

LICENSING PANEL
(Licensing Act 2003 Functions)

Agenda Item 3

Brighton & Hove City Council

Subject: Review of a Premises Licence under the Licensing Act 2003

Premises: Three to Four
3 - 4 Western Road
Hove
East Sussex
BN3 1AE

Licence Holder: Shop 2 Win Ltd

Date of Meeting: 1 June 2009

Report of: Assistant Director Public Safety

Contact Officer: Name: Sarah Ranger Tel: 295801
E-mail: sarah.ranger@brighton-hove.gov.uk

Wards Affected: Regency

FOR GENERAL RELEASE

1. PURPOSE OF THE REPORT

- 1.1 To review a Premises Licence for **Three to Four** under the Licensing Act 2003.

2. SUMMARY OF REVIEW PROCESS

- 2.1 Existing licence attached Appendix A.
- 2.2. 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.
- 2.3 An application was received by the Licensing Authority from Sussex Police to review the licence granted to the premises known as Three to Four, 3 - 4 Western Road, Hove, East Sussex, BN3 1AE.
- 2.4 The grounds for the review relates to the following Licensing objectives:
- Prevention of Crime and Disorder.
 - Protection of Children from Harm.

Full details of the grounds for the review and a copy of evidence submitted by Sussex Police is attached in Appendix B.

2.5 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.

3. REPRESENTATIONS RECEIVED

- 3.1 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma. A summary appears below:
- 3.2 One representation has been received from Trading Standards, on the grounds of Protection of Children from Harm supporting the application submitted by Sussex Police seeking a three month suspension of the premises licence.

4. COMMENTARY ON LICENSING POLICY

- 4.1 The following extracts from Brighton & Hove Licensing Policy are considered relevant to this application and 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 focussed on matters which are in the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.
- 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
- 1.15 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act, and the conditions attached to licences, certificates and permissions will be focused on matters which are within the control of the licensee and will centre on the premises themselves and their immediate vicinity. When considering these terms and conditions the licensing authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

In respect of the prevention of crime and disorder

- 2.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority recommends 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 staff 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.
- 2.3 It is expected that the designated premises supervisor (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.

2.5.1 Diversity of premises

This attempts to ensure that there is a mix of the different types of licensed premises, particularly in areas where there is a high density of such premises. It will provide resilience against changing trends and attract a more diverse range of customers from different age groups, different communities of interest and with different attitudes to alcohol consumption. It gives potential for positively changing the ambience of the city or an area of it. This in turn may 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 encourages mixed use venues, varying hours of business and a wider age balance.

2.5.5 Care, control and supervision of premises

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 will suggest crime prevention measures in relation to, for example, the internal layout of the premises, close circuit television, help points, lighting and security staff. The Police may ask for conditions which support such measures to be imposed when planning or licensing applications are granted, e.g. type of licence, capacity, and opening time restrictions.

2.6 Shops, stores and supermarkets which provide alcohol for consumption off the premises: the normal scenario will be to provide for sales of alcohol at any time when the retail outlet is open for shopping unless there are very good reasons for restricting those hours.

2.8 Enforcement issues will be considered in the light of any relevant enforcement policies and close links will be sought between all enforcing authorities, e.g. through the use of intelligence sharing and strategy groups. Such protocols may lead to the targeting of agreed high risk and problem premises whilst permitting a lighter touch approach in respect of well run premises.

In respect of the protection of children from harm

- 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.
- 5.2 It is the committee'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.

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, 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.
- 6.7 This policy avoids duplication with other regulatory regimes wherever possible.

5. FINANCIAL & OTHER IMPLICATIONS:

5.1 Financial Implications:

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 new regime.

Finance Officer Consulted: Karen Brookshaw Date: 07.05.2009

5.2 Legal Implications:

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: 07.05.2009

5.3 Equalities Implications:

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.

5.4 Sustainability Implications:

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

5.5 Crime & Disorder Implications:

Licensing policy aims to prevent crime and disorder and protect public safety.

5.6 Risk and Opportunity Management Implications:

Licensing is a crucial business and employment opportunity and unnecessary regulation might lead to legal challenge.

5.7 Corporate / Citywide Implications:

The success of the city's tourism strategy requires a safe, attractive city centre to improve competitiveness. The Act may significantly change night time economy.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part A of Premises Licence.
2. Appendix B – Review Application & Supporting Evidence.
3. Appendix C – Applicant Information.
4. Appendix D –Map of area.

Documents in Members' Rooms

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council: Statement of Licensing Policy.

Background Documents

1. Environmental Health & Licensing Service, Brighton & Hove City Council (2008): The Licensing Act 2003 – Brighton & Hove City Council Statement on Licensing Policy.

APPENDIX A

**Schedule 12
Part A**

Regulation 33, 34

**Premises Licence
Brighton and Hove City Council**

Premises Licence Number

1445/3/2007/00985/LAPREN

Part 1 – Premises Details

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

Three 2 Four
3 - 4 Western Road
Hove
East Sussex
BN3 1AE

Telephone number 01273 777798

Where the licence is time limited the dates

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol
Every Day 00:00 - 24:00

The opening hours of the premises

Every Day 00:00 - 24:00

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

Alcohol is supplied for consumption off the Premises.

Part 2

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

Shop 2 Win Ltd
36 Western Road
Hove
East Sussex
BN3 1AF
Telephone: 01273 777731

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

Registered Business Number 5470725

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

Shaza Anwar Abou El Kheir

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 1 - 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

- S 21; 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. A modern digital CCTV system and appropriate recording equipment shall be installed maintained and operated to Sussex Police specification internally and externally. Recordings shall be kept for a minimum of 28 days. The management shall give full and immediate co-operation and technical assistance to the Police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime.
2. The premises shall arrange for a Mobile Support Service to be provided by an SIA registered organisation.
3. The premises shall participate in the Business Crime Reduction Partnership 'Night Safe' radio scheme.
4. The DPS or a personal licence holder will be on the premises during Friday and Saturday nights and on other nights as far as practicable.

For the prevention of public nuisance:

5. A notice will be displayed reminding patrons not to drink on the streets and to leave the premises and area quietly.

For public safety: None

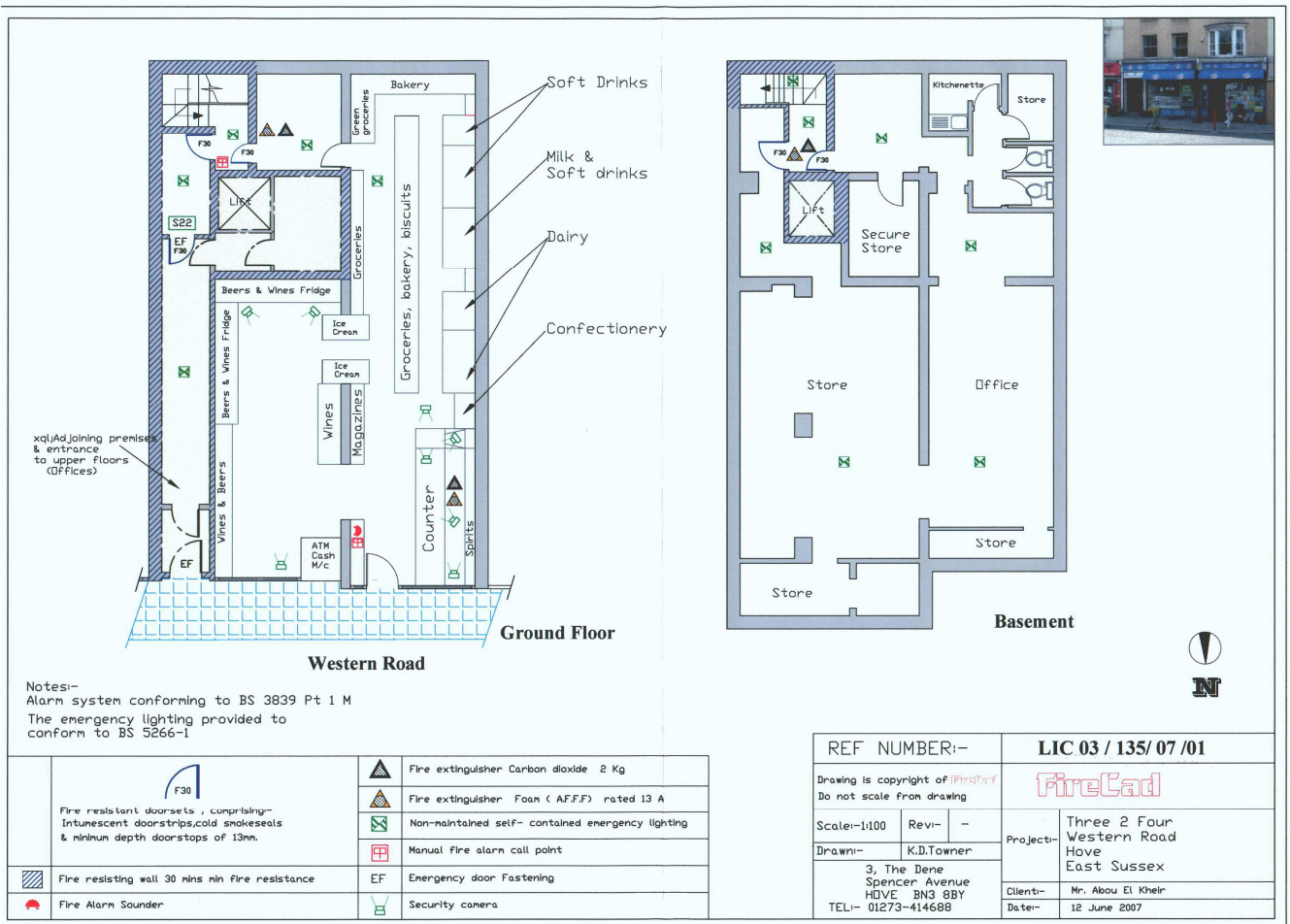
For the protection of children from harm

6. The premises shall operate a 'Challenge 21' policy, whereby any person attempting to purchase alcohol who appears under the age of 21 will be asked to produce photographic identification as proof of age. The acceptable forms of photographic identification will be a passport, photocard driving licence, 'PASS' scheme photographic I.D or other photographic I.D approved by the Police or Licensing Authority.
7. No children will be permitted in the shop between 00.00 and 7.00 hrs unless accompanied by an adult.

Annex 3 - Conditions attached after a hearing by the Licensing Panel

8. No strong lager, beer or cider exceeding 6.5 % abv shall be stocked or sold from the premises

Annex 4 – Plans



APPENDIX B

REC: 06.04.09

Cons: 04.05.09

2009/00649/LAPREN SR

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

Valid ✓
PCH &
CD
SR.

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 Chief Supt Graham Bartlett, Divisional Commander, Brighton and Hove Police on behalf of Chief Constable Martin Richards
(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

Postal address of premises or, if none, ordnance survey map reference or description	
Three 2 Four 3 - 4 Western Road	
Post town Hove, East Sussex	Post code (if known) BN3 1AE
Name of premises licence holder or club holding club premises certificate (if known)	
Shop 2 Win Ltd 36 Western Road Hove East Sussex BN3 1AF	
Number of premises licence or club premises certificate (if known)	
1445/3/2007/00985/LAPREN	

Brighton & Hove City Council

06 APR 2009

Health, Safety & Licensing

Part 2 - Applicant details

I am

Please tick yes

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

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

Please tick

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

Surname

First names

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address David Bateup Police Licensing Officer Brighton & Hove Licensing Unit Police Station Holland Road HOVE BN3 1JY (on behalf of the applicant)
Telephone number (if any) 01273 66 59 43
E-mail address (optional) david.bateup@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

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

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

Sussex Police led alcohol test purchases were conducted in the central Brighton & Hove area due to intelligence being received that sales of alcohol to children were being made from premises and against a background of crime and disorder associated with young people.

These premises failed three out of three test purchases over a two-month period on the following dates:

9th February 2009

2nd March 2009

30th March 2009

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

- 1) The protection of children from harm; and
- 2) The prevention of crime and disorder.

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

On 9th February 2009 a test purchase operation was carried out at the premises. A male shop assistant sold a bottle of white wine to a 16 year old female child volunteer. The assistant did not challenge the child about her age or ask for any age identification. The seller was observed to make no eye contact with the child during the sale and was on the phone during the entire transaction. This was confirmed by the seller who made the unsolicited comment to the officer "I wasn't concentrating, I was on the phone". The assistant stated when interviewed immediately after the offence, when asked what training he had received from the shop management "not really, I've been told not to sell to anyone under 18". The seller was issued with a fixed penalty notice.

A letter was sent the following day to advise the DPS of the sale. The letter contained a number of recommendations to assist in preventing underage sales of alcohol. A further letter was enclosed which acted as a formal warning regarding the incident.

On 2nd March 2009 a test purchase operation was carried out at the premises. A female member of staff sold four cans of lager to a 16 year male old child. The seller was issued with a fixed penalty notice.

The DPS, Ms Shaza Anwar Abou El Kheir, was invited to a meeting with PC Cheesman and Licensing Officer Neil McMillan on 4th March 2009 at Hove Police Station to discuss the second failed test purchase in less than a month. At the meeting PC Cheesman asked the DPS what Police and Trading Standards could do to assist the venue in preventing further sales. The DPS was warned that the venue would be tested again and a third failure could result in an application for review of the premises licence being made to the licensing authority. At the meeting the DPS signed a formal warning letter and signed to confirm receipt of a second list of recommendations for preventing sales to underage persons.

On 30th March 2009 a test purchase operation was conducted at the premises. A male member of staff (the same member of staff who sold to a child on 9th February) sold four cans of Stella to a 16 year old male child. The seller did not challenge the child about his age or ask for any age identification. When the plain clothes officer introduced himself to the seller after the sale, the seller stated "he looks over 16, I want to see his ID". When questioned by a uniformed officer immediately afterwards the seller stated that he had been on a training course two weeks previously. As this was the second sale of alcohol to a child by the same seller, he was reported for Summons.

This premises is situated in an area of the City with ongoing issues of alcohol related anti social behaviour. The premises have failed three consecutive test purchases in two months. This is despite the continued efforts of Sussex Police and Trading Standards to work with the premises and assist the DPS with offers of business support and training.

Sussex Police contend that these incidents demonstrate very poor management of the premises with the consequence that the licensing objectives of prevention of crime and disorder and the protection of children from harm are being seriously undermined.

Sussex Police respectfully invite the Committee to consider a three-month suspension of the premises licence to break the link between this venue and the sale

of alcohol to children. A three-month suspension will also allow the DPS to train and retrain all of her staff in relation to preventing underage sales and put in place new operating procedures for the premises.

