

Central Bedfordshire  
Council  
Priory House  
Monks Walk  
Chicksands,  
Shefford SG17 5TQ



please ask for Martha Clampitt  
direct line 0300 300 4032  
date 5 January 2012

## NOTICE OF MEETING

### LICENSING SUB COMMITTEE

Date & Time

**Friday, 13 January 2012 at 1.30 p.m.**

Venue at

**Room 15b, Priory House, Monks Walk, Shefford**

Richard Carr  
Chief Executive

To: The Chairman and Members of the LICENSING SUB COMMITTEE:

Cllrs Mrs D B Green, K Janes and I A MacKilligan

[Named Substitutes: Cllrs R D Berry, L Birt, D Bowater, I Dalgarno,  
C C Gomm, J A G Saunders, I Shingler, P F Vickers and N Warren

**(Bold text indicates substitute Members who will act as Full Members on  
this Sub Committee on this occasion)**

All other Members of the Council - on request

***MEMBERS OF THE PRESS AND PUBLIC ARE WELCOME TO ATTEND THIS  
MEETING***

# AGENDA

1. **Welcome**

2. **Apologies for Absence**

Apologies for absence and notification of substitute members

3. **Members' Interests**

To receive from Members any declarations and the nature in relation to:-

(a) personal interests in any agenda item

(b) personal and prejudicial interests in any agenda item

4. **Licensing Process**

(enclosed)

5. **Licensing Objectives**

(enclosed)

**Report**

<b>Item</b>	<b>Subject</b>	<b>Page Nos.</b>
6.	<b>LICENSING ACT 2003 - A hearing called to determine an application for a review of a premises licence for Choice Foods, 62 High Street South, Dunstable, Beds LU6 3HD</b>	* 23 - 44



## **Procedure for the hearing of applications The Licensing Act 2003**

**The Licensing Act 2003 (Hearings) Regulations 2005**

**Public Protection  
Central Bedfordshire Council  
Priory House  
Monks Walk  
Chicksands  
Shefford  
SG17 5TQ**

**0300 300 8000**

**Licensing Sub-Committee Procedure for  
Determining applications under the Licensing Act 2003**

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## Introduction

- 1.1. The Licensing Act 2003 has placed local authorities at the centre of the decision making process for regulating the sale and supply of alcohol, provision of regulated entertainment and late night refreshment.
- 1.2. This document and the procedures detailed herein are based upon the guidance issued by the Local Government Regulation Service and with regards to the provisions of:
  - the Licensing Act 2003;
  - the Guidance issued by the Secretary of State for Culture, Media and Sport on 7 July 2004 under section 182 of the Licensing Act 2003; and
  - The Licensing Act 2003 (Hearings) Regulations 2005 (as amended).
- 1.3. This guidance is intended for all concerned in any way whatsoever with a hearing before a licensing panel (Licensing Sub-committee, the Licensing Committee or Council, as may be the case) in relation to the determination of applications under the Licensing Act 2003.

## 2. General Principles

- 2.1. All Members sitting on the determination of an application will always:
  - promote the right of all parties to have a fair hearing;
  - only have regard to such of the four licensing objectives that are subject to a relevant representation, namely:
    - the prevention of crime and disorder;
    - public safety;
    - the prevention of public nuisance; and
    - the protection of children from harm;
  - have regard to the Licensing Act 2003 and any relevant secondary legislation;
  - have regard to the Council's Statement of Licensing Policy;
  - have regard to the Guidance issued by the Secretary of State for Culture, Media and Sport under section 182 of the Licensing Act 2003;
  - treat each application on its own merits; and
  - undertake its decision-making responsibilities honestly and fairly, in an open, transparent and accountable way.

## **PRE-HEARING**

### **3. Licensing Panels**

- 3.1. Generally, hearings will take place before a Licensing Sub-committee consisting of three Members of the Licensing Committee, although, to avoid unnecessary adjournments, a fourth Member may attend as a substitute Member.
- 3.2. If, for any reason whatsoever, it is not possible to have a matter determined by a Licensing Sub-Committee, the matter would be heard by the Licensing Committee. A Licensing Committee must consist of between ten and fifteen Members and at least one half of those Members must attend for a hearing to proceed before the Licensing Committee.
- 3.3. In the highly unlikely event of it not being possible, for any reason whatsoever, to have a matter determined by either a Licensing Sub-committee or the Licensing Committee, the matter would be heard by Council.

### **4. Timescales for Convening a Hearing**

- 4.1. Most hearings under the Licensing Act 2003 must normally take place within 20 working days from the last date in which representations can be made. There are exceptions to this rule.
- 4.2. Exceptions:
  - 4.2.1. A hearing must take place within 10 working days of the Authority receiving notification of a review of the premises following a closure order;
  - 4.2.2. A hearing must take place within 7 working days from the day after the end of the period within which the police can object to a temporary event notice;
  - 4.2.3. A hearing must take place within 5 working days beginning the day after the end of the last day for the police to object to an interim authority notice.
- 4.3. Hearings may be dispensed with where all relevant persons agree a hearing is unnecessary.

