

## LICENSING PANEL

MONDAY, 28TH OCTOBER, 2019, 2.00 PM

SHIELD ROOM, CIVIC CENTRE, WEST PADDOCK, LEYLAND, PR25  
1DH

### AGENDA

- 1 Apologies for absence**
- 2 Declarations of Interests**

Members are requested to indicate at this stage in the proceedings any items on the agenda in which they intend to declare an interest. Members are reminded that if the interest is a Disclosable Pecuniary Interest (as defined in the Members' Code of Conduct) they must leave the room for the whole of that item. If the interest is not a Disclosable Pecuniary Interest, but is such that a member of the public could reasonably regard it as being so significant that it is likely that it would prejudice their judgment of the public interest (as explained in the Code of Conduct) then they may make representations, but then must leave the meeting for the remainder of the item.

- 3 Review of Premises Licence**

Report of the Head of Licensing attached.

(Pages 3 - 26)

Gary Hall  
INTERIM CHIEF EXECUTIVE

Electronic agendas sent to Members of the Licensing Panel Councillors Ken Jones, Jacky Alty and Jacqui Mort

The minutes of this meeting will be available on the internet at [www.southribble.gov.uk](http://www.southribble.gov.uk)

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REPORT TO	ON
Licensing Panel	28 October 2019



TITLE	REPORT OF
Review of Premises Licence	Interim Monitoring Officer

Is this report confidential?	No
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## PURPOSE OF THE REPORT

1. To provide an overview of the application and inform members of the relevant parts of statute and guidance relating to the review application.

## RECOMMENDATIONS

2. Members are requested to:

Note the content of the report; and conduct the hearing in accordance with the hearing procedure and determine what steps are appropriate to promote the Licensing objectives.

## CORPORATE OUTCOMES

3. The report relates to the following corporate priorities: *(tick all those applicable)*:

Excellence, Investment and Financial Sustainability	
Health, Wellbeing and Safety	X
Place, Homes and Environment	X

Projects relating to People in the Corporate Plan:

Our People and Communities	
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## BACKGROUND TO THE REPORT

4. On 3<sup>rd</sup> April 2019 Officers attended S & D Convenience Store on Leyland Lane, Leyland on a routine visit and spoke with a staff member called Ian Whittle. Officers found that the store had in fact been taken over by new owners some months previously. The licence was still in the previous owner's name and had not been transferred. Officers were able to speak to the owner's wife Feni Patel on the phone whilst still in the store and advised the lady that the licence must be transferred by the end of the week.

Officers made two further calls to the new owners of the business to chase what was happening with the transfer of the licence. On 14<sup>th</sup> May 2019 officers decided to hand deliver

a letter to the premises outlining the concerns the licensing authority had over who was running the premises. The licence was still in the old occupier's name and the DPS had not been changed since October 2018 when Mr Sumitkumal Patel took over the premises. A copy of the letter is attached to this report title Appendix D.

On 22<sup>nd</sup> May 2019 both required applications to transfer the licence and change the DPS, were finally received transferring the licence and the position of DPS into Mr Patel's name.

Following concerns raised by the police on 5<sup>th</sup> July 2019, a licensing officer attended the premises. Mrs Patel was running the store and was asked to produce copies of staff training regarding under age sales and refusal logs. Mrs Patel wasn't able to provide any evidence the staff had been trained or evidence of any refusal of sales to under age customers. Mrs Patel was given a verbal warning about the breaches disclosed and given 7 days to rectify the deficiencies.

On 23<sup>rd</sup> July 2019 officers again visited the premises to follow up on the visit on 5<sup>th</sup> July to check the required documents were in place. Records of staff training were produced to licensing officers by Mr Patel for all the staff he had advised worked at the premises. Mr Patel explained to officers that the refusal system was a manual process through the till system which printed off a void transaction receipt which should then be completed by hand by employees.

