





Brighton & Hove  
City Council

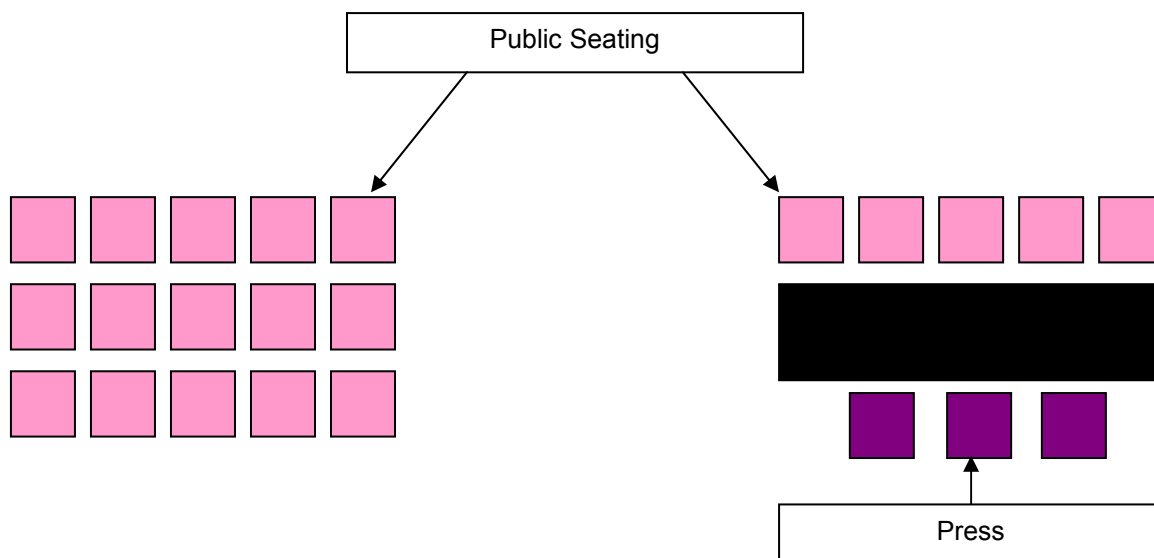
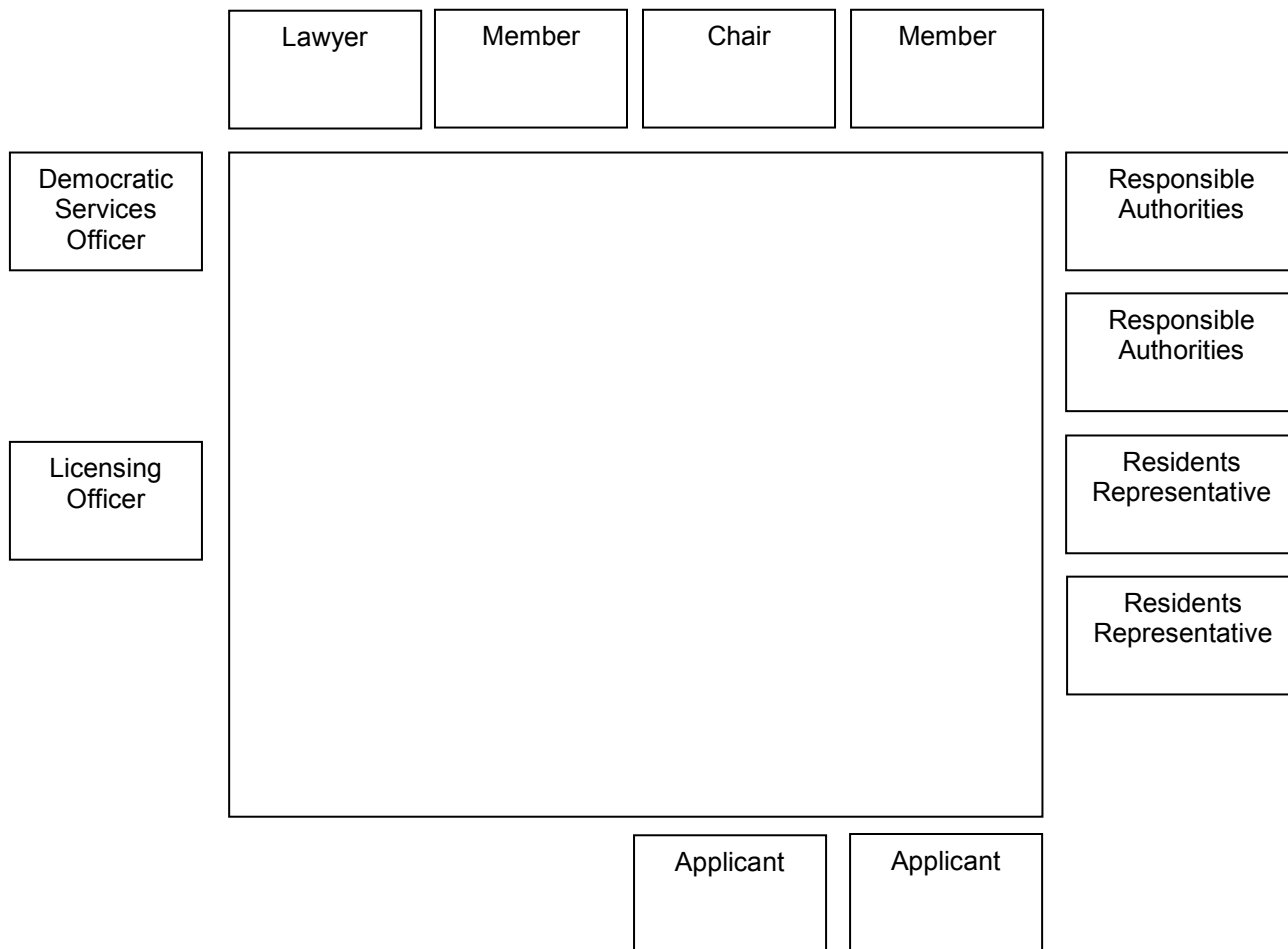
# Licensing Panel

(Licensing Act 2003 Functions)

Title:	<b>Licensing Panel (Licensing Act 2003 Functions)</b>
Date:	<b>1 May 2015</b>
Time:	<b>10.00am</b>
Venue	<b>Committee Room 3, Brighton Town Hall</b>
Members:	<b>Councillors:</b> Hyde, Lepper and Simson
Contact:	<b>Lisa Johnson</b> Senior Democratic Services Officer 01273 29-1064 Lisa.johnson@brighton-hove.gov.uk

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# Democratic Services: Meeting Layout



## AGENDA

### 54 TO APPOINT A CHAIR FOR THE MEETING

### 55 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

**NOTE:** *Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.*

*A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.*

### 56 PREMISES LICENCE REVIEW, OXYGEN, 75 WEST STREET, BRIGHTON

1 - 170

Report of the Director of Public Health (copy attached)

Contact Officer: Jim Whitelegg

Tel: 01273 292438

Ward Affected: Regency

## LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

**NOTES:** *Applicants, Agents, Representatives from Statutory Authorities and Other Interested Parties are kindly requested to wait outside before the beginning of the hearing until called in together by the clerk.*

*There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chairman reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.*

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Lisa Johnson, (01273 29-1064, email [Lisa.johnson@brighton-hove.gov.uk](mailto:Lisa.johnson@brighton-hove.gov.uk) or email [democratic.services@brighton-hove.gov.uk](mailto:democratic.services@brighton-hove.gov.uk)

Date of Publication - Thursday, 23 April 2015

**LICENSING PANEL**

(Licensing Act 2003 Functions)

**Agenda Item 56**

Brighton &amp; Hove City Council

<b>Subject:</b>	<b>Review of a Premises Licence under the Licensing Act 2003</b>		
<b>Premises:</b>	<b>Oxygen, 75 West Street, Brighton, BN1 2RA</b>		
<b>Applicant:</b>	<b>Saeid Zargham</b>		
<b>Date of Meeting:</b>	<b>1 May 2015</b>		
<b>Report of:</b>	<b>Director of Public Health</b>		
<b>Contact Officer:</b>	<b>Name:</b>	<b>Jim Whitelegg</b>	<b>Tel: (01273) 292438</b>
	<b>Email:</b>	<b>Jim.whitelegg@brighton-hove.gcsx.gov.uk</b>	
<b>Ward(s) affected:</b>	<b>Regency</b>		

**FOR GENERAL RELEASE****1. PURPOSE OF REPORT AND POLICY CONTEXT**

1.1 To review a Premises Licence for Oxygen under the Licensing Act 2003.

**2. RECOMMENDATIONS:**

2.1 That the Panel review the licence granted to the premises known as **Oxygen** under the Licensing Act 2003

**3. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION**

3.1 Existing licence attached at Appendix A.

3.2 Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises, and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.

3.3 An application was received by the Licensing Authority from Sussex Police, to review the licence granted to the premises known as Oxygen, 75 West Street, Brighton, BN1 2RA. The review application and full details of the grounds for the review are located in Appendix B.

3.4 The grounds for the review relates to the following Licensing objectives:

- Protection of Children from Harm
- Crime of Disorder
- Public Safety

A copy of the supporting evidence is located in Appendix E.

3.5 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered necessary for the promotion of the Licensing objectives. These steps are
  - to modify the conditions of the licence
  - to exclude a licensable activity
  - to remove the designated premises supervisor from the licence
  - to suspend the licence for a period not exceeding 3 months, or
  - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

### **Representations received**

- 3.6 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:
- 3.7 3 representations have been received from Trading Standards, Environmental Health and the Licensing Authority on the grounds of the Prevention of Crime & Disorder, the Prevention of Public Nuisance, Public Safety and the Protection of Children from Harm supporting the application submitted by Sussex Police seeking suspension of the premises licence, reduction of hours and modification of conditions.
- 3.8 Full details of the representations are attached at Appendix C  
A map detailing the location of the premises is attached at Appendix D.