### **5. Notice of Hearing**

- 5.1. Generally 10 clear days notice will be given of a hearing. There are exceptions to this rule.
- 5.2. Exceptions:
  - 5.2.1. 5 days notice will be given of a hearing for a review of a premises licence following a closure order;
  - 5.2.2. 2 days notice will be given of a hearing following police objection to an interim authority notice;

- 5.2.3. 2 days notice will be given of a hearing following police objection to temporary events notice.

## **6. Persons to be Notified of a Hearing**

- 6.1. The following persons must be notified of a hearing:
  - 6.1.1. Any applicant for any licence, provisional statement or review;
  - 6.1.2. Premises user who submitted a temporary event notice;
  - 6.1.3. Any person who has made relevant representations;
  - 6.1.4. Any Responsible Authority; and
  - 6.1.5. Where an application is made for a review, the holder of a premises licence or club premises certificate.

## **7. Contents of Notice**

- 7.1. The notice of a hearing must contain:
  - 7.1.1. The date, time and place of the hearing;
  - 7.1.2. The procedure to be followed at the hearing;
  - 7.1.3. The right of a party to attend and to be assisted or represented by any person whether legally qualified or not;
  - 7.1.4. Any points upon which the authority considers that it will want clarification from a party at the hearing;
  - 7.1.5. The right of the party to provide additional information to provide any clarification sought by the Authority;
  - 7.1.6. The consequences of failing to attend the hearing or not being represented at the hearing;
  - 7.1.7. Any information the Licensing Authority has received in support or opposition of the application.

## **8. Hearings to be open to the public**

- 8.1. Hearings will generally be open to the public as the Licensing Authority is committed to taking decisions in an honest, accountable and transparent way, but on occasions a licensing panel may find it necessary to exclude a party or parties, the public and press from all or any part of a hearing.
- 8.2. A panel will only pass an exclusion resolution where it considers that the public interest in doing so outweighs the public interest in the hearing, or that part of the hearing, taking place in public. Such decisions will be made on an individual basis.

- 8.3. The panel's deliberations, which do not form part of the hearing, will be conducted in private. The announcement of the panel's decision is part of the hearing and will generally be open to the public, subject to any exclusion resolution.

**9. Failure to attend the hearing**

- 9.1. No party is obliged to attend a hearing, although the Licensing Authority encourages all parties to attend hearings to make their application or representation, as may be the case.
- 9.2. Regardless of whether a party attends a hearing or not, the matter will generally be heard and determined by the licensing panel (the Council, the Licensing Committee or a Licensing Sub-committee). At the hearing, the panel will consider any application, representation or notice made by an absent party in the same way as it will of any application, representation or notice made by a party that attends the hearing.
- 9.3. If, however, the hearing is adjourned to a specified date, all parties will forthwith be notified of the date, time and place to which the hearing has been adjourned.

**10. Disruptive behaviour**

- 10.1. Any person who disrupts a hearing by the Council, the Licensing Committee or a Licensing Sub-committee of a matter under the Licensing Act 2003 may be required to leave the hearing.
- 10.2. It is for the panel hearing the matter to decide whether such person will be permitted to return to the hearing, but should they be allowed to do so, this may be on such conditions as the panel may specify.
- 10.3. If a disruptive person is a person who has a right to address the panel, then that person may, before the end of the hearing (i.e. before Stage 25 of the following procedure), put in writing any information they would have been entitled to give orally, had they not been required to leave the hearing.



**SUB - COMMITTEE AGENDA**

**11. Licensing Sub-Committee agenda**

- 11.1. The Licensing Sub-Committee Hearing shall be commenced in accordance with the Licensing Sub-Committee agenda. Any Committee matters shall be addressed at this stage.
- 11.2. The Licensing Sub-Committee Hearing procedure shall take over at the point at which the agenda item is called to be heard.
- 11.3. The Sub-Committee agenda shall deal with the issue of exclusion of press and public for the Licensing Sub-Committee Hearing.

## **HEARING PROCEDURE**

### **12. Opening the Hearing**

- 12.1. The Licensing Sub-Committee Hearing shall be formally opened by the Chair.
- 12.2. The Chair shall introduce Members of the licensing panel (a Licensing Sub-committee, the Licensing Committee or Council), officers present and all other parties present.
- 12.3. The Chair shall explain the procedure to be followed at the meeting and the nature of the decision to be taken by the panel.

### **13. Licensing Officer's Report**

- 13.1. The Licensing Officer presents his / her Report, including an outline of the application, the representation(s) and any points upon which the Licensing Authority has given notice that it required clarification; and identifies anything relevant in the legislation, the Council's Statement of Licensing Policy and the statutory guidance issued by the Secretary of State for Culture, Media and Sport.
- 13.2. Members of the panel may ask questions of the Licensing Officer with regards to the Report.

### **14. Licensing Authority's request(s) for clarification**

- 14.1. If points of clarification have been asked for, the Chair invites the Licensing Officer or relevant party to provide necessary information.
- 14.2. Members of the panel may ask questions with regards to the further information provided.

### **15. Presentation of Case / Submissions from Parties**

- 15.1. In the order of Applicant, Responsible Authority and Interested Party (or in the case of a review the relevant person), each party shall be invited to undertake the following:
  - 15.1.1. Set out their case;
  - 15.1.2. Call Witnesses in support of their case (provided notification of the witnesses has previously been given to the Council);
  - 15.1.3. Introduce documentary evidence in support of their case (provided notification of the documentary evidence has previously been given to the Council); and
  - 15.1.4. Respond to any questions asked of them by Members of the Licensing Panel.
- 15.2. At the Sub-Committee and Chair's discretion each party may ask questions of other parties by directing them through the Chair.

