trained by you, but this appeared very limited. There was no knowledge of the premises licence content or written training log available for viewing. He was unaware of the overall conditional requirement to have a training log and was not aware of the legal obligation for the sales of alcohol to be delegated / suitably authorised.

Mr Bhliyam was not able to competently demonstrate compliance with CCTV conditions – both system and retention practices. A refusals log was seen and was noted as actively being utilised.

The full premises licence could not be located and the summary which was on display was an old version prior to you taking the role of DPS and before the review hearing of March 2023. If you cannot locate the most recent version you will need to contact Licensing Service to request a duplicate, at a cost of £10.50. The contact number and email address are shown at the top of this correspondence.

As the Premises Licence Holder and Designated Premises Supervisor you have several responsibilities, one of those is to ensure that all retail sales of alcohol are properly authorised. During my telephone discussion with you, you confirmed that full training had be given and that Mr Bhliyam was confused.

The Licensing Authority anticipates that as the DPS you will spend a significant amount of time on the premises, as the guidance suggests that the DPS should be someone who has 'day to day

responsibility for running the premises'. As per your mandatory licence conditions, the Licensing Act 2003 states:

Where a licence authorises supply of alcohol (Section 19 LA03)

(1) Where a premises licence authorises the supply of alcohol, the licence must include the following conditions.

(2) The first condition is that no supply of alcohol may be made under the premises licence—
(a) at a time when there is no designated premises supervisor in respect of the premises licence, or
(b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

(3) The second condition is that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

The following factors, although not exhaustive, should be considered when authorising others to retail alcohol in your absence / on your behalf :

the person(s) authorised to sell alcohol at any particular premises should be clearly identified;

the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;

there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and

there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.

To demonstrate due diligence, as stated within statutory guidance, it is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol.

In light of the above concerns and our discussion, I am providing you with a copy of our "Best Practice Guidance Document and Templates for Licensed Premises" to utilise. These templates are designed to assist with compliance measures and the meeting of the requirements of the Licensing Act 2003. It is not designed as definitive legal opinion and you may wish to seek your own legal advice as an additional measure. The authority is strongly reminding you to ensure that you and your staff comply with the provisions of the 2003 Act, apply and ensure adherence to all licence conditions, ensure the Licensing Act objectives are promoted and that effective training is given to all staff members.

Horsham District Council takes its role regarding implementation and enforcement of the Licensing Act seriously and legal action, including prosecution, may be taken if compliance with licence conditions and the Act are not observed or are disregarded.

Council Licensing Officers will make further unannounced visits to ensure compliance with your licence and the Licensing Act.

If you wish to discuss the content of this letter please contact me on any of the given methods of communication.

Yours sincerely,

Charlene Ellis

Charlene Ellis
Licensing Officer

Encl: Best Practice Guidance Document and Templates for Licensed Premises

A copy of this communication will also be sent to the following person(s)

CC: Police Licensing Team, West Sussex Division, Centenary House, Durrington, BN13 2PQ

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Horsham District Council



Licensing Act 2003

Best Practice Guidance Document and Templates for Licensed Premises

This document is relevant to premises licensed for the sale of alcohol for consumption on and off the premises. It is not an exhaustive list and is not designed to offer definitive legal opinion.

November 2023

Contents of Guidance

1. Designated Premises Supervisor (DPS) sale of alcohol staff authorisation
2. Premises Age Verification Policy
3. Staff Training Log and Guide
4. Example Refusal/Incident Book
5. Official Visit Log
6. Table of Offences under the Licensing Act 2003
7. Key Contact List

This Guide provides examples of best practice documents and templates for premises licence holders and designated premises supervisors. These templates are designed to assist with compliance measures and the meeting of the requirements of the Licensing Act 2003. It is not designed as definitive legal opinion and you may wish to seek your own legal advice as an additional measure.

The enclosed templates provide guidance only and should be amended to reflect the operating procedures of each individual premises. Templates are not exhaustive and may require updating following changes or updates to legislation. You need to keep yourself apprised of these and amend your processes accordingly.