This system seemed overly complex for staff to follow along with the fact that it would be easy to forget to log the tear off slips or even fail to print them off. Officers were left with a clear impression that the competence of the licence holder was limited at best and further guidance and assistance was required.

During this visit Mr Patel, the licence holder mentioned an idea he had regarding the sale of alcoholic slush. Officers asked him to put the idea on hold until further information could be obtained.

On 29<sup>th</sup> July 2019 officers had observed via social media that, the premises was advertising the sale of alcoholic slush even though Mr Patel had been asked to put the idea on hold until further information could be obtained.

Mr Patel was contacted by phone by a Licensing Officer and concerns over what containers would be used with reference to the fact Mr Patel only has a licence for Off Sales so can't sell alcohol in open container (as a bar with on sale would) and what measures would be taken to ensure that the alcoholic slush would not be sold to children considering that Mr Patel also has a second slush machine that sells non-alcoholic slush.

Photos via email were sent in by the licence holder showing containers that were unsuitable. It was of a design and construction that meant a customer was being served a drink ready to consume. A similar comparison would be serving a bottle of beer but removing the top before service. Following this, the licence holder took the comments on board and came back with an alternative container which was more appropriate.

Mr Patel's licence states the following conditions with relation to open containers and under age sales:

*Proof of age checks to ensure no sale of alcohol to under age persons.*

*OFF-LICENSED CONSUMPTION*

*Alcohol shall not be sold in an open container or be consumed in the licensed premises.*

On the 16<sup>th</sup> August 2019 the Police and Licensing Officers performed a test purchase exercise. A 16 year old male was sent into the premises to try to purchase alcohol. He was sold a large 620 ml bottle of peroni and a pink gin alcoholic slush which was served to him in one of the open containers.

Members of staff who were present and working at the time were not included on the written authorisation that had been previously provided to officers. The DPS was then asked to produce copies of refusals to under age customers since the last visit on the 23<sup>rd</sup> July 2019 where he was told to keep records by licensing officers, he was only able to produce one copy of a refusal.

Mr Patel was asked especially with it being towards the end of the school summer holidays why he had no other copies of refusals. He stated that the people who are under age know not to try and get served at his premises.

On 22<sup>nd</sup> August 2019. Licensing officers revisited the premises following the failed test purchase on 16<sup>th</sup> August 2019. Staff training was requested for the members of staff present on the evening of the failed test purchase. No training was on file for the member of staff Joshua Hill who served the underage volunteer and Mr Patel's wife. After further scrutiny it came to light that the training Mr Patel had provided was actually produced by the old licence holder in 2017 and not Mr Patel.

On 07/10/2019 the premises was retested as part of an underage test purchase exercise, the volunteer was a 14 year old female who tried to purchase alcohol in the premises, she was refused the sale.

## **REPRESENTATIONS FROM RESPONSIBLE AUTHORITIES**

5. Please see Appendix B and C - Lancashire Constabulary representations in support of the review of the premises licence.

## **PROPOSALS (e.g. RATIONALE, DETAIL, FINANCIAL, PROCUREMENT)**

### **6. *Determination of an application under Section 52 of the Licensing Act 2003***

Under Section 52 Licensing Act 2003 the Authority must have regard to the application and any relevant representations and take such steps ...(as are outlined below)... if any, as it considers necessary for the promotion of the licensing objectives.

The steps are:-

- a. to modify the conditions on the licence
- b. to exclude a licensable activity from the scope of the licence
- c. to remove the designated premises supervisor
- d. to suspend the licence for a period not exceeding 3 months
- e. to revoke the licence.

Obviously the panel can also choose to do nothing for example if the application is frivolous, vexatious or repetitive and the panel must ensure that any action they take is proportionate to the four licensing objectives.

Numerous paragraphs of the Section 182 Guidance are worthy of mention including;

- 11.10 *Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holder's early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take*

*to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.*

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- *modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;*
- *exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)*
- *remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;*
- *suspend the licence for a period not exceeding three months;*
- *revoke the licence*

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

The Council must carry out its licensing functions with the intention of promoting the licensing objectives.