- 15.3. The Sub-Committee shall have the absolute discretion to restrict the number of witnesses and documents that any party can introduce, or the time spent on submissions or oral evidence, to ensure the proper running of the hearing.
- 15.4. Any witnesses that any party is seeking to call that have not previously been notified to the Council, in advance of the hearing, shall only be allowed with the consent of all other parties at the hearing. The Sub-Committee shall have the sole discretion to refuse to allow any witnesses to be heard, even where the consent of all parties has been given. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.
- 15.5. Any documents that any party is seeking to adduce that have not previously been notified to the Council, in advance of the hearing, shall only be allowed with the consent of all other parties at the hearing. The Sub-Committee shall have the sole discretion to refuse to allow any documents to be adduced, even where the consent of all parties has been given. In reaching the decision the Sub-Committee may consider any circumstances they believe to be relevant, and will have regard to the relevance of the evidence to the matters before the Committee.

## **16. Modification or Withdrawal of Application or Representation**

- 16.1. The Chair shall ask the applicant whether the applicant wishes to modify the application (e.g. by way of withdrawing a licensable activity and / or reducing the times asked for and / or volunteering additional steps to promote the licensing objectives).
- 16.2. The Chair shall ask each party making a representation whether such party would like to withdraw their representation.

## **17. Closing Submissions**

- 17.1. The Chair shall invite each of the parties to present a closing submission to the Sub-Committee.
- 17.2. The Chair shall invite the Licensing Officer to make any final representations.
- 17.3. At the end of the Closing Submissions the Chairman may ask the Legal Advisor if there is any clarification or points they wish to make.

## **18. Legal Advice**

- 18.1. The role of the Legal Advisor is to provide Members with advice on:
  - Questions of law;
  - Matters of practice and procedure;
  - The options available to the sub-committee in making their decision;
  - Whether information or evidence is relevant to the licensing objectives;
  - Any relevant case law or guidelines.

- 18.2. The hearing shall be directed by the Chair and assisted by the Legal Advisor as appropriate and necessary.

**19. Committee Decision in Relation to Procedure**

19.1. The Sub-Committee shall be entitled to vary the order and procedure for the hearing, at its absolute discretion.

**20. Determination of the Application**

20.1. After all representations have been heard, the Chair will inform all parties that the panel will retire in private to determine the matter.

20.2. Either the panel will retire alone to a private room or all parties, officers and members of the public will be required to leave the room, although the panel may invite their legal adviser to join them for the purpose of providing only legal advice - the details of which will be disclosed upon the hearing reconvening.

20.3. Should the sub-committee need to ask any further questions of any party, all parties shall be invited to return for the purposes of asking and answering questions.

20.4. Where the hearing is for:

- a review of a premises licence following a closure order;
- a personal licence by holder of a justices licence; or
- a counter notice following police objection to a temporary event notice.

The Sub-Committee must make its determination at the conclusion of the meeting.

20.5. For all other hearings the determination must be made within 5 working days of the hearing. The Sub-Committee will generally announce the determination at the end of the hearing.

20.6. The Sub-Committee may consider adding any conditions necessary in order to promote one or more of the four licensing objectives:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

20.7. All decisions shall be made in line with the general principles as detailed in Appendix A, the range of options available for determining each type of application.

20.8. The Sub-Committee shall complete the decision notice as shown at Appendix B.

20.9. The hearing will reconvene and the Chair will either:

- announce the Sub-Committee determination including reasons for the determination; or
- advise those persons present that the Sub-Committee has not reached a decision, but will make a determination as soon as it can and, in any event,

within five working days. All parties will then be notified forthwith of the decision.

## **POST HEARING**

### **21. Record of Proceedings**

- 21.1. The authority shall ensure that a record is taken of the hearing.
- 21.2. The record shall be kept for a period of six years from the date of the final action on the matter.

### **22. Irregularities**

- 22.1. Proceedings shall be rendered void due to a failure to comply with the procedures set out in this document.
- 22.2. Any failure to comply with the Hearing Regulations shall not render the process or the decision void.
- 22.3. Where the Authority considers any person to have been prejudiced from the irregularity it shall take such steps as it considers fit to remedy the irregularity, before reaching its determination.
- 22.4. Clerical mistakes may be corrected by the Authority.

### **23. Decision Notices**

- 23.1. The Authority shall provide a written notice of its determination as soon as practicable after the hearing and within 5 working days.

### **24. Appeals**

- 24.1. An appeal against the determination of the Authority must be made to the appropriate Magistrates Court within 21 days of the date of delivery of the decision.

### **25. Closing the Hearing**

- 25.1. The Chair shall thank all parties for attending and draw the hearing to a close.
- 25.2. Should there be another hearing to be heard the Sub-Committee shall begin the procedure again.

