

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS) ADDENDUM 3

10.00AM, TUESDAY, 9 MARCH 2021

VIRTUAL

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ADDENDUM

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Application for the review of a premises licence 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, *(insert name of applicant)*

Chief Supt Nicholas May, Divisional Command, Brighton & Hove Police on behalf of Temp. Chief Constable Joanne Shiner

Apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 – Premises or club premises details

Premier (PKA Saltdean News)

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

27-29 Longridge Avenue,
Saltdean,

Post Town

Brighton

Post code (if known)

BN2 8LG

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

Krunal Chandrakant Patel & Kirma Krunal Patel

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

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1445/3/2015/02627/LAPREN

Part 2 – Applicant details

I am,

Please mark X for yes

1) an interested party (please complete (A) or (B) below)	
a) a person living in the vicinity of the premises	<input type="checkbox"/>
b) a body representing persons living in the vicinity of the premises	<input type="checkbox"/>
c) a person involved in business in the vicinity of the premises	<input type="checkbox"/>
d) a body representing persons involved in business in the vicinity of the premises	<input type="checkbox"/>

2) A responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
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3) a member of the club to which this application relates (please complete (A) below)	<input type="checkbox"/>
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(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please mark X for yes

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other title (for example, Rev)	
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Surname

First names

Please mark X for yes

I am 18 years old or over	<input type="checkbox"/>
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Current postal address if different from premises address	
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Daytime contact telephone number	
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E-mail address (optional)	
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(B) DETAILS OF OTHER APPLICANT
Name and address
Telephone number (if any)
Email address (if any)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT
Name and address: Chief Supt Nicholas May c/o Brighton & Hove Licensing Unit Sussex Police 1 st Floor, Police Station John Street Brighton East Sussex BN2 0LA
Telephone number (if any) [Text Removed]
(Email address (if any)) [Text Removed]

This application to review relates to the following licensing objective(s)	
	Please mark X for yes (one or more boxes)
1) the prevention of crime and disorder	<input checked="" type="checkbox"/>
2) public safety	<input type="checkbox"/>
3) the prevention of public nuisance	<input type="checkbox"/>
4) the protection of children from harm	<input type="checkbox"/>

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

Sussex Police contend that the following licensing objective has been seriously undermined:

- The prevention of crime and disorder

During a licensing inspection on Wednesday 16th December 2020 it was discovered that the two persons working within Premier (Saltdean News), did not have right to work in the UK and additionally were potentially being exploited and working for below minimum wage. A number of breaches of the premises licence conditions were also evidenced.

Sussex Police contend there has been serious failures by the Premises Licence Holders Mr Krunal Chandrakant Patel & Mrs Kirma Krunal Patel (who is also Designated Premises Supervisor) to promote the licensing objectives; particularly the prevention of crime and disorder.

The Section 182 Secretary of State Guidance relating to the Licensing Act 2003 (April 2018) states under paragraph 2.6 that:

'The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises.'

Sussex Police contend that the Premises Licence Holders of Premier (Saltdean News), Mr and Mrs Patel, knowingly allowed illegal working within the premises and therefore deliberately undermined the licensing objective of the prevention of crime and disorder.

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

Premier (Saltdean News) is a licenced convenience store located within a parade of shops at 27-29 Longridge Avenue, Saltdean.

The premises are authorised for the following licensable activities:

- Sale by retail of alcohol (off the premises):
Everyday 06:00 – 22:00
- Opening hours: Everyday 06:00 – 22:00

The premises has a single floor with an entrance at the front. When entering the store the serving counter is located along the left wall. Spirits are stored behind the counter and the vast majority of the rest of the alcohol is stored on shelves and in chilled cabinets to the right of the counter. Opposite the till to the right of the entrance are some further shelves where crates of beer/cider were displayed for sale. The rest of the store stocks various other items that you would expect to see within a well-stocked convenience store such as food and household products.

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Sussex Police would like to bring the above premises to review following recent concerns that the licensing objective of the prevention of crime and disorder is being seriously undermined. This is in combination with a number of breaches of the premises licence conditions and leads us to contend that the Premises Licence Holders (PLHs) one of whom is also the Designated Premises Supervisor (DPS), do not have the qualities required for a position of trust and responsibility as they are perpetuating crime, specifically relating to immigration and the prevention of illegal working.