## **4. COMMENTARY ON THE LICENSING POLICY**

- 4.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

### **General**

- 1.2 The licensing objectives are:-
  - (a) Prevention of crime and disorder;
  - (b) Public safety;
  - (c) Prevention of public nuisance;
  - (d) Protection of children from harm.
- 1.3 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its area.

- 1.5 Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

### **In respect of the prevention of crime and disorder**

- 2.1 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 2.2 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 2.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 2.7.1 Diversity of premises: ensures that there is a mix of the different types of licensed premises and attracts a more diverse range of customers from different age groups, different communities and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This will have a positive effect in reducing people's fear of crime and in increasing the number of evening visitors to the city centre. The Community Safety Strategy recognises that too many single uses in a confined area and patrons turning out onto the streets at the same time may create opportunities for violent crime and public disorder and therefore supports: mixed use venues encouraging a wider age balance. A "matrix" approach to licensing decisions has been adopted and is set out below.

## Matrix approach for licensing decisions in a Statement of Licensing Policy

	<b>Cumulative Impact Area</b>	<b>Special Stress Area and London Road</b>	<b>Mixed Commercial and Residential Areas (streets containing shopping parades)</b>	<b>Residential Area (mainly residences in street)</b>	<b>Marina</b>
<b>Restaurant</b>	Yes (midnight)	Yes (2am)	Yes	Yes (11.30pm)	Yes
<b>Late Night Takeaways</b>	No	Yes (midnight)	Yes (midnight)	Yes (midnight)	Yes
<b>Night Club</b>	No	No	Yes (3am)	No	Yes
<b>Pub</b>	Yes (11pm)	Yes (11pm)	Yes (3am)	Yes (11pm, midnight Friday and Saturday)	Yes
<b>HVVD (Super pub)</b>	No	No	No	No	Yes
<b>Non-alcohol lead (e.g. Theatre)</b>	Yes (favourable)	Yes (favourable)	Yes (favourable)	Yes	Yes
<b>Off-licence</b>	No	No	No	Yes (8pm)	Local shops only
<b>Members Club</b>	Yes (<100)	Yes (<100)	Yes	Yes (11pm and midnight Friday and Saturday)	Yes

### Notes on matrix

Subject to the following, the policy, as represented in the matrix, would be strictly adhered to:

- 1) Each application would be considered on individual merit
- 2) Departure from policy is expected only in exceptional circumstances
- 3) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix
- 4) Exceptional circumstances may include: close consultation with Sussex Police and the Licensing Authority, meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to off set impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary business activity (demonstrable to responsible authorities and licensing authority, for instance by licence condition allowing authorised officers access to sales accounts), BCRP membership
- 5) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties,

*members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre*

*6) Shatterproof drinking receptacles will normally be required by licence condition in alcohol led establishments in the city centre*

*7) Outdoor events will be supported where arranged through the council's event planning process*

*8) Favourable consideration will be given to residential need*

*9) Favourable consideration will be given to local businesses properly engaged with the local licensing authority and responsible authorities*

**2.7.6 Care, control and supervision of premises:** The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.

2.7.7 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.

2.7.8 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

2.7.12 Enforcement will be achieved by the enforcement policy.

### **3. In respect of Public Safety**

3.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.

3.3 Conditions will be imposed in accordance with operating schedules to protect public safety including where justified:

A) Provision of close circuit television and panic buttons;

B) Use of shatterproof drinking vessels, bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons (recognised by Community Safety Strategy);

C) Use of door supervisors, licensed by the Security Industry Authority (recognised by the Community Safety Strategy);

D) Requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment;

E) Occupant capacity conditions will be applied where appropriate;

F) The provision of designated and suitably trained first aiders

3.5 Policy recognises that the numbers of late night revellers can lead to service delivery pinch-points, for example at city centre taxi ranks. Frustration and restlessness in queues can lead to anti-social behaviour and public disorder which can be controlled by , for example, taxi marshalling systems. Operators whose customers contribute to the night-time demand for taxis may wish to consider assisting in the provision of resources for such systems or similar schemes.

3.6 Control of public safety at high profile commercial or sporting events or other large scale events may be supported by police powers of closure of licensed premises.

### **4. In respect of the prevention of public nuisance**

4.2 In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, as a result of people entering or leaving the premises or from individuals or groups of customers gathered outside (e.g. in order to smoke)

4.3 Applications for new licences or for the extension in size of licensed premises should not normally be granted if the premises will use amplified or live music and operate within or abutting premises containing residential accommodation except that occupied by staff of the licensed premises. A condition may be imposed on new licences that entertainment noise shall be inaudible in any residence. Noise emanating from within licensed premises should not normally be audible outside.

- 4.4 Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.
- 4.9 Reasonable controls are available to all premises operators to minimise the impact of noise from customers outside. The council's Environmental Health Department has issued guidance on a number of steps that can be taken in this respect which are endorsed by this policy (see 4.10 below).

#### **4.10 Smoking Advice:**

Premises licence holders will be expected to:

- Develop a management plan on how to manage smoking on your premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented. Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas.
- Ensure that any structures used by smokers comply with the design criteria detailed in the Heath Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Ensure any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with. There may be conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence you may find it necessary to request a variation of your licence.
- Licence tables and chairs on the Public Highway under the provisions of the Highways Act 1980. These licences may have conditions restricting the times that the area can be used.
- Ensure drinks, glasses and bottles are not taken onto the highway unless there is a tables and chairs licence permitting use. A system should be adopted to prevent theft and 'spiking' of drinks, and reminding customers not to leave unattended items.
- Discourage smokers remaining in gardens and outdoor areas and determine terminal hours.
- Discourage smokers remaining outside by removing/disabling tables and chairs or prohibiting their use after a certain time. Lights and heaters will also be turned off.
- Introduce a system that after a certain time the number of smokers outside are restricted to a maximum number. Staff will be needed to manage this restriction.
- Employ staff and/or SIA registered door supervisors to manage doors and control customers and smokers entering and leaving the premises. Staff positioned on the doors can help to encourage customers not to cause a noise problem. It may be that staff are required to manage doors after a certain time, particularly during the hours when neighbouring residents are trying to sleep.
- Ensure door supervisors maintain order outside venues and protect customer safety. BCRP supports the use of Night Safe. Radio net and other pager systems and pub watch schemes can be used to provide for

rapid police response and alert other venues where customers and staff are endangered.

- Position signs to remind customers that the premises is in an area where people live. It is not always obvious in busy commercial streets with flats above. By changing the design and wording of signs customers do not forget. Signs can be located in and outside the premises and on tables.
- Use CCTV to manage outside areas.

4.11 Licensed premises should normally display prominent, legible signs at exits reminding customers to leave in a quiet, peaceful, orderly manner.

## **5. In respect of the protection of children from harm**

The following details and measures are intended to address the need for the protection of children from harm; this includes moral, psychological and physical harm which may be associated with licensed premises and certificated club premises (for example the exposure too early to strong language and sexual expletives, e.g. in the context of film exhibitions or where adult entertainment is provided). It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed without restricting conditions (unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely).

5.1 Licensees should note the concern of the authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the committee recommend that all licensees should work with a suitable 'proof of age' scheme and ensure that appropriate identification is requested prior to entry and when requesting alcohol, where appropriate. Appropriate forms of identification are currently considered to be those recommended by police, trading standards officers and their partners in the Licensing Strategy Group (e.g. passport, photo driving licence or pass card).

5.2 It is the licensing authority's expectation that all staff responsible for the sale of intoxicating liquor receive information and advice on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales. The licensing authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them.

5.4 The licensing authority will not seek to require that access to any premises is given to children at all times – under normal circumstances this will be left to the discretion of the licensee. The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;

- where entertainment of an adult or sexual nature is commonly provided.
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons

Options may include:-

- limitations on the hours when children may be present;
- age limitations (below 18);
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

5.7 Children and Young Persons Overview and Scrutiny Council reported on Reducing Alcohol Related Harm to Children and Young People to Licensing Committee who agreed:

5.7.1 Trading standards and the police undertake ongoing enforcement operations around under-age sales and test purchasing. Sussex Police, BCRP and RUOK undertake work concerning proxy purchases and counterfeit ID as part of the partnership support work with Community Safety and Trading standards.

5.7.2 Trading standards have a programme of business support including training for local businesses to avoid under-age sales.

5.7.3 In determining applications and reviews, applications can only be dealt with on their individual merit. Use of schemes like Think 21 and Challenge 25 are appropriate on a case by case basis. Normally a Challenge 25 condition will be appropriate.

5.7.4 A clear causal link between price discounting and disorder will normally lead to the imposition of conditions prohibiting irresponsible promotions. This is now reflected in the new mandatory conditions which can be found on the licensing pages of the council's website.

## 5.8 **Best Practice to protect children from harm**

The Council passed a Notice of Motion that licensing committee recommend best practice for both on and off premises to take on board on a voluntary basis, in order to promote responsible licensing.

- Staff must be aware of the risk of the problem of proxy sales and offer assistance to responsible authorities to deter offences
- Signage on premises should set out legal duties
- Voluntary restriction of high strength alcohol – operating schedules may be used to limit high ABV beers and ciders
- Staff training – in addition to personal licence holders training, staff must be adequately trained for duties
- Challenge 25 would be the norm, particularly in the off licence trade
- Signage – proxy sale – deterrence

The council will support accreditation schemes, such as Best Bar None and Purple Flag, where appropriate and subject to resources.