The enclosed templates are defined as 'best practice' guidance documents, however where the requirement for a written age verification policy, DPS authorisations, refusals/incident log or staff training records forms part of your premises conditions failure to comply with such requirements may constitute a breach of your premises licence conditions which is an offence under Section 136 of the Licensing Act 2003.

Please ensure that you read your full premises licence inclusive of conditions, both mandatory and as granted, to ensure you fully understand the terms of your premises licence.

Should you have any questions regarding the contents of this guide please contact licensing@horsham.gov.uk

AUTHORISATION TEMPLATE

Designated Premises Supervisor (DPS) sale of alcohol staff authorisation

I, (Full Name) Designated Premises Supervisor (DPS)
of (Premises Name and Address)

.....

hereby authorise the following persons to sell alcohol under the Licensing Act 2003 on these premises at any time during the permitted hours and in accordance with the premises licence issued under the Licensing Act 2003.

This authority applies whether or not I, or any other Personal Licence holder, are present on the premises at the time of the sale or supply of alcohol.

I can confirm these persons have been made aware of his/her legal responsibilities under the Licensing Act 2003.

Signed: _____ Print Name: _____ Date: _____

We sign below in the knowledge that it is an offence to:

- Knowingly sell, attempting to sell or allowing sale of alcohol to person who is drunk
- Sell alcohol to a person under 18 years of age
- Allow licensable activities to be conducted otherwise than in accordance with the Premises Licence and the conditions it contains

I also understand that I require individuals who appear to me to be under 18 years of age (or any older age as may be specified in the premises licence holders age verification policy) to produce on request, before being served alcohol, **identification bearing their photograph, date of birth and a holographic mark***

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

Signed: _____ Print Name: _____ Date: _____

GUIDANCE

- DPS authorisations should clearly identify the staff member / individual and what they are authorised to do.
- Staff should be aware of the authorisation and understand their responsibilities under the Licensing Act 2003 before agreeing and signing to be authorised.
- By signing the authorisation, staff are confirming that they have participated in and fully understand training material; including:

Acceptable Identification (ID)

- With numerous forms of ID used in the UK it is important to understand what forms suitable and acceptable forms of identification. The “Challenge 25” Scheme suggests acceptance of Passports, Photographic Driver’s Licences and PASS approved cards. Lawfully, ID that includes a hologram, name, date of birth and a photo of the person in question is acceptable.

Awareness of counterfeit ID

- The following link holds guidance for retailers to help them spot fake identification, this has been produced by the Home Office and is a useful toolkit when training staff <https://www.gov.uk/government/publications/false-id-guidance>
- Staff should be able to produce the written authorisation on request to an Authorised Officer. (including Authorised Local Authority Officer, Police Officer)
- Such authorisations should be updated regularly, approximately every 3 months – removing and adding incoming and outgoing staff members

AGE VERIFICATION

Premises Age Verification Policy

This policy applies to the sale or supply of alcohol on the following premises:

Name and Address of premises:

.....
.....

Name of premises licence holder

.....

Name of **Designated Premises Supervisor**

.....

For this Policy the 'responsible person' is one of the following:

- the holder of the premises licence;
- the Designated Premises Supervisor;
- a person aged 18 or over, who is authorised to allow the sale or supply of alcohol by an under 18

Staff serving alcohol on the premises must request any individual(s) who appears to be under the age of 18 years of age (***or any older age as may be specified in the premises licence holders age verification policy i.e. Challenge 25***) to produce, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature

Examples of appropriate identification include:

- A passport
- A photo card driving licence
- A proof of age card bearing the PASS hologram

The Designated Premises Supervisor will ensure that the supply of alcohol at the premises is carried on in accordance with this Policy.

Signed..... Print: Date:

DESIGNATED PREMISES SUPERVISOR

The Premises Licence Holder will ensure that staff are made aware of the existence and content of this policy.