The licensing objectives are:-

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

The Panel are asked to consider the seriousness of the issues disclosed and deal with this application and take regard of;

1. Its own policy; and
2. Secretary of State Guidance (section 182 of the Licensing Act 2003).

## **FINANCIAL IMPLICATIONS**

7. There are no significant financial implications.

## **LEGAL IMPLICATIONS**

8. The Licensing Authority are under a statutory duty to facilitate the review hearing. When determining the hearing the council must comply with the rules of natural justice. The decision taken by the panel should be appropriate and proportional in addressing any undermining of the licensing objectives. Any party at the hearing has the right to appeal the decision to the magistrates.

## **COMMENTS OF THE STATUTORY FINANCE OFFICER**

9. No further comments.

## COMMENTS OF THE MONITORING OFFICER

10. When exercising its powers in this regard the Panel should have due regard to the relevant statutory provisions and associated statutory guidance. It should give careful consideration to all representations made by – or on behalf of the licence holder. It should be seek to be balanced and proportionate in its approach. As ever it must ensure that it acts reasonably throughout – both with regard to the substantive issues but also to procedural matters.

### OTHER IMPLICATIONS:

▶ <b>HR &amp; Organisational Development</b>	No implications here
▶ <b>ICT / Technology</b>	No implications here
▶ <b>Property &amp; Asset Management</b>	No implications here
▶ <b>Risk</b>	No implications here
▶ <b>Equality &amp; Diversity</b>	The Council always seeks to exercise its statutory powers and fulfil its duties in a balanced, proportionate and even handed way

### APPENDICES

Appendix A - Review Application and associated documents.

Appendix B - Police representation in support of the review application

Appendix C - Warning letter regarding transfer of premises licence

Appendix D – Transfer Warning Letter

**LT Member's Name:** David Whelan

**Job Title:** Interim Monitoring Officer

Report Author:	Telephone:	Date:
Chris Ward, Licensing Officer	01772 625330	09/10/2019

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# Appendix A

South Ribble Borough Council

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

### PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.  
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I David Whelan

(Insert name of applicant) **apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

#### Part 1 – Premises or club premises details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b>	
S & D Convenience Store 256 - 258 Leyland Lane Leyland	
<b>Post town</b> Preston	<b>Post code (if known)</b> PR25 1XL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b>
Sumitkumal Patel

<b>Number of premises licence or club premises certificate (if known)</b>
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#### Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible

# Appendix A

Authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

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

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

Please tick ✓ yes

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

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

## (B) DETAILS OF OTHER APPLICANT

**Name and address**

# Appendix A

Telephone number (if any)
E-mail address (optional)

## (C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address  Licensing Authority Civic Centre West Paddock Leyland PR25 1DH
Telephone number (if any)
E-mail address (optional)

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

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

Please tick one or more boxes ✓

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

# Appendix A

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

## Introduction

### 3<sup>rd</sup> April 2019

Officers attended the store on a routine visit and spoke with a staff member called Ian Whittle. Whilst at the store it became apparent that new owners had taken over some months previous but had not transferred the Licence. The staff member was able to reach the owner's wife, Feni Patel who was spoken too on the phone and advised to transfer the licence by the end of the week.

There were at least 2 further telephone calls chasing the transfer application but no dates of the calls have been recorded, after informal attempts had been made to get the transfer organised a more formal approach was taken

### 14<sup>th</sup> May 2019

As no transfer had been submitted a letter was delivered to the premises at 12.15 and served on Feni Patel outlining the concerns the licensing authority had over the fact the licence at the premises was still held by the previous occupier of the premises, The DPS had not been changed even though Mr Patel took the premises over in October 2018. A copy of this letter is attached as **Document 1**

### 22<sup>nd</sup> May 2019

An application to transfer the Premises Licence and DPS was made by Mr Sumitkumal Patel making him the licence holder and also the DPS at the premises.