**Licensing Sub-Committee Checklist**  
**Procedure for determining applications under the Licensing Act 2003**

Item				
1.	Chair to introduce Sub-Committee, Committee Administrator, other Officers and all Parties present.			
2.	Chair to explain procedure for hearing to all parties.			
3.	Licensing Officer to introduce application, including details of the premises, application, objections, references to the Licensing Objectives and Policy and Statutory Obligations.			
4.	Chair to invite Sub-Committee to ask any questions of the Licensing Officer, in relation to the report provided.			
5.	Chair to ask Licensing Officer whether there are any points requiring Clarification.			
Steps 6 to 9 to be completed for each party in the order of Applicant (A), Responsible Authority (RA) and Interested Party (IP) or Relevant Person (RP). The chair will invite each party to:		A	RA	IP/ RP
6.	Set out their case			
7.	Call Witnesses in support of their case (provided notification of the witnesses has previously been given to the Council);			
8.	Introduce documentary evidence in support of their case (provided notification of the documentary evidence has previously been given to the Council); and			
9.	Respond to any questions asked of them by Members of the Licensing Panel.			
Repeat steps 6 to 9 for each party				
10.	At the Sub-Committee and Chair's discretion each party may ask questions of other parties by directing them through the Chair.			
11.	Chair asks Applicant if they wish to modify or withdraw their application in any way.			
12.	Chair to invite closing submissions from applicant, responsible authorities and interested parties.			
13.	The Sub-Committee will retire into private to consider its decision.			
14.	Chair will announce the decision of the Sub-Committee and the reasons for the decision. The Chair will advise all parties of their right of appeal.			



Appendix 'A'

Options for determining applications

Determination of application for premises licence

- To grant the licence
- To grant with the addition of conditions necessary to promote any of the licensing objectives
- To exclude from the scope of the licence any of the licensable activities to which the application relates
- To refuse to specify a person in the licence as the premises supervisor
- To reject the application

Determination of application for variation of a premises licence

- To grant the variation
- To modify the conditions of the licence – this includes altering or omitting any existing condition or adding any new conditions
- To reject the whole or part of the application

Determination of application for review of a premises licence

- To modify the conditions of the licence – this includes altering or omitting any existing condition or adding any new conditions
- To exclude a licensable activity from the scope of the licence
- To remove the designated premises supervisor
- To suspend the licence for a period not exceeding three months
- To revoke the licence

Appendix 'B'



**CENTRAL BEDFORDSHIRE COUNCIL**

**DECISION NOTICE**

**LICENSING ACT 2003**

**DECISION OF THE LICENSING SUB – COMMITTEE**

<u>Date of Hearing</u>	
------------------------	--

<u>Applicant's Name:</u>	
<u>Premises Address:</u>	

<u>Application for:</u>	
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<u>Reasons for Hearing:</u>	
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<u>Members of the Licensing Sub-Committee:</u>	
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<u>Applicant:</u>	
<u>Person(s) Appearing on Behalf of the Applicant:</u>	

<u>Objector(s):</u>	
<u>Person(s) Appearing on Behalf of Objector(s):</u>	

<u>Other Persons Present:</u>	
-------------------------------	--

*If appropriate:*

<b><u>COMMENCEMENT DATE</u></b>
<u>This licence will come into effect from:</u>
<input type="radio"/> <u>The date of this decision</u>  <input type="radio"/> <u>The end of the period for appeal.</u>

<b><u>FINDINGS OF FACT</u></b>
--------------------------------

The Sub-Committee made the following findings of fact:

<b><u>DECISION</u></b>
<u>The Sub-Committee have decided that the application should be:</u>
<input type="radio"/> <u>Granted (as set out in the application)</u>
<input checked="" type="checkbox"/> <u>Refused</u>
<input type="radio"/> <u>Amended to include the following conditions:</u>
1.
2.
<ul style="list-style-type: none"> <li>• <u>The Sub- Committee considers the additional conditions necessary for the promotion of the licensing objectives.</u></li> <li>• <u>All Licences are granted subject to the mandatory conditions imposed by the Licensing Act, 2003.</u></li> <li>• <u>In coming to its decision, the Sub-Committee has taken into account:</u> <ul style="list-style-type: none"> <li>○ <u>The Licensing Act Section 18, which states that it must take such steps it considers necessary for the promotion of the licensing objectives;</u></li> <li>○ <u>The Secretary of State’s Guidance issued under section 182 of the Licensing Act 2003; and</u></li> <li>○ <u>Central Bedfordshire Council’s Licensing Policy</u></li> <li>○ <u>The merits of the application and the representations (including supporting information) presented by all parties.</u></li> </ul> </li> </ul>

<b><u>REASONS FOR DECISION</u></b>
<u>The reasons for the Committee’s decision are as follows:</u>
<input checked="" type="checkbox"/> <u>Prevention of Crime and Disorder</u>
<input type="radio"/> <u>Public Safety</u>
<input checked="" type="checkbox"/> <u>Prevention of Public Nuisance</u>
<input type="radio"/> <u>Protection of Children from Harm</u>
<input checked="" type="checkbox"/> <u>General – all four licensing objectives</u>

<b><u>Irrelevant Representations</u></b>	
<u>The Sub-Committee determined that the following representations were irrelevant: Not applicable.</u>	
<u>Representation</u>	<u>Reason Representation was Considered Irrelevant</u>

1.	
2.	

**Right of Review**

At any stage, following the grant of a premises licence, a responsible authority, such as the Police or an interested party, such as a resident living in the vicinity of the premises may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives. The review is a request for the Council to look at the existing licence and decide whether its conditions are adequate to meet the four licensing objectives defined under the Licensing Act 2003.