Sussex Police also request the following new and revised licence conditions on the licence:

The prevention of crime and disorder

Digital CCTV and appropriate recording equipment to be installed, operated and maintained throughout the premises internally to cover all public areas with sufficient numbers of cameras as agreed with Sussex Police. CCTV footage will be stored for a minimum of 28 days, and the management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is requested for the prevention and detection of suspected or alleged crime. The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy and will be changed when British Summer Time starts and ends.

The DPS or a personal licence holder will be on the premises at all times that alcohol is available for sale.

The protection of children from harm

The premises will operate a "Challenge 25" policy whereby any person attempting to buy alcohol who appears to be under 25 will be asked for photographic ID to prove their age. The only forms of ID that will be accepted are passports, driving licences with a photograph or Portman Group, Citizen Card or Validate proof of age cards bearing the 'PASS' mark hologram. The list of approved forms of ID may be amended or revised with the prior written agreement of Sussex Police and the Licensing Authority without the need to amend the licence or conditions attaching to it.

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

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, and fully documented, prior to the sale of alcohol by the staff member; and refresher training thereafter at intervals of no less than 8 weeks.
- All age-restricted sales training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police and Brighton & Hove Trading Standards Service upon request.

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. This refusals book shall be available upon request to police staff, Local Authority staff and Trading Standards.

Please tick yes

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

If yes please state the date of that application

Day

Month

Year

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

Please tick yes

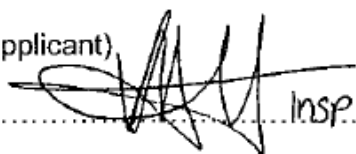
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature (on behalf of the applicant)

 Insp DM208 Vicki Harris

Date 03/04/2009

Capacity Police Inspector

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Juliette Michelle SWIETLIK

Age if under 18: 0 / 18 (if over 18 insert 'over 18')

Occupation: Police Constable DS925

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

Signature: 

Date 09/02/2009g

On Monday 9th February 2009, I was on duty in plain clothes in company with PC PEEL DP767 and PC GOTTING CG447 who were in uniform and Catriona MacBeth from Brighton and Hove Trading Standards, engaged on a test purchase operation (Op ATTEMPT) for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

About 18:45 hours, I entered Three 2 Four convenience Store situated on Western Road, Hove and within a few seconds [redacted] who I know to be 16 years of age entered. I watched [redacted] as she picked up a bottle of white wine, which an alcoholic beverage and take it to the counter. At this time I moved in behind her in the queue to listen to any conversation and to gather any evidence as well as maintaining the safety of the minor.

Whilst in the queue I did not see any posters or leaflets etc stating 'Challenge 21' which means that the premises should be checking all young persons for proof of age. The store had three customers within, a male in front of me in one queue with [redacted] standing at the other counter. The queues were short with two members of staff behind the counter.

The sales assistant, who I would describe as being a male of eastern appearance, aged 36 years of age wearing casual clothing, then took the wine from [redacted] typed the amount of the wine into the till and then asked for £6.49 from [redacted]. At the point of serving [redacted] he was busy talking on the telephone and wasn't paying attention to who he was serving. He made no eye contact with the minor and was failing to concentrate on his job.

I then saw money leave the hand of [redacted] who is under the age of 18 who then received change of £3.51. [redacted] instantly turned around and left the store leaving the drink on the counter. I then identified myself as a police officer who was on duty and informed the seller that he had just failed a test purchase operation by selling to a minor under the age of 18 years. The seller then said "I WASN'T CONCENTRATING, I WAS ON THE PHONE", which was an unsolicited comment made. I then cautioned the sales assistant and explained



Continuation of statement of Juliette Michelle SWIETLIK


that they were not under arrest at this time though anything said could be used in evidence.

I then explained that uniformed police officer will be within the store within a few minutes to deal with him. I then took the sellers details. I now know the seller to be [REDACTED], born [REDACTED]

PC's PEEL and PC GOTTING entered the store and in the presence and hearing of [REDACTED], I explained the circumstances and reiterated that they had already cautioned them. PC PEEL then re-cautioned [REDACTED] and started the fixed penalty notice procedure.

At this time I left the premises, leaving the alcohol with PC PEEL to complete the ticket procedure.

These are my original notes made at 22:30 hours on Monday 9th February 2009 at Hove Police Station.

 DS925

(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Emma PEEL

Age if under 18: / 18

(if over 18 insert 'over 18')


Occupation: Police Constable DP767



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


Signature:  DP767

Date 09/02/09

On Monday 9th February 2009, I was on duty in full police uniform in company with PC GOTTING CG447, PS WAUCHOPE CW098, PC Daniel SWEITLIK CS895, PC Juliette SWEITLIK DS925 and PC CHEESMAN CC302 and Kat MACBETH from Brighton and Hove Trading Standards, engaged on a test purchase operation for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

At 1856 hours, we entered Three2Four at 324 Western Road, Brighton, BN3 8AA and I met with Juliette SWEITLIK who was on duty in plain clothes and had just witnessed a sale of alcohol to a minor, namely  age 16.

PC SWEITLIK then explained in the presence and hearing of  the circumstances of the incident. With this information I then cautioned  at 1850 hours and explained what it means. I also explained that at this time they are not under arrest and free to go at any stage, they are entitled to legal advice at their own cost and can terminate the interview at any time. I then explained that at this stage the fixed penalty procedure and that a contemporaneous interview will take place.

At 1856 hours, the fixed penalty ticket and the interview was concluded. I then informed  that he will be reported for the offence and that it will be dealt with by means of fixed penalty notice, to which I then re-cautioned using the 'now' caution, to which no reply was given.

We left the premises, leaving the premises open. I then seized the containers of alcohol and can produce them in evidence as item EP/1 (). This item was placed in exhibit bags and sealed and then placed into Brighton property store.

This statement was completed at 2210 hours, and form part of my original notes.

 DP767


RESTRICTED (when complete)

RECORD OF INTERVIEW

URN

Contemporaneous Notes

Person interviewed: [REDACTED]
 Place of interview: 3704
324 WESTERN ROAD
HOVE BN3

Police exhibit no: EP/1
 Number of pages: 1 of 2

 Signature of interviewing officer producing exhibit

Date of interview: 09/02/2008
 Time commenced: 1850 Time concluded: 1855
 Duration of interview: 5 MINUTES
 Audio tape ref. nos. (◆): - Visual image ref. nos. (◆): -
 Interviewer(s): PC PEEL DP767
 Other persons present: PC GOTTING C9447

Tape Counter times (◆)	Person speaking	Text
1850	DP767	, Cautioned and explained, advised that they are not under arrest. Advised that they are allowed legal representation at anytime though at their own cost, advised that they can leave at any time. Do you want a solicitor present? (If No, why?) <u>NO NOT AT THIS TIME</u> [REDACTED]
	DP767	Where were you at 1845 hours?
	[REDACTED]	<u>AT THE TILL</u> [REDACTED]
	DP767	Did you sell SCENIC RIDGE WINE which is an alcoholic drink to a minor who has been identified to you by PCSWEITLIK ?
	[REDACTED]	<u>YES</u> [REDACTED]

Signature(s)
 (Contemporaneous notes only)

[REDACTED SIGNATURE]

Not relevant for contemporaneous notes
 MG15 7/2003

Person interviewed:

Page no: 2

Tape Counter times (◆)	Person speaking	Text
	DP767	How long have you worked for 3 TO 4
	[REDACTED]	6 MONTHS [REDACTED]
	DP767	What training have you received since working here?
	[REDACTED]	NOT REALLY. I'VE BEEN TOLD NOT TO SELL TO ANYONE UNDER 18 [REDACTED]
	DP767	Are you aware that it is an offence to sell any sort of alcoholic drink to a minor? (Illegal to sell alcohol to persons under the age of 18).
	[REDACTED]	YES [REDACTED]
	DP767	Did you ask their age or for any identification or proof of age from the minor who brought the alcohol from you?
	[REDACTED]	NO I DIDNT [REDACTED]
	DP767	Why did you sell to the minor?
	[REDACTED]	I WAS ON THE PHONE SO I DIDNT CONCENTRATE [REDACTED]
	DP767	Would you like to make any other comments about anything that has been said in this interview or anything that has not been asked that you wish to say?
	[REDACTED]	NO, I'M ALL RIGHT [REDACTED]
	DP767	Conclusion of interview, ticket explained and issued. Re-cautioned and told that they will be reported with the ticket.

Signature(s)
(Contemporaneous notes only)

[REDACTED SIGNATURE]

Not relevant for contemporaneous notes
MG15 7/2003



HOVE POLICE STATION

Brighton & Hove Licensing Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email:
Brighton.Licensing@sussex.pnn.police.uk

Date: 9/2/09

Private & Confidential

Name of DPS

Premises Address *Three 2 Four, Western Road, Hove BN3 1AE*

Dear Designated Premises Supervisor,

UNLAWFUL SALE OF ALCOHOL TO A PERSON UNDER THE AGE OF 18 YEARS

On Monday 9th February 2009 a police operation relating to the sale of alcohol to under aged persons took place in Brighton & Hove.

The above premises, of which you are the Designated Premises Supervisor (DPS) was one of those premises tested by young person(s) under the age of 18, who successfully made a purchase of alcohol from a member of your staff.

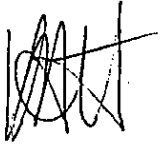
It is an offence under Section 146 of the Licensing Act 2003 to sell, and Section 147 of the Licensing Act 2003 to allow the sale of alcohol to persons under the age of 18 years.

This letter is served upon you and acts as a formal written warning relating to this incident.

A record has been kept by the Brighton & Hove Police Licensing Unit and this matter may be brought to the attention of the Magistrates, Senior Police Officers or Brighton & Hove City Council at any time in the future. Should incidents of a similar nature re-occur, this may jeopardise your licence.

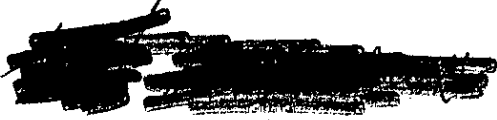
It is advised that you take every effort and train staff accordingly to ensure that such instances do not re-occur in the future.

Yours sincerely,




Victoria Harris
Licensing Inspector
Hove Police Station

cc: Premises Licence Holder
Trading Standards Brighton & Hove City Council



09-02-09

I. Record of Service / Receipt	
Served on	
On date 9/2/09
By	PS Wandhope CW/98



HOVE POLICE STATION

Brighton & Hove Licensing
Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email: david.bateup@sussex.pnn.police.uk

10th February 2009

Mr Shaza Anwar Abou El Kheir
Three 2 Four
3 - 4 Western Road
Hove
East Sussex
BN3 1AE

Dear Mr El Kheir,

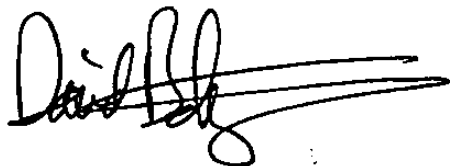
Unlawful sale of alcohol to a person under the age of 18 years

I am writing to you personally as the Designated Premises Supervisor of the above premises. On the 9th February 2009 the enclosed letter was handed to a member of your staff (and was signed for to confirm receipt) at your premises following the offence of selling alcohol to a minor. The letter acts as a formal warning relating to this incident.

The purpose of this letter is to confirm that you have received the original of the copy letter attached due to its importance for you and your premises. As the previous letter states 'should incidents of a similar nature re-occur, this may jeopardise your licence. It is advised that you take very effort and train staff accordingly to ensure that such instances do not re-occur in the future'.

With reference to staff training and taking action to ensure that such instances to not re-occur, I enclose a list of recommendations headed 'Actions to prevent further sales of alcohol to underage persons' for your reference.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Bateup', with several horizontal lines drawn through it.

David Bateup
Licensing Officer
Licensing Unit
Hove Police Station

cc: Premises Licence Holder:

Shop 2 Win Ltd
36 Western Road
Hove
East Sussex
BN3 1AF

Considerations to Assist in Preventing Sales of Alcohol to Persons under the age of 18 (Off-licence)

Actions for the Designated Premises Supervisor to consider:

- Formal staff training by the Designated Premises Supervisor (DPS) for all staff who sell alcohol. This is to be properly recorded and signed off by the staff member and DPS after training with training records to be held on site. Regular refresher training documented and dated.
- Alternatively training of staff to be undertaken by Trading Standards officers.
- Up to date and regular training to pay close attention to offences which may be committed by staff and how to prevent sales to those under the age of 18.
- Staff selling (on tills) alcohol to be a minimum age of 21.
- If sales staff are under 18, the staff authorising their sales should be minimum age of 21 with additional training to this responsibility.
- Signage that clearly displays the premises having a zero tolerance approach towards underage sales e.g. 'Challenge 21 / 25' or what ever is appropriate for your premises.
- Consider appointing additional Personal Licence Holders (PLH) or putting existing staff on the PLH course.
- Ensure a refusals register is maintained and checked regularly by the DPS (This applies especially where it is electronically recorded via the till as it requires a check to be made of the print out). The DPS should ensure that each member of staff is refusing sales where necessary and recording them.
- If the DPS does not feel confident that a particular member of staff is capable of meeting the requirements of the job and has received additional training to meet your requirements, then you should consider replacing him/her with a more competent person. **Further sales of alcohol to persons under 18 years of age may result in a review of the premises licence or of the DPS' personal licence.**
- Address possible intimidation of staff by introducing procedures for them to summon help and by looking at staffing levels (numbers/age) at peak times e.g. Thursday, Friday, Saturday 5pm to close.
- Conduct internal test purchases. Reminders regarding under age sales and proxy sales should be undertaken.
- Positive reinforcement of good practice to all staff. Document and date such comments and hold on file.

Signed

Date:

(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Steven Raymond CHEESMAN

Age if under 18: 0 / 18 (if over 18 insert 'over 18')

Occupation: Police Constable CC302

This statement (consisting of ^{SRC} 12 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Signature:



Date

2nd March 2009

On Monday 2nd March 2009, I was on duty in plain clothes in company with PS Wauchope, PC Younger and Cat MacBeth from Brighton and Hove Trading Standards, engaged on a test purchase operation for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

About 1823 hours, I entered Three 2 Four Store on Western Road and within a few seconds [redacted] who I know to be 16 years of age entered. I watched [redacted] select and pick up 4 cans of Fosters lager, which an alcoholic beverage and take it to the counter. At this time I moved in behind them in the queue to listen to any conversation and to gather any evidence as well as maintaining the safety of the minor.