#### 5.9 Health Impact Assessment

The licensing authority's response to this public consultation process is as follows:

- Enforcement decisions of under-age sales from licensed premises will be taken with regard to enforcement policy appended
- Safe Space and refuges for potentially vulnerable people is supported
- The council will make a telephone number available for reporting licensing offences and concerns.

### 6. Strategic Integration

6.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening.

6.8 Other regulatory regimes: This policy avoids duplication with other regulatory regimes wherever possible.

6.9 Enforcement – the enforcement of licensing law and inspection of licensed premises is detailed in the Protocol between Sussex Police, the East Sussex Fire & Rescue Service and Brighton & Hove City Council. This protocol reflects the need for more efficient deployment of Police and Local Authority staff commonly engaged in licensing enforcement and can be found at appendix H of Brighton and Hove City Council's Statement of Licensing Policy. In addition the Licensing Authority will have regard to its published Licensing Enforcement Policy in making enforcement decisions in accordance with Brighton and Hove City Council's Statement of Licensing Policy (Appendix E). In order to better target enforcement resources, inspections will be undertaken outside of normal office hours and the sharing of information between all enforcement agencies will be encouraged through joint meetings or similar arrangements. Joint Intelligence Meetings are organised and include officers from responsible authorities.

The Council's Licensing Enforcement Policy has adopted the approach set out by the Home Office and DCMS document entitled "Problem Premises on Probation - Red and Yellow Cards; How it would work". This is highlighted in the Annexes A & B of Appendix F - The document sets out to encourage partnership working in identifying problem premises and lists steps to be taken in first and second intervention measures together with a list of possible tough conditions. First intervention may be suspension of licence with conditions (yellow card) and second intervention would look to revoke a licence (red card). The Guidance makes it clear that proposed interventions would not prevent the giving of an instant red card in an

appropriately serious case. In these circumstances it would be a straight red leading to a withdrawal of the licence.

## **8. Reviews**

- 8.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy.

## **5. FINANCIAL & OTHER IMPLICATIONS:**

### Financial Implications:

- 5.1 The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

*Finance Officer Consulted Jeff Coates*

*Date: 15/04/2015*

### Legal Implications:

- 5.2 The licensing authority must act to promote the four licensing objectives which are:

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

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

*Lawyer Consulted: Rebecca Sidell*

*Date: 15/04/2015*

### Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

### Sustainability Implications:

- 5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

## **SUPPORTING DOCUMENTATION**

### **Appendices:**

1. Appendix A – Part A of Premises Licence
2. Appendix B – Review Application and grounds for the review
2. Appendix C – Representation
3. Appendix D – Map of area
4. Appendix E – Supplementary Documentation
5. Appendix F – Enforcement Policy: Problem Premises on Probation

### **Documents in Members' Rooms**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

### **Background Documents**

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011

# APPENDIX A



## Brighton & Hove City Council

### Schedule 12

### Part A

Regulation 33, 34

## Premises Licence Brighton and Hove City Council

**Premises Licence Number**

1445/3/2008/02308/LAREV

### Part I – Premises Details

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Oxygen  
75 West Street  
Brighton  
BN1 2RA

**Telephone number**

**Licensable activities authorised by the licence**

Late Night Refreshment

Sale by Retail of Alcohol

**Times the licence authorises the carrying out of licensable activities:-**

**Late Night Refreshment – Indoors.**

Simple meals and light snacks will be available throughout with table meals served in the cafe bar are furthest from the servery and limited take away.

Every Day 23:00 - 03:00

Seasonal variation: New Years Eve 23.00- 05.00 the next morning.

**Sale by Retail of Alcohol**

Every Day 09:00 - 03:00 (Sales will cease to the outside area at 20.00)

Seasonal variation: New Years Eve from opening time on New Year's Eve to close at the end of hours on New Years Day.



## Brighton & Hove City Council

### The opening hours of the premises

Every Day 09:00 - 03:30

Seasonal variation: New Years Eve from opening time on New Year's Eve to close at the end of hours on New Year's Day.

### Where the licence authorises supplies of alcohol whether these are on and / or off supplies

Alcohol is supplied for consumption on the Premises.

### Part 2

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

Saeid Zargham  
84 Tongdean Lane  
Brighton  
BN1 5JE

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

Saeid Zargham

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

Party Reference:

Licensing Authority:



## **Annex I Mandatory Conditions**

### **S 19; mandatory conditions where licence authorises supply of alcohol**

- 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, or
  - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
- every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence

1.—(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.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).



3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

4.— (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

5. The responsible person must 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;

(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.”

6. 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.

7. 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(1);



## Brighton & Hove City Council

(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(2).

8. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

9. (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.

### **S21** mandatory condition: door supervision

- where a premises licence includes a condition relating to security activity, the licence must include a condition that each individual must be licensed by the Security Industry Authority (there are exemptions re: theatre and films and clubs)



**Annex 2 Conditions consistent with the Operating Schedule:**

**For the Prevention of Crime and Disorder:**

1. CCTV and appropriate recording equipment to be installed operated and maintained throughout the premises internally and externally to a standard specification following consultation with Sussex Police.
2. On Thursday, Friday & Saturday nights, a minimum of two SIA registered door supervisors will be used from 20:00 until 30 minutes after closing time. This will be in addition to a full time mobile support unit and joining BCRP or like organisation if there is one which is approved by the Licensing Authority.

**For Public Safety:**

3. Where practicable shatterproof glasses will be used.
4. The capacity in its initial set up will be 110.

**For the Prevention of Public Nuisance: N/A**

**For the Protection of Children from Harm:**

5. After 20.00hrs no children will be allowed on the premises.
6. The premises shall at all times operate a "Challenge 30" policy:
  - i. Suitable and sufficient signage advertising the "Challenge 30" policy will be displayed in prominent locations in the premises;
  - ii. All staff members engaged, or to be engaged, in selling alcohol on the premises shall received the following training in age-restricted sales;
    - Induction training which must be completed prior to the sale of alcohol by the staff member; and
    - Refresher training thereafter at intervals of no less than 8 weeks.
  - iii. All age-restricted sales training undertaken by staff members shall be fully documented and recorded in writing and all training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request;



- iv. The premises shall at all times maintain and operate and age-restricted sales refusals book which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant.

**Annex 3 – Conditions attached after a hearing by the licensing authority 6<sup>th</sup> March 2007:**

- (1) The premises will operate as a Café Bar. Namely, the sale of intoxicating liquor and other beverages shall be waiter/waitress service for the consumption by persons seated at tables, and substantial food shall be available at all times, except in the small agreed area near the servery as shown on the plans which is about 25% of the inside area.
- (2) That the outside area is closed for service at 20.00 hours each night and cleared of tables and chairs by 20.30hours.
- (3) That bottles and rubbish will not be placed outside the premises between 23.00and 08.00 hours.
- (4) The Licensee shall ensure that the noise or vibration does not emanate from the premises so as to cause a nuisance to adjoining residence.

**Annex 3 – Conditions attached after a hearing by the licensing authority  
19<sup>th</sup> February 2009:**

- (1) That the premises licence for Oxygen (“the premises”) will be suspended between 03:00 hours on Friday 20 March 2009 and 09:00 hours on Friday 27 March 2009.
- (2) The present Designated Premises Supervisor, Mr Ben Chalk, be removed as Designated Premises Supervisor for the premises with effect from 03:00 hours on Friday 20 March 2009.
- (3) That the Designated Premises Supervisor to be on site at the premises at all times during the sale of alcohol, for a period of three months commencing Friday 27 March 2009. *(See letter from the Licensing Authority dated 23<sup>rd</sup> March 2009 for clarification regarding this condition).*



# Brighton & Hove City Council

## Annex 4 – Plans

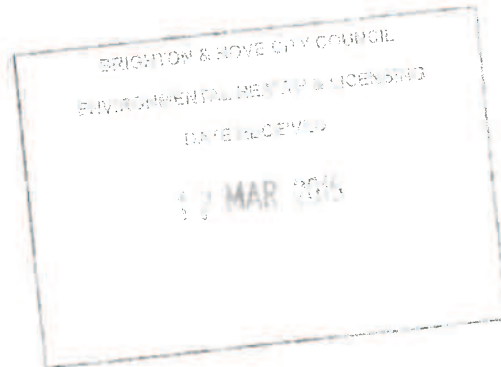


# APPENDIX B



**Sussex Police**  
Serving Sussex

[www.sussex.police.uk](http://www.sussex.police.uk)



## Brighton & Hove Licensing Unit

Fourth Floor  
Police Station  
John Street  
Brighton  
BN2 0LA

Tel: 101 ext 550828

Email: [brighton.licensing@sussex.pnn.police.uk](mailto:brighton.licensing@sussex.pnn.police.uk)

16<sup>th</sup> March 2015

Dear Sir or Madam,

**APPLICATION FOR REVIEW OF THE PREMISES LICENCE FOR OXYGEN. 75 WEST STREET, BRIGHTON, EAST SUSSEX, BN1 2RA UNDER THE LICENSING ACT 2003.**

Please find enclosed an application for the review of the premises licence at the above address.

Yours faithfully,

PP

Nev Kemp  
Chief Superintendent  
Divisional Commander  
Brighton & Hove Division

Please address all future correspondence to Brighton & Hove Licensing Unit, 4<sup>th</sup> Floor, Police Station, John Street, Brighton, BN2 0LA.