**Effect of Failing to Comply with Conditions (Explained to Applicant)**

The Sub-Committee has explained to the applicant the effect of failure to comply with any of the conditions attached to the licence or certificate is a criminal offence, which upon conviction, would result in a fine of up to £20,000 or up to six months imprisonment or both.

**Right of Appeal**

Applicants or any person who has made a relevant representation who is dissatisfied with this decision or the imposition of any condition or restriction has the right of appeal to the Magistrates Court within 21 days of the date on which they are notified of the decision.

Signed: .....

[Name]

Chair of Licensing Sub-Committee

Date: .....

## **The 4 Licensing Objectives**

**To promote the Licensing Objectives:**

- 1. Prevention of Crime and Disorder**
- 2. Public Safety**
- 3. Prevention of public nuisance**
- 4. Protection of children from harm.**

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<b>LICENSING SUB-COMMITTEE</b>
<b>13 January 2011</b>

<b>SUBJECT</b>	<b>LICENSING ACT 2003 – A hearing called to determine an application for a review of a premises licence for Choice Foods, 62 High Street South, Dunstable, Beds LU6 3HD</b>
<b>REPORT OF</b>	<b>Head Of Service Public Protection</b>
<i>Contact Officers; <a href="mailto:dave.mcbain@centralbedfordshire.gov.uk">dave.mcbain@centralbedfordshire.gov.uk</a></i>	

**1. The Application**

1.1 An application has been submitted by a Trading Standards officer. A Copy of the application is attached at Appendix A.

1.2

Activity	Current Provision	The Application
Regulated Entertainment	No provision	N/A
Late Night Refreshment	No Provision	N/A
Supply of Alcohol (Off sales only)	Monday to Saturday 08.00 hrs to 23.00 hrs Sunday 10.00 hrs to 22.30 hrs	To determine a review of the existing conditions
Hours of Opening	0700 hrs to 23.00hrs	N/A

**1.3 Location**

The premise is situated close to Dunstable Town Centre and close by a bus and taxi stop. It is part of a multi occupied building with other commercial premises. A public house is situated within a few metres of the premise at the opposite side of the road. Other commercial properties are in the vicinity including a local Job Centre. There is some residential accommodation nearby. A copy of the location map is attached at Appendix B.

**2. Relevant History**

- 2.1 The premise has been a licensed premise for a number of years and was previously known as Costcutter. An application for conversion and variation under the Licensing Act 2003 was originally made on 5<sup>th</sup> August 2005. The present owner applied for transfer of the Premises Licence in his own name on 16<sup>th</sup> June 2009.
- 2.2 An earlier application for review, due to have taken place in June 2011, was withdrawn following an agreement between Trading Standards officers and the licensee to vary the licence to include additional conditions at paragraph (e) of the premises licence under the licensing objective “The protection of children from harm”. Please see Appendix ‘C’

**3. Promotion of Licensing Objectives**

- 3.1 There are no other additional conditions given in the Operating Schedule to assist in the promotion of the Licensing Objectives

**4. Representations from responsible Authorities**

- 4.1 The review application from Trading Standards Service  
Environmental Health – No comments  
Police – No comments  
Other Responsible Authorities – No Reply

**5. Interested Parties**

- 5.1 There have been no representations from interested parties.

**6. Licensing Policy**

- 6.1 Members’ attention is drawn to the Council’s Licensing Policy, in particular section 7.0. Licensing Functions. The relevant licensing objective of ‘The Protection of Children from Harm’ can be viewed at section 7.4.

**7. Secretary of State’s Guidance**

- 7.1 The sub committee must have regard to the Secretary of State’s Guidance issued under Section 182 of the Licensing Act 2003, in particular Part 2. s2.41. of The licensing objectives, and Annex ‘D’ Part 5 ‘Conditions relating to the Protection of Children from Harm’

**8. Observation and General Guidance**

- 8.1 The Sub-Committee must consider the application and any submissions made in writing, and determine the application. The options available are:
- Take no action (this may include an informal warning)



- To modify the licence to include conditions that it considers are necessary for the promotion of the Licensing objectives - this includes altering or omitting any existing condition (including a reduction of hours) within the operating schedule and/or adding any new conditions,
- To exclude a licensable activity from the scope of the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence for a period not exceeding three months
- To revoke the licence

8.2 The Sub-Committee determination must be based upon:-

- The merits of the review application and the representations (including supporting information) presented by all the parties.
- The steps that are necessary for promotion of the four Licensing objectives.
- The Policy of the Licensing Authority.
- The Guidance issued by the Secretary of State for the Home Office under s182 of the Licensing Act 2003

8.3 The Sub-Committee must provide clear and relevant reasons for their decision

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**Background Papers:** Licensing Act 2003, Home Office Guidance s182,  
Central Bedfordshire Council Licensing Policy  
**Location of Papers:** Licensing Team, Dunstable  
**File Reference:** 014243

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**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 **Tim Argent** .....