[EDITED – Text removed]

Police Licensing visited Premier (PKA Saltdean News) on Wednesday 16th December 2020 to complete a full licensing check as Mr Krunal Patel and Mrs Kirma Patel were known to be the joint Premises Licence Holders at the location. While going about the licensing check it became apparent that the [two members of staff] working there were the only employees covering the shop 7 days a week and living in a room at the back of the shop, off the stock room. [Edited]... there were concerns around Modern Slavery and Human Trafficking (MS/HT).

[The two members of staff] were then spoken to separately to try and establish how they came to be working at Premier (PKA Saltdean News) and as part of this, ensure their welfare and safety. [The two members of staff] were asked a series of questions [Edited] to find out more about their living and working conditions. With the help of a translator it was discovered that [the two staff members] had lived and worked at the premises for the last 3 months with the following work hours:

Monday – Saturday: 06:00 – 19:30 (13.5 hours daily)
Sunday: 06:30 – 15:00 (8.5 hours)

Total: 103 hours each weekly (206 hours together)

They both stated they had an hour off for lunch per day so 14 hours of breaks together in total. However, they would also do extra hours outside the opening hours to stack shelves. For clarity these hours have not been included in total hours worked at this point.

Total hours worked: 96 hours each weekly (192 hours collectively)

They were being paid £200 each a week for this. Even with accommodation and bills included, this would amount to approximately £2.60 an hour:

Pay received: £400 x 4 weeks = £1600
Studio flat (with bills included) – around £550 - £600 per calendar month (approx. £150 per week)
Total: £2200

Hours worked over 4 weeks collectively: 824 hours

$£2200 / 824 = £2.67$

The UK national minimum wage for workers over 25 years of age from 1st April 2019 is: £8.21

[One of those member of staff] stated that [they] did not have a National Insurance Number and that the £400 wages they were paid, were credited straight into a bank account that was not theirs. [They] stated that [they] were using someone else's bank account (with their permission)

and that the money was paid into this third party's account weekly. [They] revealed [they] did not have [their] passport and that [they] believed it was lost as [they] had moved several times. Subsequent checks with Immigration showed that [the staff member] was an overstayer and so did not have the right to work in the UK.

The accommodation at the back of the shop consisted of a small room with a double bed and a microwave in it and a separate toilet. East Sussex Fire and Rescue Service (ESFRS) have since visited Premier (Saltdean News) and on 23rd December 2020 issued a Prohibition Notice advising that 'No sleeping is allowed on the premises' due to the risks and concerns they found. [The two staff members] both appeared tired with [one of those] particularly exhausted and yawning constantly while being spoken to. Police officers then moved [both members of staff] from the premises to a place of safety and comfort so they could be spoken to further.

[Text Removed] [Further Police checks were conducted] [Text Removed]. Both do not have the right to work in the UK and are paying this debt back from the £2.60 an hour they are earning at Premier (PKA Saltdean News). Both [staff members] state they have not been threatened with violence but it became obvious to officers that they do not understand what financial exploitation is or that they may be being coerced to work due to the outstanding debt. [The staff members] were crying during this explanation stating that they needed to pay the debt back.

[text removed]

[text removed]

The [Police] investigation is ongoing at this point.

Additionally, as part of the visit the following breaches of the premises licence conditions were identified under Annex 2:

For the Prevention of Crime and Disorder:

- 5. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.*

Four camera feeds were visible on a large TV screen opposite the counter within the store. The correct date (16/12/2020) was displayed but the time was an hour fast.

- 6. Subject to Data Protection 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 for the police without difficulty or delay and without charge to Sussex Police.*

When asked if they could operate the CCTV, [the two staff members] both stated that only Mr Krunal Patel had access to the CCTV and that this was via his mobile phone. As [Both staff members] were identified as the only persons who worked in the store, arguably it could be stated they were key staff and should have been trained in how to use the CCTV. In the event that Mr Krunal Patel was unavailable or away, there may have been issues in accessing and downloading CCTV.

For the Prevention of Public Nuisance:

12. Signs will be displayed requesting customers to respect the local neighbourhood and to leave the premises quietly.

One sign was located by the till but was not very distinctive and had to be searched for. No further signs were seen within the store e.g. by the entrance/exit.

For the Protection of Children from Harm

13. The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following 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*

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

15. All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and Brighton & Hove Weights & Measures Officers upon request.

Discussion was had with [both staff members] about what training they had received. They said that the DPS, Mrs Kirma Patel, had gone over some training with them when they started the job around three months ago. They were able to find some licensing paperwork under the till which was handed to officers to inspect. The training record provided showed that the last recorded training was carried out by Mrs Kirma Patel on 07/09/2020 and that she had trained 2 [other] persons [Text Removed]. It was suggested that they were previous employees but this could not be confirmed at the time. There was no record of any induction training for the current employees. Further, no staff training at all had been carried out since 07/09/2020 so there was no record of any refresher training (supposed to take place every 8 weeks) for [the two staff members] either.