**Sussex Police Headquarters**  
Malling House, Church Lane, Lewes, E. Sussex, BN7 2DZ

Telephone: 101 | 01273 470101

Email: [brighton.licensing@sussex.pnn.police.uk](mailto:brighton.licensing@sussex.pnn.police.uk)

JW  
4/14/04

2015/01555/LAREV

**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 Ch Supt N Kemp, Divisional Commander, Brighton and Hove Police on behalf of Chief Constable Giles York

-----  
*(Insert name of applicant)*

**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**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
Oxygen 75 West Street	
<b>Post town</b>	<b>Post code (if known)</b>
Brighton, East Sussex	BN1 2RA
<b>Name of premises licence holder or club holding club premises certificate (if known)</b>	
Mr Saeid Zargham 84 Tongdean Lane Brighton East Sussex BN1 5JE	
<b>Number of premises licence or club premises certificate (if known)</b>	
1445/3/2008/02308/LAREV	



**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
  - a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) a member of the club to which this application relates (please complete (A) below)

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

**Please tick**

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

**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  Ch Supt Nev Kemp c/o Sgt B Hearth Sussex Police Brighton & Hove Licensing Unit 4 <sup>th</sup> Floor, Police Station John Street BRIGHTON BN2 0LA
Telephone number (if any) 101 ext 550828
E-mail address (optional) brighton.licensing@sussex.pnn.police.uk

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

Please tick one or more boxes

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

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

Sussex Police contend that the following licensing objectives have been seriously undermined:

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

Sussex Police regularly undertake test purchases operations, whereby children under the age of eighteen are able to enter late night venues and purchase alcohol in Brighton and the surrounding towns. These operations are planned after Sussex Police receives intelligence, or have knowledge, of specific premises regarding the sale of alcohol to children.

Sussex Police conducted a test purchase operation at Oxygen on Friday 20<sup>th</sup> February 2015. During this operation, alcohol was sold on two independent occasions to two separate children both aged 17 years of age, this being despite the premises being compelled by a previous licensing committee to operate Challenge 30.

Further, there have been a number of incidents including high levels of drunkenness, an Actual Bodily Harm (ABH) assault, a sexual assault on a vulnerable female (following her admitting to taking part in drinking games in the premises) and a 17 year old male being involved in a fight at the premises within the last few months.

Sussex Police contend there has been consistent failures by the management and staff to promote the licensing objectives; particularly the protection of children from harm, public safety and the prevention of crime and disorder. There have also been a number of breaches of the premises licence which have not been rectified despite numerous interventions by Sussex Police and the Local Authority.

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

Oxygen is a licensed premises located at 75 West Street, and is situated within the Brighton & Hove City Council Cumulative Impact Area (CIA) as defined in the Brighton & Hove City Council Statement of Licensing Policy (2011).

The premises are authorised for the following licensable activities:

- Sale by retail of alcohol (on the premises):  
Everyday 09:00-03:00
- Late night refreshment (Indoors - Simple meals and light snacks will be available throughout with table meals served in the Cafe bar area furthest from the servery and limited take away):  
Everyday 23:00- 03:00
- Opening hours: Everyday 09:00 – 03:30

The premises has a single floor with the entrance situated at the west end of the room. The main bar is located along the south wall of the single room and there are tables along the north wall of the premises. It also has a small outside patio area to the front of the premises which is marked out with a wooden fence.

The area surrounding Oxygen is densely populated with licensed premises and late night refreshment venues and suffers from significant crime and disorder and public nuisance which is evidenced by the Local Authority adopting a Cumulative Impact Area (CIA). West Street is situated within the centre of this CIA. There is a large residential area situated behind this premises, which is part of the Avalon Development.

The original premises licence application for Oxygen was received in January 2007 and stated that the premises would be a (from original covering letter accompanying the Application)

“Café Bar with a small area allowing for a minimum of vertical drinking mainly expected to be used when busy while persons are waiting for tables, meeting the rest of the party and so on. There will be waiter waitress service to all areas”.

The application was requesting the hours that are now reflected on the current licence, 03:00 terminal hour for licensable activity and 03:30 closing time.

This was translated as the following condition under Annex 3:

- (1) The premises will operate as a Café Bar. Namely, the sale of

intoxicating liquor and other beverages shall be waiter/waitress service for the consumption by persons seated at tables, and substantial food shall be available at all times, except in the small agreed area near the servery as shown on the plans which is about 25% of the inside area.

This condition has been found to be breached on a number of occasions over the last nine months resulting in a warning letter being served on the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS), Mr Saeid Zargham, in January 2015.

Young people are attracted to an area of town which is particularly busy during the night time economy and may be placed at risk of harm from the associated crime and disorder. As such, children are not only placed at risk from the consumption of alcohol, but also from the potentially dangerous situations they may find themselves in.

With respect to the protection of children from harm, Oxygen have the following existing conditions on their licence:

5. After 20.00hrs no children will be allowed on the premises.
6. The premises shall at all times operate a "Challenge 30" policy:
  - i. Suitable and sufficient signage advertising the "Challenge 30" policy will be displayed in prominent locations in the premises;
  - ii. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive the following training in age-restricted sales;
    - Induction training which must be completed prior to the sale of alcohol by the staff member; and
    - Refresher training thereafter at intervals of no less than 8 weeks.
  - iii. All age-restricted sales training undertaken by staff members shall be fully documented and recorded in writing and all training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request;
  - iv. The premises shall at all times maintain and operate an age-restricted sales refusals book which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant.

'Challenge 30' is an unusual condition and was placed on the licence by the Licensing Committee following Sussex Police applying for a Review of the premises licence previously at the end of 2008. This was following staff at Oxygen selling to children on three separate occasions during that year.

A number of meetings and visits have been held with the management of Oxygen by Sussex Police and the Local Authority where various issues were raised including high levels of drunkenness, inappropriate drinks promotions

and premises licence breaches. Sussex Police licensing team have endeavoured to work with the management of Oxygen in an attempt to reduce the crime and disorder and public nuisance generated by this premises and prevent further breaches of the premises licence.

Despite these interventions, Mr Zargham (PLH and DPS), has failed to make any significant or sustainable changes which will ensure the promotion of the licensing objectives. Furthermore, Mr Zargham has failed to adhere to existing premises licence conditions, particularly relating to the premises operating as a Café Bar. This is particularly important due to the location of this premises within the Cumulative Impact Area, which was specifically introduced by the Licensing Authority to reduce the cumulative effect of so many late bars saturated in one area of the City.

The events on Friday 20<sup>th</sup> February 2015 also prove that staff are committing a specific crime, namely Sec 146 of the Licensing Act 2003, selling alcohol to children, which was observed during a test purchase operation.

Below is a chronology of incidents, visits and interactions relating to the premises recorded by Sussex Police since June 2014:

**1. Friday 6<sup>th</sup> June 2014, 23:30hrs**

Police attended South Street, Brighton for a barely conscious female whose friend had called for an ambulance after being unable to wake her. Police officers spoke to the friend who stated that they had both spent the evening in Oxygen, West Street. She commented that her friend was in such a state due to the amount of alcohol they had consumed in the venue. The ambulance arrived and took the female away.

**2. Thursday 26<sup>th</sup> June 2014, 23:30hrs**

Police Licensing Officer PC Upton attended the premises to collect some CCTV on behalf of an investigating officer. The CCTV required was from 10 days previously however when staff attempted to download the footage it was not on the system.

Whilst inside Oxygen PC Upton witnessed people being served drinks along the entire length of the bar. He spoke to a female supervisor Caroline and asked to see a copy of the licence. PC Upton then pointed out condition (1) under Annex 3 which states that the premises should operate as a café bar with waiter/waitress service with vertical drinking/serving only permitted;

“in the small agreed area near the servery as shown on the plans which is about 25% of the inside area”.

PC Upton offered the supervisor words of advice and stated he would revisit tomorrow to check on progress. It was noted they were currently breaching the conditions on their premises licence which is an offence under Section 136 of the Licensing Act 2003.

### **3. Saturday 28<sup>th</sup> June 2014, 22:19hrs**

Police Licensing Officer PC Upton attended the premises to follow up on his visit two days previously. He witnessed staff still serving along the entirety of the bar. The female supervisor he had spoken on Thursday was not in and so he went through the licence again with another female, Helen who stated she was unaware of the conversation PC Upton had had with the supervisor two evenings before. PC Upton again highlighted condition (1) under Annex 3 and also went behind the bar and pointed out where the area of service should be limited to.

PC Upton told the female staff member that this needed to be rectified within a week and that he expected an update about how they were going to do. He also again requested the required CCTV but was informed by staff that the CCTV was not recording anything and that an engineer was booked for Monday.

Oxygen currently have the following condition relating to CCTV under Annex 2:

1. CCTV and appropriate recording equipment to be installed operated and maintained throughout the premises internally and externally to a standard specification following consultation with Sussex Police.

Sussex Police contend that both condition (1) under Annex 2 and condition (1) under Annex 3 were breached on the above occasion and this constitutes a further offence under Section 136 of the Licensing Act 2003.

### **4. Monday 7<sup>th</sup> July 2014, 18:58hrs**

Police Licensing received an email from the female supervisor that PC Upton had spoken to on 26/06/2014 giving an update on the situation with the CCTV at Oxygen. She stated that she had contacted the company that deals with the premises CCTV and that an engineer had visited the premises on 27/06/2014. She had then received a follow up letter on 03/07/2014 which she had attached to the email for Police Licensing's reference.