**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 details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> ARFAN HUSSAIN Choice Foods 62 High Street South Dunstable Beds	
<b>Post town</b> Dunstable	<b>Post code (if known)</b> LU6 3HD

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Arfan HUSSAIN
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<b>Number of premises licence or club premises certificate (if known)</b>
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**Part 2 - Applicant details**

I am Tim Argent

**Please tick yes**

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

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

**Please tick**

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

**Surname**

**First names**

**Please tick yes**

I am 18 years old or over

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

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

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address <b>Tim Argent – Senior Enforcement Officer – Trading Standards Central Bedfordshire Council – Public Protection Priory House Monks Walk Chicksands Beds SG17 5TQ</b>
Telephone number (if any) <b>0300 300 5090</b>
E-mail address (optional) <b>tim.argent@centralbedfordshire.gov.uk</b>

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

Please tick one or more boxes

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

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

On the 21<sup>st</sup> February 2011 – at Luton Magistrates Court, the store was prosecuted by Central Bedfordshire Council for the offence of persistently selling alcohol to children. The store sold alcohol on 3 separate occasions to persons under the age of 18 years within 3 months.

The store has on several occasions (5+) received detailed advice and guidance from this service on setting up and implementing systems and procedure to prevent sale of age-restricted products to children.

Following the aforementioned prosecution an application to review the premise license was submitted. Following negotiations and agreement to voluntarily attach certain conditions to the licence the application to review was retracted.

On the 18<sup>th</sup> August 2011, a pre-warned underage sales test-purchase operation was carried out. The store owner Mr Arfan Hussain sold High Strength Alcohol and Cigarettes to a 16 year old.

Please provide as much information as possible to support the application

On the 21<sup>st</sup> February 2011 – at Luton Magistrates Court, the store was prosecuted by Central Bedfordshire Council for the offence of persistently selling alcohol to children contravening Section 147a of the Licensing Act 2003. The store sold alcohol on 3 separate occasions (26/04/10, 05/05/2010 & 04/06/2010) to persons under the age of 18 years.

Mr Arfan Hussain claims to have run the store since September 2009. Mr Hussain has on several occasions (5+) received detailed advice and guidance from his service on setting up and implementing systems and procedure to prevent sale of age-restricted products to children.

Following the aforementioned prosecution an application to review the premise license was submitted. Following negotiations and agreement to voluntarily attach certain conditions to the licence the application to review was retracted.

On the 18<sup>th</sup> August 2011, a pre-warned underage sales test-purchase of cigarettes and alcohol operation was carried out. On this occasion alcohol and cigarettes were again sold to a child. The seller was the store owner Mr Arfan Hussain who sold 10x Mayfair Smooth Cigarettes and 1x 35cl bottle of Petruskka Vodka (37.5%abv) to a 16 year old.

Attention should be drawn to the fact that despite the repeated advice and guidance from this service to prevent sales, a prosecution for persistently selling alcohol and detailed new licence condition implementing systems to help prevent further sales, alcohol and cigarettes were still sold to a child. On this occasion by the owner and person responsible for implementing such measure to prevent such sales.

The strength and type of the alcohol in question must also be considered. The alcohol sold was Vodka at 37.5%abv and had it been fully consumed by the 16 year old operative would have caused them serious harm. The alcohol was also stored on the shelves behind the counter meaning that Arfan Hussain had to take the order, turn around and remove the alcohol from the shelf himself, giving him ample time and opportunity to question the operatives age. This is further compounded as the store was required to have a 'Think 25' policy in that anybody who looks under 25 should be asked for ID, meaning either Arfan Hussain had misjudged the age by 10 years or recklessly sold the age restricted products.

It is worth mentioning that subsequent test-purchases were carried out at the store on the 27/08/11 & 15/09/11. No age-restricted products were sold but on both occasions comments were made to the operatives indicating they had been recognised by the staff.

#### **Details of the History leading to the Prosecution:**

As part of the operation Choice Foods, 62 High Street South, Dunstable, Beds, LU6 3HD was tested and alcohol namely 2 x70cl bottle of Archers Aqua Schnapps Raspberry & Peach (5% abv) was sold to the 16 year old operative. I witnessed the sale and clearly saw the seller who I later knew to be Sabran HUSSAIN 16/11/88 the store manager. HUSSAIN was questioned directly following the sale and stated that there was no refusals book in the store, no training records and no age check policy being used or enforced by owner Mr Arfan Hussain. I advised HUSSAIN to implement all these systems to prevent further sales being made.

On the 28<sup>th</sup> April 2004 I wrote to the owner of the store Mr Arfan HUSSAIN. The

warning letter explained that he should implement the aforementioned systems to prevent further sales from occurring. The letter also advised that the shop would be re-tested within 2 months. I enclosed a Trading Standards - Traders Charter Pack. The pack gives the store a refusals book, some basic staff training, and advice and guidance on the law.

On the 5<sup>th</sup> May 2010 (9 days after the first sale) I again visited the store during an under-age test purchase operation. On this occasion alcohol namely a 1 Litre bottle of White Ace Cider (7.5%abv) was sold to the 16 year old operative. I witnessed the sale being made by a young Indian male who later gave his name as Kishan BHATT 08/04/95 (only 15 years of age). BHATT was the only member of staff behind the till and no other member of staff could be seen on the shop floor. The other officer on the operation Lauren Stanley then went into the store and purchased some unrelated items. Again BHATT served her and no other member of staff could be seen. I then entered the store and waited in a queue of people to speak to BHATT. Whilst waiting in the queue BHATT served several customers alcohol and cigarettes, each of these sales was un-supervised. On questioning BHATT he called HUSSAIN (manager) who arrived from the rear of the shop (not shop floor). HUSSAIN stated that BHATT did not work in the store. No refusals book was in operation, there were also no staff training records or any age check policy operational in the store.