16. 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 licences with a photograph or proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.

When spoken to it was unclear whether [the two staff members] were aware of the Challenge 25 Policy and while there were signs displayed regarding Challenge 25, there was no written record of any training relating to this.

18. The premises shall at all times maintain and operate refusals recording system (either in book or electronic form) which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant. This refusals book

shall be available upon request to police staff, local authority staff and Weights and Measures officers.

A refusals book was produced from under the counter in the bundle of paperwork presented to Sussex Police. The last date for a refusal shown was 7th July 2020.

19. Alcoholic drinks such as beers and wines will be kept in a separate area away from soft drinks.

While there were separate chilled cabinets for beers/wines and soft drinks, crates of beers and crates of soft drinks were displayed for sale together on shelves to the right of the entrance to the premises.

This is the second time that breaches of the Premises Licence conditions have been found at Premier (PKA Saltdean News) in the last 12 months. [Police Licensing] visited the premises on 13th December 2019 to complete a full Licensing Check. Mrs Kirma Patel was issued a warning letter as DPS (Annex 1) where the complete list of breaches can be seen but again these breaches were around CCTV, training records and signage as was also observed during the check in December 2020.

[Police Licensing] revisited the premises on 17th January 2020 to follow up the letter and ensure improvements had been made. While it was noted that no single cans or beers, lagers or ciders above 6% were being sold and that spirits had been moved behind the counter, the CCTV was still 5 minutes out. There was still no record of staff training and so [Police Licensing] contacted Mrs Kirma Patel via telephone inviting her in for a meeting at John Street Police Station to discuss this and provide any records she had.

Mrs Kirma Patel attended John Street Police Station on 27th January 2020 and was able to demonstrate on her phone that the CCTV now had the correct current date and time. She also provided staff training records and advised that she had ordered a new refusal log and training manual.

In conclusion we have a licensed premises that is being operated in breach of the conditions of the premises licence attached to it, despite prior Sussex Police intervention. Additionally, the Premises Licence Holder has knowingly allowed persons to live and work at the premises without checking their employment status, paying them far below minimum wage [text removed]. The accommodation has also been deemed not fit under Fire legislation, placing these employees at further risk of harm when they were living there.

In considering all of the evidence available, Sussex Police has paid due regard to S182 Secretary of State Guidance (para 11.27 & 11.28) of the Licensing Act 2003, which states the following:

Reviews arising in connection with crime

- ***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;
 - 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;**
 - for unlawful gambling; 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.**

Reviews arising in connection with crime

- **11.24** - A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, **the sale of contraband or stolen goods**, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- **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.

On reviewing the current licence we [Sussex Police] do not feel that adding any additional conditions would help in reducing the risks as this will not prevent the crime that has taken place.

Further, as Mr Krunal Patel is the joint premises licence holder (PLH) with [Text Removed], Mrs Kirma Patel (the current DPS), a new DPS is also not an option as the pair will still ultimately be in control of the premises licence. There is no mechanism within the Licensing Act 2003 to remove the PLH.

The exclusion of the sale of alcohol by retail from the scope of the licence or the restriction of times for licensable activity could have been amended, however this course of action will not address the root cause of the criminality associated with this venue; the PLH employing persons

who have no right to work within the UK and paying them an exploitative wage, not even a third of what the national minimum wage in the UK should be.

Sussex Police therefore, request that the Licensing Authority seriously consider the revocation of the premises licence of Premier (Saltdean News). We believe this is the only course of action to prevent perpetuating crime and disorder. We appreciate that this is the first time the premises has come to notice however, as the Section 182 guidance suggests, this is one of the more serious crimes that a licensed premises can be associated with. [Removed]

Please mark X for yes

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

If yes please state the date of that application

 / /

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

Please mark X for yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature (on behalf of the applicant)

p.p

Sussex Police
Application for review of a premises licence
07/2015

R Howell

Date:
11th January 2021

Capacity:
Licensing Inspector, Sussex Police

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

Claire Abdelkader
Police Licensing Officer
Brighton & Hove Licensing Unit
Sussex Police
1st Floor
John Street

Post town

Brighton

Post code

BN2 0LA

Telephone number (if any)

[Removed]

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

[Removed]

Notes for Guidance

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

This is the address which we shall use to correspond with you about this application.