Signed..... Print: Date:

PREMISES LICENCE HOLDER

GUIDANCE

- In order to ensure compliance with the premises licence Mandatory Conditions, the Premises Licence Holder and Designated Premises Supervisor should take all reasonable steps to ensure that a proof of age policy is operated at their premises and state on the above document what this policy is i.e. Challenge 25
- The Designated Premises Supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- Staff must be aware of the scheme operated and be trained accordingly with written records kept of the training carried out.
- It is recommended the age verification policy that is carried out at the premises should be in writing, and documented within any training or authorisations.
- Staff involved with the selling of alcohol should be aware of the policy's existence and content. It is recommended that this is formally recorded.
- The above example is a suggested text for an age verification policy, as per Home Office guidance. The text is examples and you should adjust accordingly to insert the actual age and acceptable identification for the Age Verification Policy operated at your premises.
- It is also recommended that appropriate signage is displayed detailing the Age Verification Policy in operation at the premises.
Free "point of sale" posters are widely available from various sources via the internet.

STAFF TRAINING LOG

Staff Members Name:

Employment Start Date:

Premises Name & Address:

A training log should be used:

- When a new member of staff is appointed
- Changes to the premises alcohol licence/ internal policies/ legislation have occurred
- When carrying out refresher training for existing staff

This log demonstrates how you are trying to comply with the specific requirements of your alcohol licence and the key objectives of Licensing Act 2003.

Training subject/ course title	Brief Synopsis of Subject Matter Covered	Test / Training Result	Completion Date	Staff Signature & Date

GUIDANCE

All staff should be adequately trained regarding their responsibilities under the Licensing Act 2003. This ensures compliance with the terms of the premises licence and demonstrates due diligence by the Premises Licence holder and Designated Premises Supervisor (DPS)

It is recommended that staff sign training records to clarify they have participated in and fully understand training material.

Training subject matter should include (but is not limited to) the following. You may also wish to include additional topics under separate legislation:

- The Licensing Act 2003
- The promotion of the Licensing Objectives
- The premises licence activities
- The premises licence conditions
- DPS Authorisations
- The premises age verification policy
- The refusals/incident book
- Offences under the Licensing Act 2003
- How to deal with difficult customers
- Noise Impact Assessment/ Noise Management Planning
- Drugs Policy
- Dispersal Policy
- Health and Safety in the Workplace
- First Aid
- Emergency Evacuation Procedures
- Safe working Practices & Risk Assessments

It is recommended that refresher training is carried out and documented at least every six months.

Training records should be made available to the Police or Local Authority Officers on request

Relevant training material could include:

Section 182 Guidance Issued under the Licensing Act 2003

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

Home Office Guidance on Mandatory Licensing Conditions

<https://www.gov.uk/government/publications/guidance-on-mandatory-licensing-conditions>

Horsham District Council Licensing Policy

<https://www.horsham.gov.uk/licensing>

Managing Noise from Licensed Premises

<https://www.gov.uk/guidance/noise-nuisances-how-councils-deal-with-complaints#noise-at-night-warning-notices>

Licensed Property Noise Control- The Beer and Pub Association

<https://beerandpub.com/licensee-guidance/noise-control/>

Drugs and Pubs- A Guide for Licensed Premises – The Beer and Pub Association

<https://beerandpub.com/2017/08/04/bbpa-publishes-updated-guide-on-drugs-and-pubs/>

Gambling – Alcohol Licensed Premises

<http://www.gamblingcommission.gov.uk/PDF/Advice-on-gaming-in-pubs-and-alcohol-licensed-premises.pdf>

REFUSALS/ INCIDENTS

REFUSAL / INCIDENT RECORD

Example Refusal/Incident Book

Date and Time	Product	Reason for Refusal / Description of incident	Description of Person	Action taken	Name and Signature	Date record checked and signed by DPS
Example 01/01/20 19:35	<i>Pint of Carlsberg</i>	<i>Customer unable to supply proof of age on request</i>	<i>Female, blonde approx. 16 years of Age, red jacket</i>	<i>Sale refused</i>	<i>John Smith</i> <i>J. Smith</i>	<i>02/01/20</i> <i>Sarah Jones</i> <i>S. Jones</i>
Example 02/03/20 11:20	<i>Double Whisky</i>	<i>Refused sale to customer who was drunk. Customer reacted to refusal by shouting at staff members</i>	<i>Male, early 40's, Grey t-shirt, jeans and beard.</i>	<i>Sale refused and Police called</i>	<i>John Smith</i> <i>J. Smith</i>	<i>04/03/20</i> <i>Sarah Jones</i> <i>S. Jones</i>