On the 26<sup>th</sup> May 2010 I again wrote to the owner of the store Arfan HUSSAIN. The letter invited Arfan HUSSAIN to attend a formal tape recorded interview. The letter also advised him that should he require any guidance or assistance on setting up and implementing adequate systems to prevent further sales from occurring he should contact me via the details given.

On the 4<sup>th</sup> June 2010 (4 weeks after the last sale) I again visited the store as part of an underage sale of alcohol operation. On this occasion alcohol namely a 75cl bottle of Stowells white wine (11%abv) was sold to the underage sales operatives. The seller on this occasion was a Mr Jayakrishna NADENDLA 23/02/85. NADENDLA stated that he had not signed any training records, there was no refusals book operational that he was aware of, and that he knew of no age check policy, he said he had worked in the store for 11 months.

On the 7<sup>th</sup> June 2010 I telephone HUSSAIN regarding the proposed interview scheduled for the 9<sup>th</sup> June. During the telephone conversation I explained to HUSSAIN the importance of immediately implementing systems such as documented staff training records, a refusals or challenge register in the store and the need to regularly check this, as well as implementing a challenge policy such as 'Think 21'.

HUSSAIN failed to attend the aforementioned interview and following the 3<sup>rd</sup> sale of alcohol (4<sup>th</sup> June 2010) I on the 17<sup>th</sup> June 2010 again invited HUSSAIN to attend a tape recorded interview scheduled for the 22<sup>nd</sup> June 2010. The letter also explained to HUSSAIN that should he require guidance or assistance on implementing and setting up adequate systems to prevent further sales of age restricted products to children he should contact me via the detail given. HUSSAIN failed to attend this interview.

On the 23<sup>rd</sup> September 2010 Arfan HUSSAIN attended a formal tape-recorded interview following the discovery of out of date food items in the store. Following this interview I conducted an interview with HUSSAIN regarding the 3 sales of alcohol to children. During the interview he stated that there was still no documented training record in the store. There was also no refusal or challenge register in use within the store as HUSSAIN claims he wasn't really sure what to do with one. He claims that only he and his father now serve alcohol and other age restricted products within the store. HUSSAIN also stated that he has at no point sought guidance or assistance from the Licensing Authority, Trading Standards, the Police or any Alcohol/retailer associations or groups to prevent further like sales to children from happening.



Attention should be brought to the fact that Arfan HUSSAIN is the controlling mind of the business and it is his name on the Premises Licence. He hadn't completed the personal Licence holder's course and has not sought any other training or guidance on running the business following each of the aforementioned sales from anywhere else except from his father who runs another store. He has been advised by this service on several occasions to implement systems to prevent sales from happening and has failed to do so. In addition to this each letter that HUSSAIN has received from this Service has stated how to contact this Service for guidance and advice on setting up systems to prevent underage sales and still he has refused to do so.

Attention should also be drawn to HUSSAIN's irresponsible methods of running of the shop. At the time none of his staff have any training documents, and there are no systems in place to assist them in refusing age restricted sales to underage children. On the second sale the store was left in the hands of a 15 year old boy, who was not of the legal age to retail alcohol and again had received no training. Following each sale it is apparent that HUSSAIN has failed to implement any measures or systems to prevent further sales from occurring. He claims to have spoken to his two members of staff but on the 2<sup>nd</sup> and 3<sup>rd</sup> sale each member of staff who are also family members (brother & cousin) state that they had not received any such training. HUSSAIN claims that before the first sale he had implemented a 'Challenge 21' policy which he had reinforced following each subsequent sale, but following each sale no member of staff was aware of this and there was no evidence of such a system within the store (posters, stickers etc. around the point of sale).

Further attention should also be drawn to the type of alcohol sold to the underage operatives. Although any alcohol sale to a child is an offence, the alcohol sold on two occasions was classed as high strength (7.5% & 11%abv) and in large volume (1 litre & 75cl). Had the purchasing operative consumed the entire product they could have been caused serious harm.

**Recommendations:**

1. Full revocation of the licence to sell alcohol.

**Or:**

2. Suspension of the license for 3 months, following this the current conditions continue to be in-force including a restriction on the hours alcohol can be sold. Suggested:

10:00am – 16:00pm – Monday-Friday.

10:00am – 15:00pm - Sat & Sun.

**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		
0	7	0	4	2	0	1

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

Review application made on the 07/04/2011 –

Recommended License Conditions Made in the review application:

3. Suspension of the Licence for 3 Months.
4. A 'Challenge 25' Policy to be implemented.
5. The 'Challenge 25' posters & signage to be displayed in the areas alcohol is exposed for sale and at the point of sale.
6. Documented staff training records covering the prevention of age-restricted sales should be implemented with 6 monthly refresher training. All training records to be signed by staff and the deliverer of the training.
7. Only a personal licence holder can sell alcohol within the store. This function can not be deputised to other members of staff.
8. After 5pm alcohol can only be sold following the production of Identification from every purchaser (passport, photo driving licence, accredited proof of age card) regardless of age.
9. A documented refusals book or electronic log must be maintained. The book or log must be checked and signed weekly by the DPS or premises licence holder. The check should include making sure staff are using the system and identifying any issues or training needs through lack of entries.
10. The store will implement and maintain cash registers with electronic 'till prompts' when selling alcohol.