Whilst in the queue I saw the store was reasonably empty with customers, with only approx 4 other customers in the store, there was one female behind the till with another male member of staff at the side of the cash desk.

The sales assistant, who I would describe as being female, of Asian origin, approx 25 years of age and had dark hair, then look up at [redacted] she said something to her male colleague, to which I didn't understand as it was in a foreign language. After his response, which again I did not understand the cashier proceeded to scan the items through the till.

The alcoholic containers were scanned into the till and the sales assistant then asked for the money. I then saw money leave the hand of [redacted], who is under the age of 18 who then received change. [redacted] instantly turned around to me and handed me the receipt leaving the drink on the counter. I then identified myself as a police officer who was on duty and that they have just failed a test purchase operation by selling to a minor under the age of 18 years. The seller then turned to her male colleague and said words, again in a foreign language. I then cautioned the sales assistant and explained that they were not under arrest at this time though anything said could be used in evidence.

I then explained that uniformed police officer will be here in a few minutes to deal with them.



Continuation of statement of PC STEVEN CHEESMAN CC302

PC Younger then entered the store and in the presence and hearing of, the person I now know to be, [REDACTED]

[REDACTED] I explained the circumstances and reiterated that they had already cautioned them.

At this time I left the premises, leaving the receipt and alcohol with PC Younger to complete the ticket procedure.

This statement was completed at 2310 hours, and form part of my original notes.




CC302

(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Lynsey Clare YOUNGER

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Constable

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


Signature:  01626 Date 02/03/09


On Monday the 2nd of March 2009, I was on duty in full uniform in company with PS WAUCHOPE, who was also in full uniform, PC CHEESMAN in plain clothes, and a member of staff from Brighton and Hove Trading Standards. We were engaged on a test purchase operation for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

My tour of duty was 1700 hours until 23.00 hours.

At about 18.25 hours, I entered three 2 four, Western Road Brighton where I spoke to PC CHEESEMAN who was stood next to the till with a female sales assistant. I would describe her as being Asian, aged mid 20's with Black long hair and glasses.

PC CHEESEMAN advised me in the presence and hearing of the female that he had witnessed the female sales assistant serve alcohol to a minor. He informed me that he had cautioned her to which she made no reply.

Upon hearing this information I cautioned the sales assistant who I now know to be  and explained that she was not under arrest at this time although anything she said could be used in evidence in court.


I contemporaneously interviewed  at 18.30 hours which lasted for seven minutes. I issued her a fixed penalty notice for selling alcohol to a person under 18 years of age. She signed and excepted the FPN. I checked her driving license for identity purposes.

At 18:30 hours I seized 4 x Cans of Fosters, which I can now produce as my exhibit of LY/1 (). I placed the cans in to an exhibit bag numbered SB800088697 and I sealed the bag.

I produce the contemporaneous notes as my exhibit of LY/2().

At about 18.55 hours I left the premises, taking the alcohol with me.

This statement was completed at 21.30 hours at Hove Police Station, and form part of my original notes.

 01620

RESTRICTED (when complete)

RECORD OF INTERVIEW

URN

Contemporaneous Notes

DOB 07.03.84

Person interviewed: [REDACTED]

Police exhibit no: L4/2.

Place of interview: REAR OF STORE
3 FORD 4
WESTERN RD

Number of pages: 1 of 2

[Signature]
Signature of interviewing officer producing exhibit

Date of interview: 02/03/09

Time commenced: 18:30 Time concluded: 18:37

Duration of interview: 7 MINUTES

Audio tape ref. nos. (◆): _____ Visual image ref. nos. (◆): _____

Interviewer(s) PC YOUNGER 01626

Other persons present: —

Tape Counter times (◆)	Person speaking	Text
	[REDACTED]	Cautioned and explained, advised that they are not under arrest. Advised that they are allowed legal representation at anytime though at their own cost, advised that they can leave at any time. Do you want a solicitor present? (If No, why?) <u>NO.</u>
	<u>01626</u>	Where were you at <u>18:25</u> hours?
	[REDACTED]	<u>IN HERE, I WAS WORKING</u>
	<u>01626</u>	Did you sell <u>4 X CANS FOSTER</u> which is an alcoholic drink to a minor who has been identified to you by <u>PC CHEESTMAN</u> ?
	[REDACTED]	<u>YES</u>

Signature(s)
(Contemporaneous notes only) [REDACTED]

Not relevant for contemporaneous notes
MG15 7/2003

Person interviewed:

Page no: 2

Tape Counter times (◆)	Person speaking	Text
	04626	How long have you worked for 3-4
	[REDACTED]	2 YEARS [REDACTED]
	04626	What training have you received since working here?
	[REDACTED]	ALCOHOL TRAINING & CIGARETTES [REDACTED]
	04626	Are you aware that it is an offence to sell any sort of alcoholic drink to a minor? (Illegal to sell alcohol to persons under the age of 18).
	[REDACTED]	OF COURSE [REDACTED]
	04626	Did you ask their age or for any identification or proof of age from the minor who brought the alcohol from you?
	[REDACTED]	NO, I THOUGHT MY COLLEAGUE SERVED HIM BEFORE [REDACTED]
	04626	Why did you sell to the minor?
	[REDACTED]	BECAUSE I THOUGHT STARK SERVED HIM BEFORE [REDACTED]
	04626	Would you like to make any other comments about anything that has been said in this interview or anything that has not been asked that you wish to say?
	[REDACTED]	NO [REDACTED]
	04626	Conclusion of interview, ticket explained and issued. Re-cautioned and told that they will be reported with the ticket.

Signature(s)
(Contemporaneous notes only)

[REDACTED SIGNATURE]

Not relevant for contemporaneous notes
MG15 7/2003



HOVE POLICE STATION

Brighton & Hove Licensing Unit
Police Station
Holland Road
HOVE
BN3 1JY

Tel: 01273 66 59 43
Fax: 01273 66 55 24

Email:
Brighton.Licensing@sussex.pnn.police.uk

Date: 2/3/09

Private & Confidential

Name of DPS *Saaza Abouenkheir*
Premises Address *Three 2 Four, Western Road, Brighton BN3 1AE*

Dear Designated Premises Supervisor,

UNLAWFUL SALE OF ALCOHOL TO A PERSON UNDER THE AGE OF 18 YEARS

On *Monday 2nd March 2009* a Police operation relating to the sale of intoxicants to under aged persons took place in Brighton & Hove.

The above premises, of which you are the Designated Premises Supervisor (DPS) was one of those premises visited by a young person(s) under the age of 18, who successfully made a purchase of alcohol from a member of your staff.

It is an offence under Section 146 of the Licensing Act 2003 to sell, and Section 147 of the Licensing Act 2003 to allow the sale of alcohol to persons under the age of 18 years. On this occasion the matter was dealt with by means of a 'Fixed Penalty Notice'.

This letter is served upon you and acts as a **second formal written warning** relating to this incident.

As DPS in charge of these premises I write to request your attendance at Hove Police Station in Holland Road on: -

Day/Date/Time: Wednesday 4th March 2009 1200 hours

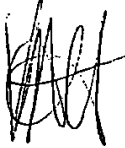
This matter will be informally discussed with the licensing unit (Inspector/Sergeant) and it is likely that written warnings will be issued regarding this incident (*This is not a formal P.A.C.E. Interview under caution*). Should you require further information or directions, please do not hesitate to contact this office.