### 5<sup>th</sup> July 2019

An officer attended the premises following concerns raised by the police. On attendance the store was being run by the wife of the licence holder Mrs F Patel. She was asked to demonstrate what proof of age training was in place and asked to produce a refusal log. She was unable to demonstrate any proof that the staff had been trained and there was no refusal log at the premises.

Mrs Patel was given a verbal warning about the breaches disclosed and given 7 days to rectify the deficiencies.

### 23<sup>rd</sup> July 2019

Following the visit on the 05/07/2019 Officers again visited the premises. Staff training appeared at the time to be satisfactory for the staff Mr Patel had named as working at the premises but the refusal log was a manual process via the till system, when a refusal is made, the staff member is directed to print off the void transaction and sign the tear off receipt which would then in turn demonstrate that a refusal had been made. This system seemed overly complex for staff to follow along with the fact that it would be easy to forget to log the tear off slips or even fail to print them off. Officers gave advice that the process needed simplifying, the example given was to use a straight forward log book.

Officers were left with a clear impression that the competence of the licence holder was limited at best and further guidance and assistance was required.

# Appendix A

During this visit Mr Patel the licence holder mentioned an idea he had regarding the sale of alcoholic slush. Officers asked him to put the idea on hold until further information could be obtained.

29<sup>th</sup> July 2019

Officer's attention was drawn to an advert on social media where the product was now being advertised despite the licence holder not receiving the necessary clarification regarding any precautions or safeguards that may have been required.

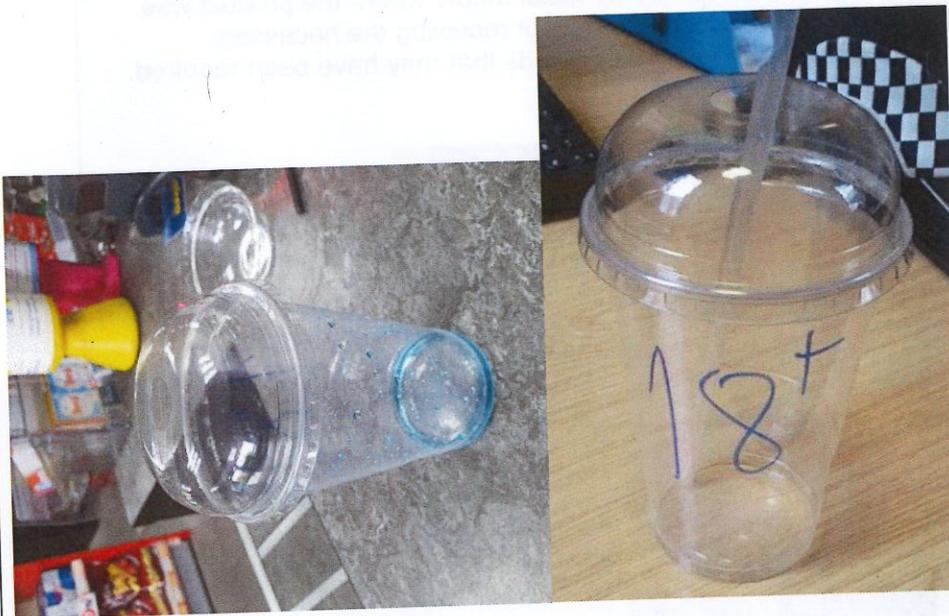


Contact was made on the phone and Officers concerns were relayed, there were requests for information which included clarification on the following points;

1. What containers would be used? Officers wanted reassurance that the containers would be properly sealed similar to other products sold by Off Licences i.e. cans and bottles. The product seemed to be served in the same containers as Mr Patel uses to sell non-alcohol slush. Mr Patel's Licence is for off sales only and any alcohol should not be sold in open containers as he does not hold the required "on-sales" licence.
2. What steps or measures would be taken to ensure children wouldn't be able to access or purchase the product?