LICENSING ACT 2003 OFFENCE LIST

TABLE OF OFFENCES – LA2003

SECTION	OFFENCE	OFFENDER	PENALTY LEVEL 1-5 FINES LEVEL 1 - £250 LEVEL 2 - £500 LEVEL 3 - £1,000 LEVEL 4 - £2,500 LEVEL 5 - £5,000 PENALTY NOTICE FOR DISORDER - PND
Premises Licence			
33(6)	Failure to notify licensing authority of change in name or address	Premises licence holder	Level 2 fine
57(4)	Failure to keep premises licence or certified copy at the premises	Premises licence holder	Level 2 fine
57(4)	Failure to display summary of premises licence or certified copy and notice specifying any nominated person	Premises licence holder	Level 2 fine
57(7)	Failure to produce premises licence or certified copy to authorised person for examination	Premises licence holder or nominated person	Level 2 fine
59(5)	Intentional obstruction of authorised person exercising power of inspection prior to grant, variation or review of premises licence or issuing or provisional statement	Any person	Level 2 fine
General Offences			
136(1)	Knowingly allowing or carrying on unauthorised licensable activities	Any person (exceptions: s 134(2))	6 months' imprisonment and/or unlimited fine.
137(1)	Unauthorised exposure for sale of alcohol	Any person	6 months' imprisonment and/or £20,000 fine
138(1)	Unauthorised possession of alcohol with intent to sell or supply	Any person	Level 2 fine
140(1)	Knowingly allowing disorderly conduct on premises with premises licence, CPC or TEN	Any person authorised to prevent	Level 3 fine
141(1)	Knowingly selling, attempting to sell or allowing sale, or supplying, attempting to supply or allowing supply, of alcohol to person who is drunk	Any person authorised to prevent	Level 3 fine or PND £90
142(1)	Knowingly obtaining or attempting to obtain alcohol for consumption by person who is drunk	Any person	Level 3 fine
143(1)	Failure to leave premises with premises licence, CPC or TEN, or attempting to enter premises, by a person who is drunk or disorderly, following request by person in authority	Any person	Level 1 fine
144(1)	Knowingly keeping unlawfully imported goods on relevant premises	Any person authorised to prevent	Level 3 fine
158(1)	Knowingly or recklessly making	Any person	Level 5 fine

	false statement in connection with licensing application		
179(4)	Intentional obstruction of entry of authorised person to investigate unauthorised use of premises for licensable activity	Any person	Level 3 fine
Underage Offences			
145(1)	Knowingly allowing unaccompanied child under 16 on premises when open and used for sale or supply of alcohol for consumption there	Any person authorised to prevent	Level 3 fine
146(1)(2)(3)	Selling alcohol to person under 18 or supplying alcohol to club member or guest under 18	Any person or club	Unlimited fine or PND £90 (s 146(1) and (3))
147(1)(3)	Knowingly allowing sale of alcohol to person under 18 or knowingly allowing supply of alcohol to club member or guest under 18	Any person authorised to prevent	Unlimited fine.
147A(1)	Unlawful sale of alcohol on 3 or more different occasions on same premises within period of 3 consecutive months	Premises licence holder or premises user under a TEN	Unlimited fine
148(1)(2)	Sale or supply of liqueur confectionary to person under 16	Any person or a club	Level 2 fine
149(1)(3)(4)	Purchase or supply of alcohol by or on behalf of person under 18, or attempt to do so	Person under 18 or person purchasing on his behalf	Level 3 fine (person under 18) Level 5 fine (person on behalf of under 18) or PND £90
150(1)	Knowingly consuming alcohol on premises with premises licence, CPC or TEN when under 18	Person under 18	Level 3 fine
150(2)	Knowingly allowing consumption of alcohol by person under 18 on premises with premises licence, CPC or TEN	Person working at premises, member or officer of club who could have prevented	Unlimited fine or PND £60
151(1)(2)(4)	Delivering or allowing delivery to person under 18	Person working at premises, member or officer of club who could have prevented	Level 5 fine or PND £90 (s 151(1) and (2))
152(1)	Sending person under 18 to obtain alcohol for consumption off the premises	Any person	Level 5 fine
153(1)	Knowingly allowing person under 18 to sell or supply alcohol without approval on premises with premises licence, CPC or TEN	Premises licence holder, designated premises supervisor, or person over 18 authorised by either	Level 1 fine
160(4)	Knowingly keeping premises open or allowing premises to be kept open in breach of closure order in identified area	Any manager, premises licence holder, designated premises supervisor or premises user for temporary event	Level 3 fine
161(6)	Permitting identified premises to be kept open in breach of closure order	Any person	3 months' imprisonment and/or £20,000 fine
165(7)	Permitting premises to be kept open in breach of magistrates'	Any person	3 months' imprisonment and/or £20,000 fine