The letter from Abacus iTech stated the integrity of hard drive of the CCTV had failed and could no longer store data correctly. Upon further testing of the hard drive they also found it was only holding around 4 days of video footage prior to the damage occurring. They conducted further checks into the electrical wall socket which was believed to have caused a power spike/surge which caused the damage to the hard drive. It was confirmed that both the wall socket and the hard drive had now been replaced.

### **5. Tuesday 8<sup>th</sup> July 2014, 20:45hrs**

Police Licensing Officer PC Upton along with PC Funnell attended the premises following complaints about the promotional material that Oxygen were displaying both within the premises, on an 'A' board outside the premises

and on their social media accounts. These included drinks promotions which referred to a 'family pack' and a 'meal deal' solely comprised of cocktails, jagerbombs and shots as well as inappropriately named shots. For example:

- Cocksucking cowboy
- Red Headed Slut
- Bitch Slap
- Dick Splitter
- Clit Splitter

Police licensing felt the displaying of material of this nature potentially constituted a criminal offence under S5 of the Public Order Act

There was also wording asking customers, 'Have you got the balls to handle Big Woody's 42 Shots?' with the implication that this was a challenge and breached the Mandatory Condition in relation to responsible drinking.

PC Upton spoke to a male manager and informed him of Police Licensing's concerns about the promotional material and its wording which it was felt promoted excessive drinking and could be offensive to customers. The manager stated he was new and agreed with PC Upton. He could not remove the menus from the venue that night as that was all he had but stated he would use a black maker to edit out the offensive words in question. The manager also commented that he had already requested a complete drinks menu change that was to come in at the beginning of August 2014. The posters with the wording outside the venue were removed while PC Upton was at the venue and assurances were given that that posts referring to the promotional material would be removed from social media as soon as practicable.

PC Upton noted that signage was in place telling people that they can not order drinks at 75% of the bar and that the CCTV was in working order.

While at the premises the manager stated to PC Upton that there had been a noise complaint the previous weekend and that he wanted to tackle the issue proactively. PC Upton advised the manager to make contact with Brighton & Hove City Council Environmental Protection team regarding this. PC Upton stated that he would return the following day to check on the promotional material.

A copy of the drinks promotion 'menu' is attached to the back page of this Review Application

#### **6. Wednesday 9<sup>th</sup> July 2014, 18:30hrs**

Police Licensing Officer PC Upton along with PC Funnell visited Oxygen to follow up their visit of the previous day. It was noted that the offensive promotional material was still showing on their Facebook site. The manager stated he had removed it from the bar feed but there was a feed run by promoters which he had forgotten about. He confirmed he would contact them that evening to have it removed. PC Upton noted that all signage relating to

the shots challenge within the bar had been removed and the menus edited with black marker.

#### **7. Thursday 17<sup>th</sup> July 2014, 13:15hrs**

A meeting was held at John Street Police Station, Brighton with Saeid Zargham (the Premises Licence Holder (PLH) and Designated Premises Supervisor (DPS) and Mohamed Haddou (Patrol Safe Security). Sgt Simon Morgan and Rachel Thomas represented Sussex Police. A number of matters were discussed including the drinks menu and police licensing concerns around irresponsible drinks promotions at Oxygen including the 'Woodie's Challenge'. It was noted that these concerns had been picked up in the local and national press.

Weblink: <http://www.mirror.co.uk/news/uk-news/bar-forced-withdraw-lethal-drinks-3861676>

PS Morgan informed Mr Zargham that promotional material which challenges/dares people to drink excessive amount of alcohol is a clear breach under Section 136 of the Licensing Act 2003 as it goes against the mandatory premises licence conditions. PS Morgan again raised that the material was still showing on social media despite Sussex Police asking for it to be removed on Tuesday 8<sup>th</sup> July. Mr Zargham stated that the drinks menus were being completely redone and would be sent to licensing for consideration before printing and that he would ensure the posts were removed from social media.

PS Morgan again raised condition (1) under Annex 3 which relates to the premises operating as a 'café bar' and reminded that there must be waiter/waitress service in place and only a small section of the bar available for patrons to order drinks at. Mr Zargham stated that more seating and booths had been put in to encourage patrons to be seated rather than engage in vertical drinking.

PS Morgan advised that there would be a media release to state that Sussex Police Licensing were working with the PLH of Oxygen to sort out the current issues and that the PLH/DPS and staff were committed to the Licensing Objectives. Mr Zargham agreed to this.

#### **8. Thursday 7<sup>th</sup> August 2014, 03:00hrs**

Police were called to Oxygen for a report of door staff struggling with two aggressive males at the premises. On arrival police noted that the male being detained was 'extremely intoxicated' and had been removed after being sick in the disabled toilets and flooding them. Door staff attempted to get the male's details in order to issue a yellow card (Business Crime Reduction Partnership warning) at which point the male's friend got involved and tried to get his friend away. It was noted by the officers that the friend was also 'extremely intoxicated' and very obstructive towards police. No offences were disclosed to police and the males were both issued yellow cards and sent on their way.

### **9. Sunday 31<sup>st</sup> August 2014, 00:32hrs**

Police were called to Oxygen for a report of a domestic assault within the premises. It was alleged that a male had pulled his girlfriend's hair and pushed her head into a table within the venue which was captured on CCTV. The male suspect was arrested for ABH assault and it was noted by the attending officers that the suspect was slurring his words and was drunk. On arrival in custody he was placed on 30 minute rouse checks due to his level of drunkenness.

Officers attended Oxygen on 3 separate occasions that evening, including with a blank DVD, to try and obtain CCTV which had been viewed and showed the incident. However, their CCTV system was not working and so it could not be burnt off. The footage had to be recorded off the monitor onto Body Worn Video (BWV) to capture the evidence. It was agreed that police would attend again at 16:00 on 31/08/2014 and by this point staff stated they would have the footage on a memory stick.

No further action was taken regarding this matter as the suspect denied the offence and the victim stated that she had not been assaulted.

### **10. Sunday 14<sup>th</sup> September 2014, 00:54hrs**

Sussex Ambulance informed Sussex Police of an alleged Actual Bodily Harm assault on a male within the premises. Upon arrival the aggrieved was seated in the back of an ambulance with facial injuries. It was noted that he was intoxicated and was unable to give an account of how he was injured due to his intoxication level. The attending officers also noted that there were approximately 20 persons inside the premises with some showing signs of intoxication.

CCTV at the venue was checked which showed the victim being punched once to the floor and then kicked twice to the chest by the suspect in the area near the toilets. Staff were unable to download the CCTV so it was arranged to be collected at 17:00 on 14/09/2014. The suspect was not detained at the time and was allowed to leave the premises by security. However door staff had issued him a BCRP yellow card and so details were taken.

After investigation the suspect was contacted and he was interviewed in December 2014. He was shown the CCTV of the incident and made a full admission. The victim agreed to a community resolution and the offender wrote an apology letter and paid a sum to the victim.

### **11. Sunday 2<sup>nd</sup> November 2014, 00:30hrs**

Whilst on Operation Marble police officers saw two intoxicated females who were walking across West Street towards Safe Space and one fell over in the road. They continued to walk up the road and stopped by the entrance to

Churchill Square car park. The officers spoke with the females and eventually persuaded them to enter Safe Space on West Street as they felt they were vulnerable. The females stated they had been drinking in Oxygen with a large group of friends but they had been ejected due to intoxication. The female was very distressed at being separated from her friends and did not know what to do until the officers assisted them. The staff of Oxygen demonstrated no duty of care to these vulnerable females, separated them from their friends and did not give them advice regarding waiting in Safe Space until their friends left Oxygen.

**12. Friday 21<sup>st</sup> November 2014, 23:00hrs**

Police outside Oxygen noticed a female who was extremely intoxicated and unable to stand unaided. She was being looked after by friends and her father arrived to collect her while police were present. Upon speaking to door staff they confirmed that the female had been drinking in Oxygen.

**13. Sunday 30<sup>th</sup> November 2014, 02:42hrs**

Whilst on Operation Marble police officers patrolling West Street became aware of an incident at Oxygen when they were approached by a female stating that a male inside the venue had made what she perceived as homophobic comments towards her friend. Police spoke to the suspect who had been informed by door staff he was no longer welcome in the venue. It was noted by officers that the suspect was 'clearly drunk' and while talking to officers became argumentative and refused to leave the area despite being asked to do so. Police asked for his name and address so that a Section 35 Direction to Leave dispersal form could be issued but he refused to give details despite being given a number of opportunities to do so. He continued to argue with police and was subsequently arrested for being drunk and disorderly in a public place.

The male's custody record shows that he was identified as drunk and that he was not fit to be dealt with until 09:30. The male was charged with being drunk and disorderly in a public place and pleaded guilty in court. He received a fine and costs.

**14. Wednesday 3<sup>rd</sup> December 2014, at approximately 22:50hrs**

Sussex Police received a phone call from a female on Thursday 4<sup>th</sup> December 2014 reporting that the previous evening she had been out for drinks with friends at Oxygen. She stated that while inside Oxygen she played drinking games and consumed a lot of alcohol. Her last memory at the premises was going out for a cigarette. She did not return to the venue and when friends became worried and asked the door staff where she was, door staff reported that had seen her walk off with a man whom she stated was a friend. The victim stated she had little memory of the evening and she was returned home in a taxi by a female member of the public who had located her somewhere in town (believed to be Lewes Road). She arrived home at approximately 23:30 according to her housemate. The next morning she woke up in a lot of pain

and due to her injuries believed she has been the victim of a serious sexual assault and that her drink may have been spiked.