The response to these enquires was a photograph of the container in use and a verbal promise that he doesn't sell to children.

# Appendix A



The photo sent in by the licence holder were of a containers that was unsuitable, it was of a design and construction that meant a customer was being served a drink ready to consume, a similar comparison would be serving a bottle of beer but removing the top before service. The spirit of this sort of establishment is to sell alcohol for the consumption "Off the Premises" only. The important distinction officers were looking for was a clear difference in containers between the ones that contained alcohol and the ones where no alcohol was contained.

The licence holder took the comments on board and came back with an alternative container.

# Appendix A



The following conditions have been taken from the premises licence.

*ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE*

*Proof of age checks to ensure no sale of alcohol to under age persons.*

*OFF-LICENSED CONSUMPTION*

*Alcohol shall not be sold in an open container or be consumed in the licensed premises.*

**16/08/2019**

A 16 year old test purchase volunteer was sent into the premises by the police supported by licensing Officers at 18:40, the volunteer was a young male, and he was sold a large 620 ml bottle of peroni and a pink gin alcoholic slush which was served to him in one of the open containers ( as below) with a straw.

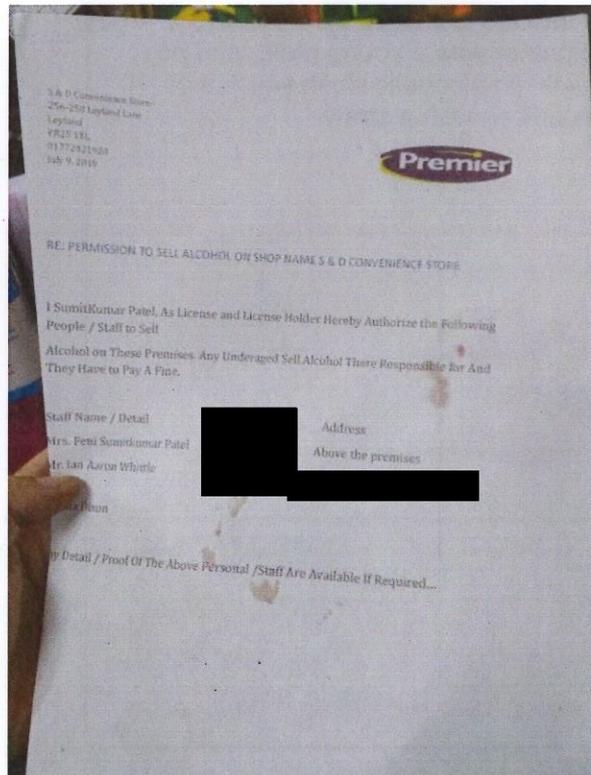
Photo redacted

# Appendix A

Alcohol purchased during the test purchase.



Written authorisation in store below, Does not include the name of the member of staff Joshua Hill who failed the test purchase.



# Appendix A

Following the failed test purchase the DPS was asked to produce records of refusals since officers last visited the premises on 23<sup>rd</sup> July 2019.

Mr Patel was only able to produce one record taken on 24<sup>th</sup> July 2019. This refusal doesn't look to be for alcohol but for rolling papers and tips.

Mr Patel was asked on the evening why all his staff was not included on the written authorisation, He advised that the member off staff Joshua Hill was leaving next week and he didn't see the need to include him if he wasn't going to be employed. On asking how long Mr Hill had worked there, Mr Patel advised that he was working there when Mr Patel took over the shop.

No further record of any refusals were able to be produced between 24<sup>th</sup> July 2019 to 16<sup>th</sup> August 2019. Mr Patel was asked especially with it being towards the end of the school summer holidays why he had no other copies of refusals, he stated that the people who are under age know not to try and get served at his premises.



## 22<sup>nd</sup> Aug 2019

Following the failed test purchase a visit was made to the premises by Officers. Staff training was requested for the members of staff present on the evening of the failed test purchase. No training was on file for the member of staff Joshua Hill who served the underage volunteer.