	court closure order		
168(8)	Allowing premises to be kept open in breach of closure order pending appeal against revocation of premises licence	Any person	3 months' imprisonment and/or £20,000 fine

Please Note: The details listed above in relation to offences, penalties, fines and PND's issued in line with the Licensing Act 2003 may be subject to change following updates to relevant legislation. For further information regarding Penalty Disorder Notices (PND's) please refer to the [Ministry of Justice Guidance](#).

TIPS

The person selling the alcohol:

By selling alcohol to a person who is under 18, it is **YOU** that commits the offence. You could receive a penalty notice of £90 or an unlimited fine if prosecuted.

The customer:

A customer who purchases alcohol for a person under 18, or attempts to do so, commits an offence. They could receive a penalty notice of £90 or a fine of up to £5,000 if prosecuted.

A customer who is under 18 and purchases alcohol or attempts to do so, or consumes alcohol on the premises also commits an offence. They could receive a penalty notice of £90 or a fine of up to £1,000 if prosecuted.

The licence holder:

Persistently selling of alcohol to children is defined as selling alcohol on the same premises to a person who is under 18 on two or more occasions within a single three month period. Currently there are three avenues by which action can be taken against premises to be persistently selling alcohol to children.

1. The licence holder, if prosecuted, can plead not guilty and go to court and if found guilty can be given an unlimited fine with up to 3 months suspension of the alcohol licence.
2. As an alternative to prosecution, the police or trading standards officers can give the licence holder the option to voluntarily accept a 48 hour closure notice rather than face criminal liability.
3. The police can make a representation to the relevant licensing authority to ask them to review the licence. This can also happen in addition to options 1 and 2.

KEY CONTACT LIST

<p>Licensing Horsham District Council Parkside Chart Way Horsham West Sussex RH12 1RL</p> <p>Licensing@horsham.gov.uk</p>	<p>Chief Officer of Police Licensing Officer Centenary House Durrington Lane Worthing BN13 2PQ</p> <p>WS_Licensing_WOR@sussex.pnn.police.uk</p>
<p>WSSC Fire & Rescue Service (FAO Fire Safety) West Sussex Fire & Rescue Service Business Fire Safety Horsham Fire Station Hurst Road Horsham West Sussex RH12 2DN</p> <p>BusinessFireSafety@westsussex.gov.uk</p>	<p>Health and Safety Environmental Health Horsham District Council Parkside Chart Way Horsham West Sussex RH12 1RL</p> <p>01403 215479</p>
<p>West Sussex Trading Standards West Sussex County Council County Hall North Chart Way Horsham West Sussex RH12 1XH</p> <p>intel@westsussex.gov.uk</p>	<p>Director of Public Health Public Health Licensing First Floor The Grange Chichester PO19 1QT</p> <p>PublicHealth.Licensing@westsussex.gov.uk</p>
<p>Home Office (Immigration Enforcement). Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p> <p>Alcohol@homeoffice.gsi.gov.uk</p>	<p>Horsham District Council Planning and Environmental Services Parkside Chart Way HORSHAM West Sussex RH12 1RL</p> <p>01403 215609</p>
<p>Pollution Services Environmental Health Horsham District Council Parkside Chart Way Horsham West Sussex RH12 1RL</p> <p>01403 215479</p>	<p>Children's Safeguarding Unit Room 24 Durban House Durban Road Bognor Regis PO22 9RE</p> <p>cputeam@westsussex.gov.uk</p>

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