Following an extensive police investigation the matter was eventually filed as an undetected rape as the lines of enquiry proved inconclusive. Time scales meant that laboratory tests could not be carried out on samples to check whether the victim's drink had been spiked however it was noted that she had consumed a large amount of alcohol, including a number of drinks as part of a drinking game within Oxygen. It was also seen on CCTV during the investigation that she was unsteady on her feet and was unable to light her cigarette upon leaving the bar. This is a further example of staff at Oxygen not exercising a duty of care towards patrons, with both bar staff continuing to serve intoxicated people and door staff not intervening.

#### **15. Saturday 6<sup>th</sup> December 2014, 00:30hrs**

Whilst on Operation Marble police officers patrolling West Street became aware of a scuffle outside Oxygen which door staff had split up. It was a group of males against a lone male. The lone male had a bloody nose and security had identified two males who were responsible.

Door staff stated to the attending officers that the lone male was on his own in Oxygen and that he was a friend of the owner's son and a known trouble maker. They commented that the lone male tended to cause a lot of problems at the bar and although they were not aware what happened inside the venue, a group came out and a fight started. Independent witnesses stated that the lone male was being aggressive inside the bar which had then led to the scuffle outside. Officers dealing with the lone male noted he was clearly drunk, refused all details and was abusive and shouting in the street.

While dealing with the lone male, Mr Saied Zargham's (PLH/DPS) step son identified himself to the police officers and said that the lone male was not at fault and that the lone male had not been in the bar. The step son was challenged about this as door staff had stated the lone male had been inside the bar and he then walked away.

The lone male refused to give any details to police and an ambulance then arrived to deal with his injuries. He was treated by them though would still not give his details in police presence. He did however state that he was 17 years old.

The rest of the group were issued a Section 35 Direction to leave dispersal notices as no allegations were being made. During this process, one of the males who was being detained for the assault became abusive and was swearing at officers. It was noted he was 'extremely drunk'. The male was arrested for breaching the Section 35 notice and taken to custody.

The male's custody record shows that he was identified as drunk and that he was placed on 30 minute rouse checks because of this. No further action was taken on the matter.

### **16. Sunday 7<sup>th</sup> December 2014, 01:40hrs**

Door staff at Oxygen flagged down police officers on Operation Marble as they had ejected a male from inside the venue following two females approaching them stating that the male had made rude/crude gestures towards them which they found offensive. The male was now refusing to leave the area and shouting at door staff.

Officers approached the male and asked him to move away. They noted that he was unsteady on his feet and smelt strongly of alcohol. Whilst interacting with police the male swore and was warned about his language. Police drove the male to the hotel which he stated he was staying at but staff had no knowledge of him. The male then became abusive, shouting and swearing at officers and was arrested for drunk and disorderly.

The male's custody record shows that he stated he had consumed 8 pints and that he was placed on 30 minute rouse checks because of his level of drunkenness. The male was issued a Penalty Notice for Disorder (PND) for being drunk and disorderly and released from custody that morning.

### **17. Thursday 18<sup>th</sup> December 2014, 13:30hrs**

A meeting was held at John Street Police Station Brighton attended by APS Ben Hearth and Claire Abdelkader from Sussex Police and Mr Saeid Zargham (DPS/PLH) and David Croft (General Manager) from Oxygen.

High levels of intoxication at the venue were discussed and that swift and decisive action needed to be taken to address the issue. Concerns around vulnerable persons and a recent allegation of sexual assault following a female leaving Oxygen were also raised with a reminder that allowing persons to become highly intoxicated leads to vulnerability as well as other issues.

It was confirmed with Mr Zargham and Mr Croft that Condition 1 under Annex 3 on the premises licence was understood and that recent breaches of this would not continue.

The benefit and positives of having an ID Scanner at a licensed premises was discussed when raised by Mr Zargham. It was agreed that Mr Croft would come back to Police Licensing with any decision. Assurances were given that changes would be made.

Sussex Police received an email that evening with an Action Plan attached from Mr Croft which covered the following points and gave a timeline for completion:

- (1) Staff training to be carried out both for bar and door staff relating to intoxication
- (2) Staff training around identifying vulnerable persons/safe space
- (3) Ensure 100% Check 30 policy being carried out by all staff

- (4) Work closely with police to ensure incidents being recorded correctly
- (5) Ensure staff attend BCRP meetings and pass on relevant information to other staff

A copy of the meeting notes were sent to Mr Zargham and Mr Croft by email for their reference.

#### **18. Sunday 21<sup>st</sup> December 2014, 02:03hrs**

Whilst on Operation Marble police officers were alerted to Oxygen where a male victim had blood pouring from his head. The victim was described as 'very drunk' and was unable to tell police much about what had happened because of this. A witness stated that the male victim had been talking to a female inside the venue when another male picked up a glass and threw it at the victim's head. The glass bounced off the top of the victim's head and then hit a wall where it smashed. The broken glass was still in situ and the scene preserved for scene of crime officers to attend.

The male suspect was identified by the victim and arrested by police for Grievous Bodily Harm (GBH). It was noted that the suspect was also 'very intoxicated'. An ambulance was called for the victim and paramedics told police that the wound would require at least 3 stitches.

The suspect was taken to custody where he was searched and drugs were found on his person, which were later tested and identified by police as cocaine. It was noted he was extremely drunk and he was placed on 30 minute rouse checks. He gave a 'no comment' interview and was charged to court.

The suspect was found guilty at court for assault by beating and possession of Class A drugs.

#### **19. Saturday 27<sup>th</sup> December 2014, approx 00:40hrs**

Whilst on Operation Marble police officers were called for assistance at Oxygen where they were having problems with a highly intoxicated male. The male had been told he would not be served any further drinks however his friends had bought him some more drinks and so he had been asked to leave. During the ejection the male had become verbally aggressive and was arguing with door staff outside the premises on police arrival. Police spoke to door staff and the male who it was noted was very drunk. The male was sent on his way.

#### **20. Thursday 1<sup>st</sup> January 2015, 01:50hrs**

Police Licensing Officer APS Hearth along with SC Garth and SC Soderholm visited Oxygen as part of the New Years Eve licensing checks. The premises was quiet with approximately 20 patrons inside however it was noted that 4 persons were being served in the area of the bar defined as waiter/waitress service only under condition 1 (Annex 3). This was highlighted to David Croft (General Manager) who apologised and stated that he had not informed his

staff despite attending the meeting at John Street Police Station on 18<sup>th</sup> December 2014 where this issue was raised. Mr Croft was verbally warned this was a breach under Section 136 of the Licensing Act 2003 and that this had been an ongoing issue highlighted to both managers and Mr Zargham the PLH/DPS.

Oxygen had a Temporary Event Notice in place to cover regulated entertainment at the premises but a written assurance had been provided by Mr Croft on 10<sup>th</sup> December 2014 that 'we will be adhering to the licence conditions'.

### **21. Monday 5<sup>th</sup> January 2015**

Sussex Police warning letter sent to Mr Zargham (PLH/DPS) at the premises and his home address following the Section 136 breach witnessed on 01/01/2015.

### **22. Thursday 8<sup>th</sup> January 2015, 18:47hrs**

Email sent to Police Licensing from Mr Croft with a letter attached in response to the points raised by Sussex Police in the Section 136 Breach letter of 05/01/2015. It covered the following further steps Mr Croft was taking to prevent persons standing/being served at the wrong area of the bar:

- (1) An assurance that Mr Croft was aiming to increase seating within the venue and that there were currently 80 allotted seating areas.
- (2) The placing of a seating area in front of the no service area with the proposed purchasing of a larger table and chairs to increase the prominence of this seating area.
- (3) Placing of extra signs on the bar area to advise customers which area was not a service area.
- (4) Hiring of 1x extra waiting staff to make sure tables are serviced properly.
- (5) Staff ensuring the actual standing area is free of obstruction to encourage customers to use and not stray into seating areas.

Mr Croft attached photos to show the bar and signage in place.

An email was sent to Mr Croft from Police Licensing confirming this had been received and to confirm that Licensing Officer PC Upton would be making further contact and conducting a follow up visit.

### **23. Sunday 11<sup>th</sup> January 2015, 00:30hrs**

Police Licensing Officer PC White attended the premises to complete a licensing check. Operation Marble officers were also within the premises and had checked the toilets where no issues were identified except for the female toilets being dirty.

PC White noted that Mr Zargham and Mr Croft were both within the premises socialising and Mr Zargham repeatedly informed PC White that they were not

working at that time.

The furniture that had been placed in front of the bar was observed and Mr Croft told PC White that some new seats for this area were also on order and should be arriving soon. During the visit PC White did not witness anyone being served in the area and door staff stated they were being pro active in keeping it clear.

#### **24. Tuesday 13<sup>th</sup> January 2015, 16:00hrs**

Police Licensing Officer PC Upton attended Oxygen for a meeting with David Croft to follow up the Action Plan submitted in December 2014. Mr Croft stated that the new table in front of the bar was working well and has stopped people congregating there.

Mr Croft also confirmed he has now employed two full time waitresses and an extra member of bar staff to leave himself free to be on the bar floor. He commented that he wanted to get Sky back into the premises to show Sports and change the menu so that more snack food was available.

Discussion was had around an ID Scanner at the premises and Mr Croft stated that this was still up in the air but that he was speaking to Mr Zargham to try and convince him to get one.

#### **25. Tuesday 20<sup>th</sup> January 2015, 13:27hrs**

Following an email from Police Licensing requesting an update on the Action Plan, Mr Croft replied via email stating that:

- Training sessions had been held for all current staff on site including a full induction as to the licensing laws, spotting intoxication, refusal of service and looking out for vulnerable individuals.
- Door staff had been fully briefed (and would have ongoing briefings) on refusal of entry to Oxygen of intoxicated individuals and that there should be 100% ID check 30 as well as re-checking individuals inside the venue.
- Posters had been visually introduced around the venue explaining the refusal of service and responsible drinking policy.
- He spends peak periods around the venue looking for signs of intoxication and asking for the removal of anyone deemed to be drinking irresponsibly or becoming too intoxicated.
- Refreshing and further training was booked in for the staff as a whole on Sunday 25<sup>th</sup> January 2015.