Please telephone the licensing unit or email (contact details above) to confirm your attendance at this meeting. When you arrive at the Police Station for the appointment please report to reception and ask for David Bateup.

A record has been kept by Brighton & Hove Police Licensing Unit and this matter may be brought to the attention of the Magistrates, Senior Police Officers or Brighton & Hove City Council at any time in the future. Should incidents of a similar nature re-occur, this may jeopardise your licence.


This is the second test purchase failure in recent months for these premises. It is advised that you take every effort and train staff accordingly to ensure that such instances do not re-occur in the future.


Yours sincerely,



Victoria Harris
Licensing Inspector
Hove Police Station

cc: Premises Licence Holder
Trading Standards Brighton & Hove City Council

 02.03.09

I. Record of Service / Receipt	
Served on	
On date	2/3/09
By	PS Wanchape C2098



Three To Four
3-4 Western Road
Hove
East Sussex
BN3 1AE

4th March 2009

cc: PLH 5/3/09.
DJB.

UNLAWFUL SALE OF ALCOHOL TO A PERSON UNDER THE AGE OF 18 YEARS

Dear Designed Premises Supervisor,

You have attended Hove Police Station to discuss events on the evening of 2ND March 2009. A Police operation relating to the sale of intoxicants to under aged persons took place in Brighton and Hove.

The above premises, of which you are the Designated Premises Supervisor was one of those premises visited by a 16 year old young person, who successfully made a purchase of alcohol from you or a member of your staff.

It is an offence under Section 146 of the Licensing Act 2003 to sell, and Section 147 of the Licensing Act 2003 to allow the sale of alcohol to persons under the age of 18 years. On this occasion the matter was dealt with by means of a 'Fixed Penalty Notice'.

This letter is served upon you and acts as a **second formal written warning** relating to this incident.

A record has been kept by the Brighton and Hove Police Licensing Dept and this matter may be brought to the attention of the Magistrates, Senior Police Officers or Brighton and Hove City Council at any time in the future. Should incidents of a similar nature re-occur, this may jeopardise your licence.

This is the second test purchase failure in recent months for these premises. It is advised that you take every effort and train staff accordingly to ensure that such instances do not re-occur in the future.

Name of **INS.P. HARRIS**
Inspector or Chief Inspector

P.P. PC CHEESMAN CC302

Record of Service / Receipt	
Served upon the addressee	
On date: -	4/03/09
By: -	PC CHEESMAN CC302 <i>[Signature]</i>
Signed in receipt of a copy by: -	
Shaza Abou EL Khair	

Considerations to Assist in Preventing Sales of Alcohol to Persons under the age of 18 (Off-licence)

Actions for the Designated Premises Supervisor to consider:

- Formal staff training by the Designated Premises Supervisor (DPS) for all staff who sell alcohol. This is to be properly recorded and signed off by the staff member and DPS after training with training records to be held on site. Regular refresher training documented and dated.
- Alternatively training of staff to be undertaken by Trading Standards officers.
- Up to date and regular training to pay close attention to offences which may be committed by staff and how to prevent sales to those under the age of 18.
- Staff selling (on tills) alcohol to be a minimum age of 21.
- If sales staff are under 18, the staff authorising their sales should be minimum age of 21 with additional training to this responsibility.
- Signage that clearly displays the premises having a zero tolerance approach towards underage sales e.g. 'Challenge 21 / 25' or what ever is appropriate for your premises.
- Consider appointing additional Personal Licence Holders (PLH) or putting existing staff on the PLH course.
- Ensure a refusals register is maintained and checked regularly by the DPS (This applies especially where it is electronically recorded via the till as it requires a check to be made of the print out). The DPS should ensure that each member of staff is refusing sales where necessary and recording them.
- If the DPS does not feel confident that a particular member of staff is capable of meeting the requirements of the job and has received additional training to meet your requirements, then you should consider replacing him/her with a more competent person. **Further sales of alcohol to persons under 18 years of age may result in a review of the premises licence or of the DPS' personal licence.**
- Address possible intimidation of staff by introducing procedures for them to summon help and by looking at staffing levels (numbers/age) at peak times e.g. Thursday, Friday, Saturday 5pm to close.
- Conduct internal test purchases. Reminders regarding under age sales and proxy sales should be undertaken.
- Positive reinforcement of good practice to all staff. Document and date such comments and hold on file.

Signed



Date: 4TH MARCH 2009.

**Minutes of Meeting; Three 2 Four
4th March 2009 – Hove Police Station**

**In attendance; PC Steve Cheesman CC302; Neil McMillan;
Shaza Anwar Abou El Khair (DPS)**

SC began the meeting thanking SE for her attendance and explained the content of the meeting with reference to the implications of venue selling on two occasions to underage persons and to see what the police can do to assist the venue. SE was reminded that the premises would be subject to a third test purchase in the near future and third fail will result in the premises licence being taken to review. SC explained that the venue had only been tested twice and on both occasions had sold. He questioned if this occurs when the police are not present.

SE stated that the last sale was her daughter who had been covering for a member of staff who was absent. Prior to making the sale, she asked another member of staff in the shop if it was alright to which they replied it was ok. The first sale occurred when the staff member was on the phone and not concentrating.

SC stated that police will not accept excuses and that all staff should be trained in sales of alcohol. If the daughter had to think about the age of the youth in order for her to ask another member of staff, then she should have asked for ID if there was any doubt.

SC asked SE what she will be doing to prevent her staff from selling in the future. She stipulated that everybody, regardless of age – even if they are 60, will be asked for ID. She added that she has no intentions of selling to children and no reason to either.

SC enquired if SE had taken up the offer of training to which she replied that she had two options but assumed that Trading Standards would be at the meeting, therefore has not yet contacted them. SC explained the content of Trading Standards training as he had witnessed it, however could not comment on the alternative training that she was considering as he had not seen it's content. SC left the options open for SE, however it appeared she would opt for Trading Standards as it would prove beneficial for the venue to be seen partnership working with the local authority.

SE was told that her premises will be subject to a third test purchase and reiterated that a failure could result in serious implications.

SE commented that it can be confusing when there is a queue because the concentration goes as you are trying to serve them.

SC explained the policies in Challenge 21, 25 and 30 and advised of training records to be kept and signed by staff for the purposes of due diligence and recommended re-training every 2 or 3 months. SE stated that she reminded staff everyday, however when asked if she could prove that, she replied 'no'. She added that the area was not a problem with troublesome customers, however SC added that Western Road was a problem with street drinkers and general disorder. SE added that she does not get custom from the street drinking community as she does not stock strong beer.

SC offered any further assistance from the police, to which SE replied that the problem was the staff, and despite knowing that police were in the area as they had been told on previous days by other shops, they still sold. NM highlighted this as a worrying prospect.

SC reiterated that the third sale may lead to a review of the licence and explained the options that the police would have in respect of DPS removal, conditions and revoking the licence, resulting in financial implications. SC also mentioned that the Government guidance recommends that three sales would lead to a revoke.

SC explained that the venue may pass the next test purchase, whereby the implications of a review would not be treated as harshly as 3 consecutive sales would be. SC offered a police

officer to attend the premises on the training day to highlight the seriousness of selling to an underage youth which SE agreed was a good idea.

The letters were read and signed by SE and SC confirming receipt.

SUSSEX POLICE

WITNESS STATEMENT

MG 11(T)


(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Daniel Peter SWIETLIK

Age if under 18: O / 18 (If over 18 insert 'over 18') Occupation: Police Constable CS895

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

Signature:



Date

30TH March 2009

This statement was completed on the same date as the incident and still fresh in my mind.