M Patel was also asked where the staff training was for his wife who was working at the premises but he was unable to provide this.

When studying the records further it came to light that the staff training was actually produced by the old licence holder in 2017 and not Mr Patel.

# Appendix A

## **Conclusion**

The licence holder has been given ample opportunity to comply with important Licensing Conditions mainly regarding staff training and refusal logs. Numerous visits have been performed by officers to the premises but Mr Patel has made no effort to ensure any staff training was in place for his staff.

The premises should be compliant with all legal requirements before they open for business. All staff should be trained before working in the premises let alone being left in the premises without the guidance of the DPS which was the case during the test purchase.

Officers concerns regarding selling the alcoholic slush had been conveyed to licence holder on multiple occasions, even following this the alcohol slush has been sold to a minor (as officers were concerned it would be) and also sold in one of the open plastic containers. The licence holder was informed by officers of the licencing authority and the Police Licensing Sergeant not to use.

Mr Patel has operated the premises since October 2018 no transfer of the licence and the DPS was received until May 2019 and it is likely that the licensing objectives have been undermined since the premises was taken over in October 2018.

Please see Para 11.23 of the Section 182 Guidance;

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

*11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is*

# Appendix A

*appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.*

# Appendix A

Please tick  yes

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

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

### Part 3 – Signatures (please read guidance note 4)

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

Signature



Date

10 September 2019

Capacity

Monitoring Officer / Legal Services Manager

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)**

South Ribble Borough Council  
Civic Centre  
West Padock

Post town

Leyland

Post Code

PR25 1DH

Telephone number (if any)

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

Notes for Guidance

# Appendix B

On behalf of Lancashire Constabulary, I wish to submit the following evidence to support the review application made by South Ribble Borough Council for the premise licence namely, S and D Convenience Store, Leyland Lane, Leyland.

On 28<sup>th</sup> May 2019, Police received an application to transfer the premise licence and vary the DPS to Mr Sumitkumar Patel. Licensing Officers conducted an interview with the new DPS at the premise on 30<sup>th</sup> May 2019. The premise licence conditions were run through at this visit and concerns were raised when there was no authority in place for non personal licence holders to sell alcohol in the DPS's absence and also no staff training records and no refusals register. Advice was given and the importance of the documentation being in place stressed and Mr Patel was informed that Police would return within four weeks to check on compliance. The Police made no representations at the time but did have concerns.

At 20:35 on Thursday 4<sup>th</sup> July 2019, a revisit was made by Licensing Officers to check compliance. The DPS was not present at the time of the visit and there was no authority to sell alcohol in place for the sales assistant on duty. There was no refusals register and no staff training records on the shop premise.

On 31<sup>st</sup> July 2019, Sgt Horton attended and found authority to sell alcohol in place at the shop and Mr Patel was able to print out a refusal form the EPOS till system. On sale at the time of the visit were alcoholic slush drinks which were being served in non sealed containers. Mr Patel was advised not to sell these until suitable containers were sourced and approved.

At 18:25 on 16<sup>th</sup> August 2019, a joint test purchase operation was conducted by Police and South Ribble Borough Council Licensing team. A 16 year old male entered the premise and was able to purchase a bottle of Peroni lager and a Parma Violet flavoured gin slush without being challenged for any identification and no verification checks being made. The gin slush was not in a sealed container. Following the sale, Licensing Officers entered the shop and Mr Patel came down to the shop floor from upstairs. There was no authority in place for the underage seller to make sales of alcohol, only one record of refusal available from the till and no staff training records for the two staff in the shop at the time, both who had been observed selling alcohol. The seller informed Officers that he had not received any staff training but was leaving the following week. Mr Patel was advised about not selling the alcoholic slush and the machine was switched off as there were no sealed containers available at the shop to sell it in. Once again advice was given regarding the poor management of the shop.