He also stated that since New Years Eve he had also endeavoured to ensure that the licence was being adhered to following the licensing visit.

#### **26. Tuesday 27<sup>th</sup> January 2015, 16:21hrs**

Police Licensing received an email with an update on IDs being seized and

returned at the venue. Attached were a copy of Mr Croft's meeting notes for the whole staff refresher training carried out on Sunday 25<sup>th</sup> January 2015. It showed that a number of points were covered including (which were highlighted in the document by Mr Croft):

- Drinking policy
- Service points (licensing)
- Helping spot intox/trouble
- What to do if believed someone is intox or may have had too much
- Vulnerable people and suspicious activity by person/persons within the venue
- ID checking even if bouncers are on duty
- Refusal of service policy, if unsure to ask David Croft or door staff

Police Licensing responded to this email to confirm that the meeting notes had been received.

### **27. Friday 20<sup>th</sup> February 2015, 23:10hrs**

On Friday 20<sup>th</sup> February 2015, Sussex Police conducted a test purchase operation in Brighton. At 23:10hrs a 17 year old female, followed later by a 17 year old male, entered Oxygen. At least two door staff were on duty and were based on the door at this time. Neither the female or the male were age challenged on the door and were allowed to enter the premises.

Both the children approached the bar separately, but accompanied by plain clothed police officers, and ordered 2 bottles of alcoholic drink each. Both were served separately by the same female staff member and the sales were observed by plain clothed police officers within the venue. At no point were the children asked their ages or to produce any form of identification by the member of bar staff within the venue.

Uniformed officers attended the premises and the individual who sold the alcohol and subsequently issued with a £90 Penalty Notice for Disorder (PND) by PC White. The PND has now been paid by the seller.

Police licensing officers within the premises also noted that the queue for the bar was two to three people deep along the entire length of the bar and the majority of the persons in the premises were standing and consuming their drinks.

Since June 2014 there have additionally been 7 walkthroughs of Oxygen by police officers on Operation Marble. No observations of note were made during these visits.

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Sussex Police contend that the management of these premises has fallen well below an acceptable standard and there has been a disregard for the

Licensing Objectives, especially regarding the protection of children from harm, public safety and the prevention of crime and disorder.

The issue of underage persons being able to access the premises appears to be a persistent problem at Oxygen, with a 17 year old also being allowed inside the premises during the incident in December 2014. The test purchase failure on 20<sup>th</sup> February 2015, during which two children were served alcohol further proves that the protection of children from harm licensing objective has been seriously undermined. This needs to be considered in the context of the previous Review which was also as a result of sales of alcohol to children, on 3 occasions.

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:

*'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:*

Specifically:

- *For the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*

*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 Wednesday 11<sup>th</sup> March 2015 the Facebook page of Oxygen was checked and the following reviews were made by people who had attended the venue:

- 'Can't go wrong with a bit of oxygen, perfect for a few shots to start your night out!'
- 'Amazing shots! Super friendly staff :))'
- 'Brilliant place to go, great shots and alive staff.....'

It is clear from the above comments, which is further evidenced by licensing visits that Oxygen is trading as a largely vertical drinking establishment and shot bar which promotes drunkenness. Screenshots of this will be provided as part of the police evidence bundle. Promotional photographs, also from Facebook, additionally demonstrate how condition 1 under Annex 3 (relating to the premises operating as a café bar with 25% of the bar being permitted for standing) is not being adhered to and is almost impossible to enforce.

Sussex Police have met with the management of the premises and various action plans have been drawn up, but issues continue to occur. Therefore, Sussex Police contend that significant action must be taken to promote the

licensing objectives and keep children and adults safe.

Sussex Police have considered asking the committee to consider the removal of the DPS, however as he is also the Premises Licence Holder, this would be ineffective. We have also considered asking for a change of door team but further to an email from Pagoda Security on Tuesday 24<sup>th</sup> February 2015, this has already been done. It is noted that a number of proposed changes were put forward in the email, however Sussex Police do not believe the measures proposed will address the issues at the premises.

Therefore we would ask the licensing committee to seriously consider taking the following measures:

- Suspending the Premises Licence for a period of 3 months
- Reducing the hours for licensable activity and opening hours
- Applying additional and updated conditions to the Premises Licence.
- Applying a condition to the Premises Licence which requires the premises to install a reconsignised electronic ID scanning system

#### **Suspension:**

- Suspension of the premises licence for a period of 3 months. As this is the second time the premises has been subject of Review proceedings and due to the serious nature of the incidents, Sussex Police believe that the full 3 month suspension should be applied. This will give the PLH the time to instigate new procedures and send a clear message to the management that the continued breaches of the premises licence and failure to promote the licensing objectives will not be tolerated by the Licensing Authority.

#### **Reduction of hours:**

##### Licensable activity:

- Sale by retail on alcohol (on the premises): 09:00 – 00:00 (Sales will cease to the outside area at 20.00)
- Late night refreshment (indoors): 23:00 – 00:00
- Removal of seasonal variations relating to New Years Eve

The opening hours of the premises:

- Every Day: 09:00 - 00:30

The incidents referenced in this review evidence that drunkenness and incidents increase at the premises after midnight. Oxygen is considered a 'pre drinks bar' (feeder bar for nightclubs) by the admittance of the management Mr Croft and Mr Zargham (DPS/PLH) in the meeting with police on 18<sup>th</sup> December 2014. A reduction in hours of the premises would prevent these levels of drunkenness and subsequent incidents from happening.

**Conditions:**

Sussex Police believe that the below conditions are insufficiently precise. Therefore, we request that consideration be given by the Licensing Committee to replacing the following conditions:

**Removal of the following conditions under Annex 2:**

1. CCTV and appropriate recording equipment to be installed operated and maintained throughout the premises internally and externally to a standard specification following consultation with Sussex Police.
5. After 20.00hrs no children will be allowed on the premises.
6. The premises shall at all times operate a "Challenge 30" policy:
  - i. Suitable and sufficient signage advertising the "Challenge 30" policy will be displayed in prominent locations in the premises;
  - ii. All staff members engaged, or to be engaged, in selling alcohol on the premises shall received the following training in age-restricted sales;
    - Induction training which must be completed prior to the sale of alcohol by the staff member; and
    - Refresher training thereafter at intervals of no less than 8 weeks.
  - iii. All age-restricted sales training undertaken by staff members shall be fully documented and recorded in writing and all training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request;
  - iv. The premises shall at all times maintain and operate and age-restricted sales refusals book which shall be reviewed by the Designated Premises Supervisor at intervals of no less than 4 weeks and feedback given to staff as relevant.

**Removal of the following part of condition 1 under Annex 3 (*in bold*):**

1. The premises will operate as a Café Bar. Namely, the sale of intoxicating liquor and other beverages shall be waiter/waitress service for the consumption by persons seated at tables, and substantial food shall be available at all times, **except in the small agreed area near the servery as shown on the plans which is about 25% of the inside area.**

The 25% available area for standing is causing many of the issues at Oxygen and promotes drunkenness as it encourages vertical drinking.

It is important that there is a mix of premises in West Street, especially those which are food led which is why the licence was originally granted for a Café/Bar. Café / Bars by their very nature must have conditions which ensure the premises does not become a vertical drinking establishment , which has

happened in this case. It is necessary and proportionate for the police to take robust enforcement action against this type of premises which regularly flaunts the licensing objectives and puts the public at risk.

**The above conditions to be replaced with the following new / more precise conditions:**

Annex 2:

1. 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.
  - 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.
  - Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.
  
5. No children will be admitted to the premises at any time.
  
6. The premises shall at all times operate a "Challenge 30" policy:
  - i. Suitable and sufficient signage advertising the "Challenge 30" policy will be displayed in prominent locations in the premises;
  - ii. All staff members engaged, or to be engaged, in selling alcohol on the premises shall receive the following training in age-restricted sales and refusing the sale of alcohol to a person who is drunk;
    - Induction training which must be completed prior to the sale of alcohol by the staff member; and
    - Refresher training thereafter at intervals of no less than 8 weeks.
  - iii. All age-restricted sales training undertaken by staff members shall

be fully documented and recorded in writing and all training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request;

7. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The incident log will be inspected and signed off by the DPS (or a person with delegated authority) at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence. Any refusals made at any of the bars/point of alcohol service e.g. for intoxication or underage, will also be recorded in writing.
8. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated at all times door staff are on duty and ALL persons entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioners good practice guidance for ID scanning in clubs and bars.
9. There will be a Personal Licence Holder on duty at the premises from 20:00 until closing to ensure the responsible sale of alcohol.

#### Annex 3:

1. The premises will operate as a Café Bar. Namely, the sale of intoxicating liquor and other beverages shall be waiter/waitress service for the consumption by persons seated at tables, and substantial food shall be available at all times. There will be no vertical drinking.

#### **Installation of an Electronic ID Scanning System:**

Sussex Police consider the installation of an electronic scanning system to be particularly important in these premises, as it is designed to be able to recognise many forms of I.D. which it is able to authenticate.

Sussex Police have been advised the cost of installing one of these systems is £45 per week.

Installation of a system will ensure under age children will be unable to enter this venue, as fake and altered ID's are immediately detected.