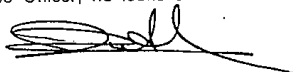
On Monday 30th March 2009, I was on duty in plain clothes engaged on a test purchase operation for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

About 1832 hours, I entered Three 2 Four , 3-4 Western Road, Hove and within a few seconds [REDACTED] who I know to be 16 years of age entered. I watched [REDACTED] select and pick up Four Cans of Stella, which are an alcoholic beverage and take it to the counter. At this time I moved in behind him in the queue to listen to any conversation and to gather any evidence as well as maintaining the safety of the minor. There was no one else in the queue as we were the only two people at the till point.

Whilst in the queue I saw posters, and small signs stating 'Challenge 21' which means that the premises should be checking all young persons for proof of age. These signs covered the counter and were on the fridges where the alcohol was on display. The store had a few customers, though not at the till.

The cashier, who I now know to be [REDACTED] ([REDACTED]) stood behind the till, looked once at [REDACTED] and said nothing.

The alcoholic containers were scanned into the till and the cashier asked for the money. I then saw money leave the hand of [REDACTED] who is under the age of 18 who then received the change. [REDACTED] instantly turned around leaving the drink on the counter and walked out. He did this as the seller was trying to open a bag to place the alcohol inside it. This was about 1834 hours and I then identified myself as a police officer from the Licensing Unit who was on duty and that they have just failed a test purchase operation by selling to a minor under the age of 18 years as he was 16 years of age. The seller then said "He looks over 16, I want to see his ID" which was an unsolicited comment made. I then said "He is 16 years of age and doesn't have any ID on him" to which I then cautioned him and tried to explained that they were not under arrest at this time though anything said could be used in evidence, but he started to argue with me about Jon's age. He then said "He looks over 18, we are going to loose our Licence, Please Officer, he looks over 16". I then



Continuation of statement of Daniel Peter SWIETLIK

proceeded to tell him that the legal age to buy alcohol is 18 years of age, I could not understand why he was making mention of him being over 16 years old. I then said that training has been put into this place and there are expectations of premises challenging young persons for ID and proof of their age, especially when the venue operates a Challenge 21 policy and this forms part of their due diligence. Especially in proving that they are a responsible retailer in protecting not only kids but everyone from harm when alcohol is involved.

This made [REDACTED] quieten down and then PS Wauchope, PC's Bennett and Granville and Donna LYNSDALE from Trading Standards entered the store. We allowed the store to empty of the three customers that they had in the interim time and we shut the door to allow the interview to take place in private. Once the door was closed I then explained the circumstances to PC Granville to which he then re-cautioned him. PC Granville then proceeded to complete the contemporaneous procedure.

Once he had finished asking the questions, I heard PC Granville then reporting him for summons for the offence of selling to a minor. There was no reply after he was re-cautioned to complete the procedure.

This statement was completed at 2230 hours the same day, and form part of my original notes.

A handwritten signature in black ink, appearing to be 'D. Swietlik', written over a horizontal line.

(CJ Act 1967, s.9; MC Act 1980, ss.5A (3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Michael GRANVILLE

Age if under 18: Over 18 (if over 18 insert 'over 18')


Occupation: Police Officer CG733



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



Signature: 



Date 30/03/09

On Monday 30th March 2009, I was on duty in full police uniform in company with PC BENETT CB332 and Donna LYNSDALE from Brighton and Hove Trading Standards, engaged on a test purchase operation for the sale of alcohol to minors under the age of 18 years, which is an offence under The Licensing Act 2003.

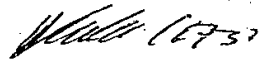
At 1838 hours, we entered 3-4 WESTERN ROAD, BRIGHTON and I met with PC Swietlik CS895 who was on duty in plain clothes and had just witnessed a sale of alcohol to a minor, namely  age 16 .

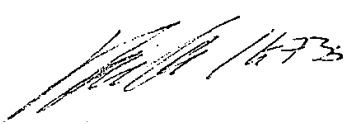
PC Swietlik CS895 then explained in the presence and hearing of  the circumstances of the incident. With this information I then cautioned  at 1840 hours and explained what it means. I also explained that at this time they are not under arrest and free to go at any stage, they are entitled to legal advise at their own cost and can terminate the interview at any time. I then explained that at this stage that as they had already received a fixed penalty notice on a previous occasion that they would be reported for summons to court.

At 1845 hours, the reporting for summons and the interview was concluded. I then informed   that he will be reported for the offence, to which I then re-cautioned using the 'now' caution, to which no reply was given.

We left the premises, leaving the premises open. I then seized the containers of alcohol and can produce them in evidence as items MJG/1 () and can also produce a record of the interview with   as exhibit MJG/2 (). Exhibit MJG/1 was placed in exhibit bags and sealed and then placed into Brighton property store.

This statement was completed at 2200 hours, and form part of my original notes.





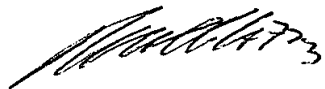
RESTRICTED (when complete)

RECORD OF INTERVIEW

URN

Contemporaneous Notes

Person interviewed: [REDACTED]
 Place of interview: 3-4 Western Rd
Brighton

Police exhibit no: MJG/12
 Number of pages: 1 of 2

 Signature of interviewing officer producing exhibit

Date of interview: 30/3/09

Time commenced: 1840

Time concluded: 1845

Duration of interview: 5 minutes

Audio tape ref. nos. (♦): not recorded

Visual image ref. nos. (♦):

Interviewer(s) PC Cramble (6733)

Other persons present: PC BENNETT CB 332

Tape Counter times (♦)	Person speaking	Text
	PC	Cautioned and explained, advised that they are not under arrest. Advised that they are allowed legal representation at anytime though at their own cost, advised that they can leave at any time. Do you want a solicitor present? (If No, why?) <u>NO I'm happy</u>
	PC	Where were you at <u>1832</u> hours?
	[REDACTED]	<u>Behind the till at work.</u>
	PC	Did you sell <u>x 4 Stella Artois Cans</u> which is an alcoholic drink to a minor who has been identified to you by ?
	[REDACTED]	<u>YES</u>









Signature(s)
 (Contemporaneous notes only)

[REDACTED SIGNATURE]

Not relevant for contemporaneous notes
 MG15 7/2003

Person interviewed: 

Page no: 2

Tape Counter times (◆)	Person speaking	Text
	PC	How long have you worked for 3-4 western Rd, Brighton
		One year
	PC	What training have you received since working here?
		been on a course about two weeks ago
	PC	Are you aware that it is an offence to sell any sort of alcoholic drink to a minor? (Illegal to sell alcohol to persons under the age of 18).
		yes
	PC	Did you ask their age or for any identification or proof of age from the minor who brought the alcohol from you?
		NO
	PC	Why did you sell to the minor?
		looks to me over 21
	PC	Would you like to make any other comments about anything that has been said in this interview or anything that has not been asked that you wish to say?
		NO
	PC	Conclusion of interview, ticket explained and issued. Re-cautioned and told that they will be reported with the ticket.
	PC	Because you have previously sold on the 9th Feb 2004 you will be reported for the offence. cautioned
		NO 

Signature(s)
(Contemporaneous notes only)



Not relevant for contemporaneous notes
MG15 7/2003

APPENDIX C

Ree 06 04 09
end 04 05 09

2009/00649 / LAKEV
SR



Doug Simmonds Ltd

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My ref. 324/105/09/LA

Environmental Services & Licensing
Brighton & Hove City Council
Bartholomew House
Bartholomew Square
Brighton
BN1 1JP

<p>BRIGHTON & HOVE CITY COUNCIL ENVIRONMENTAL HEALTH & LICENSING DATE RECEIVED 01 MAY 2009</p>

01/05/09

Dear Sir,

**Review of Premises Licence at
'Three 2 Four' 3-4, Western road, Hove, BN3 1AE**

I represent the premise licence holder for the above premise for which notice of Review has been issued by the Licensing Authority following application by the police.