Following consultation between both parties the conditions listed below were voluntarily added to the licence:

1. A 'Challenge 25' policy will be in place. Poster and signage to be displayed in the areas alcohol is exposed for sale and at the point of sale.
2. Documented staff training records covering the prevention of age-restricted sales and the 'challenge 25' policy will be in place. Documented refresher training will be carried out every 6 months for all staff. All training records to be signed by staff and the deliverer of the training.
3. Only a personal licence holder can sell alcohol within the store. This function can not be deputised to other members of staff.
4. For a period of two calendar months following the confirmation of the variation of this licence alcohol can only be sold from the store (after 5pm) following the production of valid identification from every purchaser (passport, photo driving licence, accredited proof of age card). This condition is regardless of the purchaser's age or if the purchaser is known to the store and the seller of the alcohol believes they have previously been shown ID from the purchaser (e.g. after 17:00 ever sale of alcohol must be accompanied by valid identification from the purchaser).
5. A documented Challenge register will be in place and maintained. The register will be checked and signed weekly by either the DPS or Premises licence holder. This check will include monitoring that staff

are using the register and identify any issues or training needs through trends or lack of entries.

6. The store within 2 months of the granting of this variation will implement and maintain cash registers with electronic till prompts that will alert the seller to check for proof of age of the purchaser every time alcohol is sold.

Please tick yes

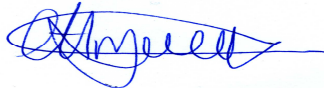
- § I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- § I understand that if I do not comply with the above requirements my application will be rejected

**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



Date: **21/11/2011**

Capacity : **Senior Enforcement Officer – Trading Standards**

**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) tim.argent@centralbedfordshire.gov.uk**

**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.

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**THE LICENSING ACT 2003**

**CENTRAL BEDFORDSHIRE COUNCIL  
PREMISES LICENCE  
PART A**

**Premises licence number**

014243

**Part 1 – Premises details**

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

Choice Foods  
62A High Street South

**Post town**

Dunstable

**Post code**

LU6 3HD

**Telephone number**

01582 660277

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

Sale of alcohol

**The times the licence authorises the carrying out of licensable activities**

Monday to Saturday 08.00hrs to 23.00hrs  
Sunday 10.00hrs to 22.30hrs

**The opening hours of the premises**

Mon to Sun 07.00hrs to 23.00hrs

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

Off the premises

**Part 2**

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

Arfan Hussain  
62A High Street South  
Dunstable  
Bedfordshire  
LU6 3HD

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

Not applicable

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

Ashfaq Hussain  
49 Warren Road  
Neasden  
London  
NW2 7LJ

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

244785

**Issued by**

London Borough of Brent

This licence is effective from 17<sup>th</sup> June 2011

Dated the 22<sup>nd</sup> July 2011



**Susan Childerhouse**  
**Head of Public Protection**

**Annex 1 - Mandatory conditions**

**a) MANDATORY CONDITIONS WHERE A LICENCE AUTHORISES THE SUPPLY OF ALCOHOL**

1. No supply of alcohol may be made under the premises licence -
  - a) at a time when there is no designated premises supervisor in respect of the premises licence, or
  - b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

**NEW MANDATORY CONDITIONS**

**4.**

1. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
2. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

**Off- licence**

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

**Annex 2 – Conditions consistent with the operating schedule**

**a) General – all four licensing objectives (b, c, d, e)**

No additional measures identified

**b) The prevention of crime and disorder**

No additional measures identified

**c) Public safety**

No additional measures identified

**d) The prevention of public nuisance**

No additional measures identified

**e) The protection of children from harm**

1. A 'Challenge 25' policy will be in place. Poster and signage to be displayed in the areas alcohol is exposed for sale and at the point of sale.
2. Documented staff training records covering the prevention of age-restricted sales and the 'challenge 25' policy will be in place. Documented refresher training will be carried out every 6 months for all staff. All training records to be signed by staff and the deliverer of the training.
3. Only a personal licence holder can sell alcohol within the store. This function can not be deputised to other members of staff.
4. For a period of two calendar months following the confirmation of the variation of this licence, alcohol can only be sold from the store (after 5pm) following the production of valid identification from every purchaser (passport, photo driving licence, accredited proof of age card). This condition is regardless of the purchaser's age or if the purchaser is known to the store and the seller of the alcohol believes they have previously been shown ID from the purchaser (e.g. after 17: 00 hrs every sale of alcohol must be accompanied by valid identification from the purchaser)
5. A documented Challenge register will be in place and maintained. The register will be checked and signed weekly by either the DPS or premises licence holder. This check will include monitoring that staff are using the register and identify any issues or training needs through trends or lack of entries.
6. The store within two months of the granting of this variation will implement and maintain cash registers with electronic till prompts that will alert the seller to check for proof of age of the purchaser every time alcohol is sold.

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

Not applicable

**Annex 4 – Plans**

Attached