The system also acts of a significant deterrent to those intent on committing crime, for example a sexual offence or handbag / phone theft, as the potential

perpetrator knows they can be identified at a later date, as the details of each ID that is scanned is stored into the database.

A number of ID scanners have already been installed in the West Street and Lower Esplanade area of the City, and proven very effective in those venues who have installed them, for example, to prevent bag and phone thefts. The number of thefts have reduced significantly since the installation of the system.

The ID Scanner can be connected to as many venues as required by the operator, within whatever radius they require.

Two Sussex examples:

- a male had been banned for violence against a member of bar staff in Portsmouth and the ban was highlighted when he tried to gain entry to a venue in Chichester and was refused entry.
- an underage female tried to gain entry to a Brighton night club using her older sister's provisional drivers licence. The ID Scanner immediately detected that the older sister's ID had been used to gain entry to the venue already, so it flagged a duplicate entry – and the underage female was refused entry.

Sussex Police contend that suspension of the premises licence, the reduction in hours for licensable activity and the additional/updated conditions are appropriate and proportionate responses to the failure of the premises management to promote the licensing objectives of the prevention of crime and disorder, public safety and the protection of children from harm.

**Please tick yes**

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

If yes please state the date of that application **19<sup>th</sup> December 2008**

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

Sussex Police have previously applied for a review of the premises licence for Oxygen, 75 West Street following three failed test purchases in the year 2008.

**Please tick yes**

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

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

**Part 3 – Signatures** (please read guidance note 3)

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

Signature (on behalf of the applicant)



Date

16<sup>th</sup> March 2015

Capacity

Force Licensing & Public Safety Manager on behalf of Chief Superintendent,  
Divisional Commander, Brighton & Hove Division

<b>Contact name (where not previously given) and postal address for correspondence associated with this application</b> (please read guidance note 5)	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

#### Notes for Guidance

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

# WOODIES



£10

Add another shot for £1

£14

### Good Disc

- Baby Woo Woo
- Bakewell Tart
- Bubble Gum
- Squashed Frog
- Traffic Light
- Dick Splitter
- Clit Splitter\*
- The Twerk\*

### Bad Disc

- Cocksucking Cowboy
- Red Headed Slut
- Bitch Slap
- Jelly Fish
- Blowjob
- Ginger Bread Man
- Chocolate Cake\*
- Y.O.L.O.\*

### Ugly Disc

- Motorboat
- Red Headed Slut
- Baby Woo Woo
- Brain Haemorrhage
- Flatliner
- Headbanger
- Dragon's Breath\*
- Dick Splitter\*

## Have you got the balls to handle Big Woody's 42 Shots?

Options	Description	Price
Full Wood	All shot-tails as shown on menu.	£102
Half Wood	The Good, The Bad and the Ugly with the naughtiness of 2 managers specials.	£84
No Wood	All angel and devil shots doubled with the cheekiness of 1 manager's special.	£75



# MEAL DEALS

Meal Deals £10 Sun-Thurs, £15 Fri/Sat

**DEAL 1**

- + 3 Sex On The Beach
- + 2 Jäger bombs
- + 2 shots



**DEAL 2**

- + 2 Blue lagoon cocktails
- + 2 Jäger bombs
- + 2 shots



**DEAL 3**

- + 2 bottles of beer
- + 2 Jäger bombs
- + 2 shots



**DEAL 4**

- + 2 vodka mixers
- + 2 Jäger bombs
- + 2 shots



Family Pack £30 Sun-Thurs, £40 Fri/Sat

**FAMILY PACK**

- + 4 VODKA MIXERS
- + 1 JÄGER MEGABOMB
- + 4 JÄGER GRENADES
- + 4 SHOTS

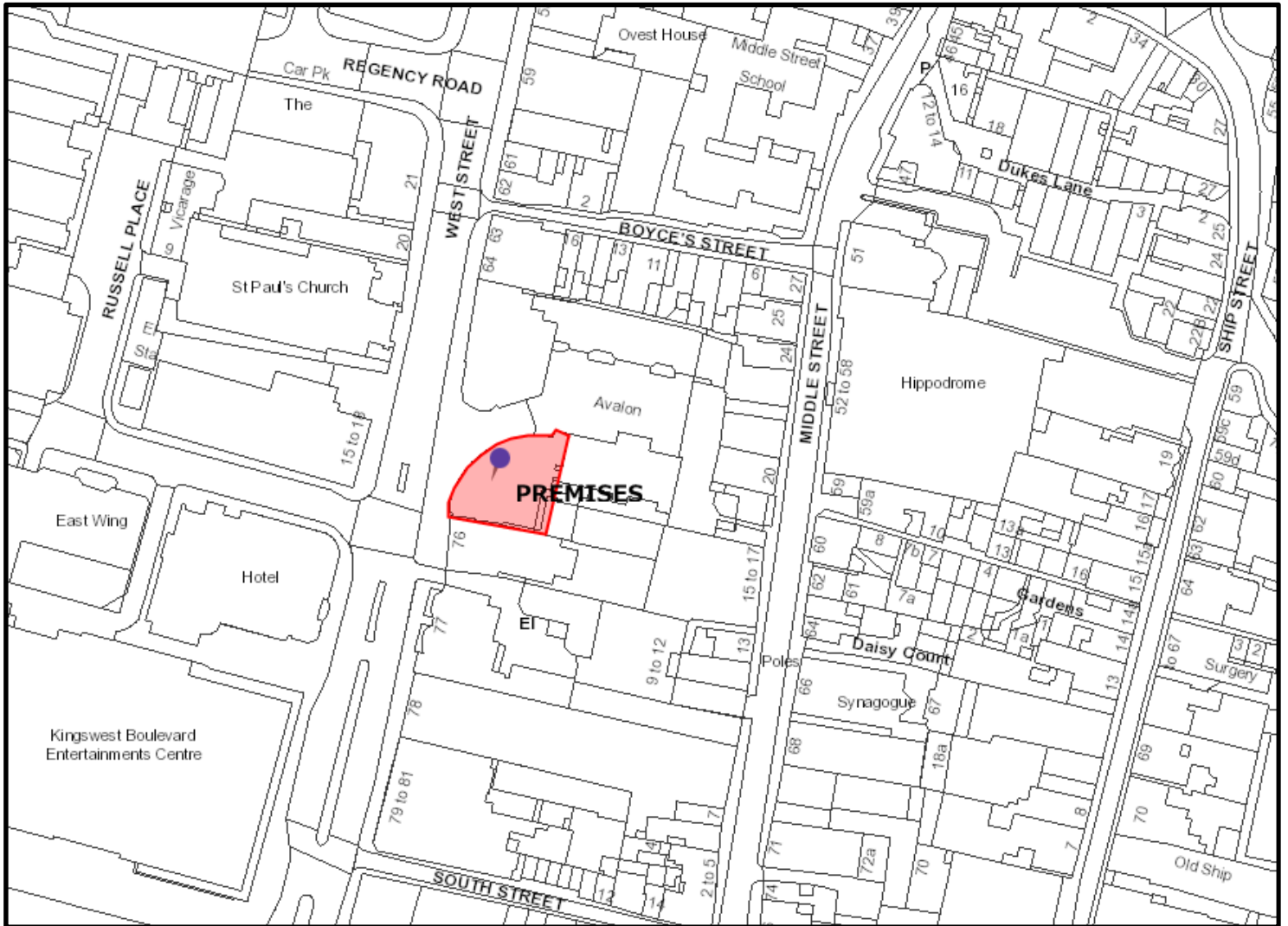




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# APPENDIX D





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# APPENDIX F

## ANNEX A

### “PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

#### The problem

1. In many cases, revocation of a premises licence effectively kills any business which is focussed on retailing alcohol. This means that not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises – such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the Act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.
2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.
3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.
4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase” failure often masks multiple offences that have gone undetected.

#### **Supporting enforcement agencies**

5. The Government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below. This will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.
6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.
7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by an interested party like a local resident or another local business.

### **First intervention**

8. Responsible authorities will be encouraged to propose a package of touch new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:
  - Removal of the designated premises supervisor and his/her replacement (the manager is removed);
  - Suspension of the licence for between 1 day and 3 months according to the circumstances.
  - Restriction on trading hours – cutting hours of trading in alcohol.
  - Clear warning that a further appearance will give rise to a presumption of revocation.
9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.
10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.
11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.

12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

### **Second intervention**

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.
14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

### **Implementation**

15. Requires:
  - Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
  - Initial letters to Leaders of local authorities and Chief Executives;
  - Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.
16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central Government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.
17. seek more reviews in the knowledge of the yellow card/red card system described below. This will mean not giving formal warnings. It will

## **ANNEX B**

### **POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES**

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

### **GREATER CONTROL OVER SALE**

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.

3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.
5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks.
7. The licensed premises shall join the Business Crime Reduction Partnership scheme.

### **TRAINING**

8. All staff to read and sign a declaration that they understand the law every time they start a shift.
9. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

### **ALCOHOL SALE BANNED AT CERTAIN HOURS**

10. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.
11. No alcohol sales – Friday to Sunday. Impact on all four licensing objectives.

### **ALCOHOL DISPLAYS**

12. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.
13. No alcohol stocks promoted alongside goods likely to appeal to children (e.g. confectionary, toys).

### **CUTTING DOWN ON SHOPLIFTING**

14. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.

15. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.
16. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

### **NAMING AND SHAMING**

17. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

### **OTHERS**

18. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.
19. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.
20. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.
21. Designated single items – beer, alcopops and cider – not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.
22. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.
23. Where there is no designated smoking area, readmission after midnight should normally be prohibited.  
mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.