While it is accepted by the premise licence holder and DPS that the 3 sales which have occurred are far from being a satisfactory situation she would argue that the outcome of any review as proposed by the police with a suspension of the licence is not required because of that.

Sussex Police contend that the incidents demonstrate poor management; we would however argue that the management has not been poor, that due diligence was in place and has been observed. The failures are down to individual staff.

Following each incident there was a staff briefing and training session and action regarding discipline of the individual members involved.

Training from Trading Standards was offered and accepted after the second test purchase.

After the third failure I was called in on the 31st of March and a review of procedures and policies was carried out and implemented by the premise licence holder with immediate effect and prior to the police formulating their review papers and before notice was served on the applicant for the review.

Directors Doug Simmonds MBIT ip. & Sue Simmonds
Doug Simmonds & Cliff Collings Consultancy are trading names of 'Doug Simmonds Ltd'
Registered Address, 'Bank House' Southwick Square, Southwick, West Sussex, BN42 4FN
Registered in England No. 6446419

Amongst the changes made was an immediate rising of the age for checking ID to a 'Challenge 25' with notices being posted and four senior members of staff being booked onto a NCLPH course, one of which has been taken with the others due this month. The outcome will be more personal licence holders available to supervise sales of alcohol.

The member of staff who made the first and third sale was further disciplined and barred from selling alcohol by virtue of an instruction and 'Till' controls. There is an intention to improve these measures still further if possible without replacing the tills.

There has been an increase in the number of entries in the refusals register due we believe to the wider age range we are checking.

There has now been two lots of further training carried out by the DPS for staff and the DPS is monitoring and signing the refusals register on a regular basis.

A review of the CCTV was carried out, some changes were made.

This list is not exclusive but we believe demonstrates that the premise licence holder has been proactive does take her responsibilities very seriously and is promoting the licensing objectives as a result.

I spoke to the police on the 31st of March and on the 3rd of April requested a meeting with them to discuss this premise. That meeting was eventually held on the 30th of April.

Following the meeting with the police we have indicated to them that we have no objections in principle to the suggestions they are making with regard to additional conditions with the exception of the second one regarding the DPS or a personal licence holder being on the premise at all times when alcohol is sold. We believe it is against the principle of the Act and is not truly workable, if that person was to leave the premise even for 5 minutes an offence could occur. However we are not against the principle that generally there should be a personal licence holder on duty at all times and immediately available if not on the premise and we understand the police except this and will propose a new condition.

We have additionally invited the police to review the CCTV system and Trading Standards have offered to help with further advice on the Tills.

We will continue to review policies and Risk Assessment but this is an outline of any representation we would make to a Review Committee and we will back it with further evidence in due course.

Yours faithfully

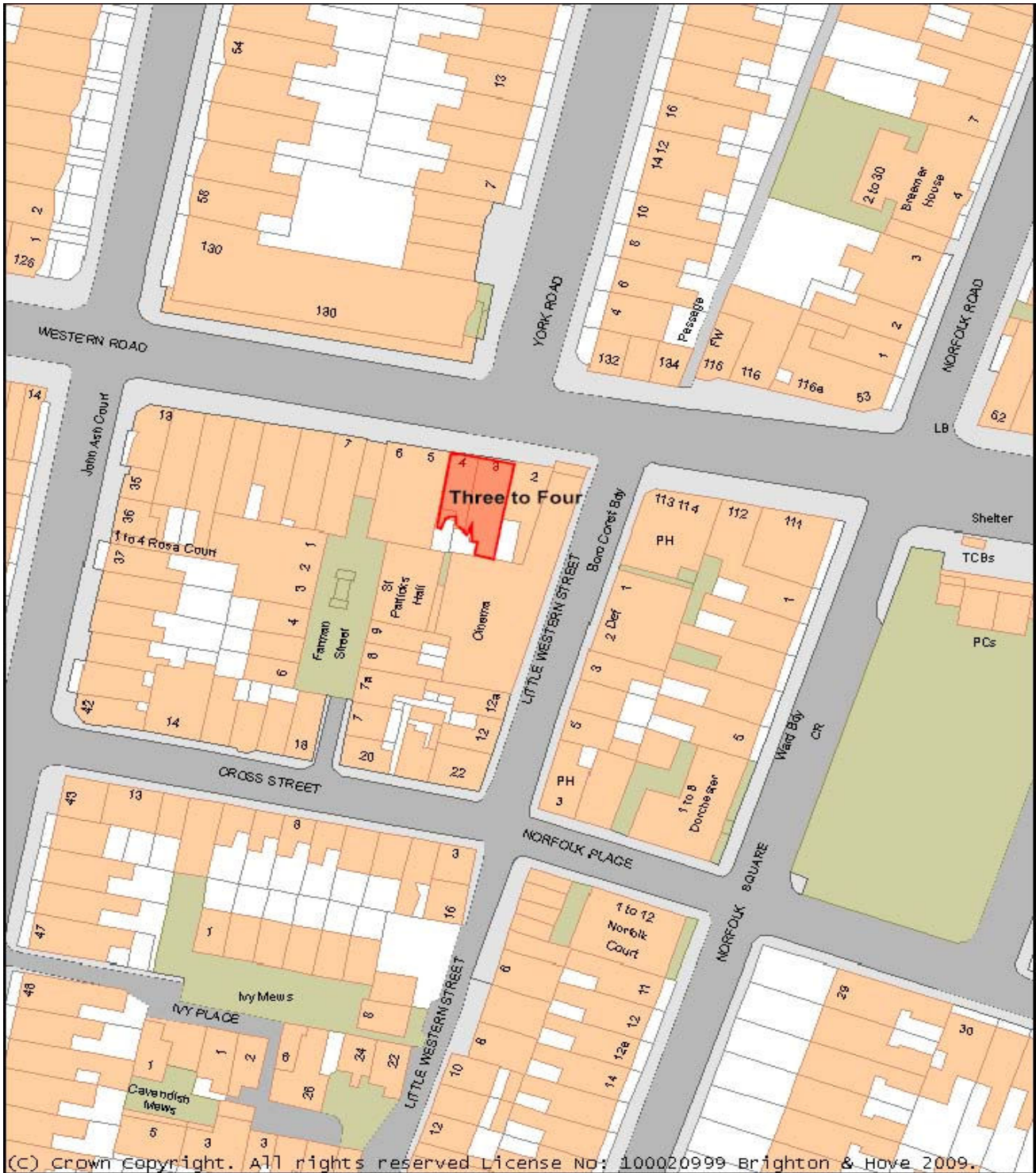


Doug Simmonds

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APPENDIX D

Three to Four, 3-4 Western Road, Hove BN3 1AE



Date: 05/05/2009 03:39:24 Scale 1:802



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