At 14:20 on 5<sup>th</sup> September 2019 Sgt Horton revisited the premise and found that the slush was now being sold in sealed containers and that both training records and refusal book were up to date.

The management of the premise has been poor for the four months that Mr Patel has been trading, there appears to be inadequate training provisions and a lack of concern for the protection of children. Licensing Officers are spending a significant amount of time at the premise and the premise licence operating schedule has insufficient conditions to promote the licensing objectives.

Police believe that the premise would benefit from a number of additional conditions

- One specifically regarding the competency of the DPS.

# Appendix B

Section 182 guidance states that:

2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- A CCTV system would be recommended to assist in the detection and prevention of crime and public safety.
- In order to protect children from harm Police suggest a condition that staff should be trained every 3 months in the Challenge 25 scheme and that this should all be recorded. In addition to this, Police believe that the alcoholic slush should be situated behind the till area out of the reach of children.

# Appendix C

## Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Richard Ian Charles Horton**

URN

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Age if under 18 >18 (if over 18 insert "over 18"). Occupation **PS 777**

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

Dated the **10th** day of **September 2019**

Tick if witness evidence is visually recorded   
(supply witness details on rear)

Signature

I am employed as a Police Sergeant supervising the Licensing Department in Southern Division.

On 31<sup>st</sup> July 2019 I visited the premises S & D Convenience Store on Leyland lane, Leyland to carry out a licensing visit. The DPS Mr. Sumitkumar Patel was present.

My attention was drawn to a three barrel slush machine on the main counter which was labelled that the contents of each barrel was an alcoholic slush mixture.

On the counter I also noted a number of clear plastic slush cups which had 18+ written on the side in marker pen.

The lids for these cups had a large hole in them and I told Mr. Patel that in my opinion these were not sealed containers. By way of a practical example I pointed out to him that if turned one of these cups upside down, the contents would pour out through the hole in the lid. Mr. Patel agreed with me that he was not using sealed containers to sell the alcoholic slush product.

I strongly advised him not to continue using these containers but to find something with a sealed lid.

I seized one of these cups as an example and I exhibit this as RICH777/01

Signature

Signature witnessed by

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# Appendix D



Date: 14<sup>th</sup> May 2019  
Your ref: \_\_\_\_\_ Our ref: n/a  
Please ask for: M.Marshall  
Extension: 5401 Direct Dial Tel: 01772 421491 (Gateway)  
Fax: n/a email: [Licensing@southribble.gov.uk](mailto:Licensing@southribble.gov.uk)

▶  
Mr Patel  
Parwar News  
256-258 Leyland  
PR1 9EG  
▶

Civic Centre, West Paddock,  
Leyland, Lancashire PR25 1DH  
Tel: 01772 421491  
Fax: 01772 622287  
email: [info@southribble.gov.uk](mailto:info@southribble.gov.uk)  
website: [www.southribble.gov.uk](http://www.southribble.gov.uk)

Dear Sir

## **Re: Failure to Transfer Premises Licence**

We visited your premises on the 3<sup>rd</sup> April and the 30<sup>th</sup> April 2019 where we conveyed our concern regarding the Premises Licence still being in the previous holder's name. Our information is that you took over the shop in October 2018?

The retail sale of alcohol requires a clear line of accountability where transparent authorisation is in place for all sellers. This is not happening when the holder of the licence and the DPS (Designated Premises Supervisor) disposed of the business over 6 months ago.

The Section 182 Guidance states;

*The main purpose of the 'designated premises supervisor' as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).*

Furthermore we have clearly notified you of our concerns regarding transferring the Premises Licence, again the guidance is clear regarding the recommended action should concerns not be addressed;

*Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.*

If the Licence is not transferred within 7 days of this letter I will apply to review the Licence, the result of a review could mean conditions being added and in the worst case the licence being revoked.

# Appendix D

Yours Faithfully.

**Mark Marshall**

Head of Licensing

**South Ribble Borough Council**

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