

## Report of the Assistant Director Corporate Services to a Hearing before the Bradford Area Licensing Panel to be held on 25 August 2009.

**F**

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### Subject:

Application for a Review of a Premises Licence for Penny Bank, 40 North Parade, Bradford.

### Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

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Suzan Hemingway  
Assistant Director Corporate Services  
(City Solicitor)

Report Contact: Melanie McGurk  
Senior Licensing Officer  
Phone: (01274) 431873  
E-mail: [melanie.mcgurk@bradford.gov.uk](mailto:melanie.mcgurk@bradford.gov.uk)

### Portfolio:

**Corporate**

### Improvement Committee Area:

**Corporate Improvement Committee  
Safer and Stronger Communities**



2006-2007  
Improving Rural Services  
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



Ward: City

**1. Summary**

**1.1 Premises Licence Holder**

Focusmaster Limited.

**1.2 Designated Premises Supervisor**

Michael Lee Kilgallon.

A copy of the Licence is included at Appendix 1.

**1.3 The Premises**

Penny Bank, 40 North Parade, Bradford

**1.4 The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption on and off the premises, the provision of regulated entertainment and the provision of late night refreshment (from 23.00).

Hours of licensable activities:

Sale of alcohol, exhibition of films, indoor sporting event, playing of recorded music, provision of facilities for making music & late night refreshment (from 23.00)

Monday to Saturday:	10.00 to 02.00
New Years Eve:	10.00 hours until the start of permitted hours the following day.

Live music

Monday to Saturday:	Noon to 00.30
New Years Eve:	Noon to 02.00

**1.4 Steps agreed in the Operating Schedule by the Licensee to address the Licensing Objectives**

**a) Prevention of crime and disorder**

The Licensee shall at all times maintain a “zero tolerance” policy with regard to illegal drugs, including appropriate staff training in detection and prevention.

Staff shall be trained in efficient methods for ensuring customers leave the premises in a quiet and orderly fashion.

The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local “Pub Watch” schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.

The CCTV System installed at the premises shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.

Alcoholic and other drinks may not be removed from the premises in open containers.

b) Public Safety

All emergency lighting; fire fighting equipment and first aid facilities (including the accident book) shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use and about the evacuation procedures for the premises.

Access and egress doors into and out of the premises shall be kept clear and free from obstruction at all times.

The licensee shall ensure that all areas of the premises are cleared of glass bottles or glass drinking receptacles on a regular basis.

c) Prevention of public nuisance

Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.

The Licensee shall ensure that staff monitor, on a regular basis, noise emanating from the premises from regulated entertainment to ensure that neighbouring residents are not disturbed.

d) Protection of children from harm

The Licensee shall enforce an effective recognised “proof of age policy” at all times and ensure appropriate staff training in its operation.

e) General – all four licensing objectives

None.

**1.5 Conditions Attached after Hearing**

Not applicable.

**2. Applications Received asking for a Review of the Licence**

**2.1 Responsible Authorities**

West Yorkshire Police have submitted an application for review of the licence following three underage sales of alcohol within a three month period.

A copy of the application for review is attached at Appendix 2.

Included with the application are supporting documents from West Yorkshire Police and Others.

A copy of the supporting documents is attached at Appendix 3. . (In the interests of economy this document has been sent to Members of the Panel only.)

### **3. Legal Appraisal**

3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

3.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 5.99 to 5.111 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 4.

3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.

3.4 Only "relevant representations" by or expressly on behalf of a defined "interested party" or "responsible authority" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.

3.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

### **4. Statement of Policy Issues**

4.1 The following parts of the Licensing Policy are of particular importance; Part 7 (protection of children from harm).

4.2 The Annexes to the Policy sets out various types of model condition that could be considered.

### **5. Legal Options**

5.1 Members may:

- (a) Refuse the application for review of the licence; or

- (b) Decide not to impose any further restrictions on the licence; or
- (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
- (d) Suspend the licence for a period not exceeding 3 months; or
- (e) Revoke the premises licence; or
- (f) Remove the named Designated Premises Supervisor from the Licence.

5.2 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court within 21 days of being notified of the decision.

## **6. Financial and resource appraisal**

6.1 There are no apparent finance or resource implications.

## **7. Other implications**

### **7.1 Equal Rights**

There are no apparent equal rights implications.

### **7.3 Community safety implications**

There are no apparent community safety implications.

### **7.4 Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest.

The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

## **8. Not for publication documents**

8.1 None

9. **The Role of the Panel**

- 9.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for review of the premises licence.

10. **Appendices**

1. Premises Licence.
2. Application for Review.
3. Supporting documents from West Yorkshire Police & Others. (In the interests of economy this document has been sent to Members of the Panel only.)
4. Extract from the Government Guidance.

11. **Background documents**

Licence, representations etc

## Licensing Act 2003 Premises Licence

**BD/PRA0196**

### Part 1 - Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

##### Penny Bank

40 North Parade, Bradford, West Yorkshire, BD1 4PS.

Telephone 01274 736646

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- entertainment facilities for making music
- provision of late night refreshment
- the sale by retail of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Saturday New Years Eve 10.00 hours until the start of permitted hours the following day.	10:00am	2:00am
C. Indoor sporting event	Monday to Saturday New Years Eve 10.00 hours until the start of permitted hours the following day.	10:00am	2:00am
E. Performance of live music (Indoors)	Monday to Saturday New Years Eve	Noon Noon	12:30am 2:00am
F. Playing of recorded music (Indoors)	Monday to Saturday New Years Eve 10.00 hours until the start of permitted hours the following day.	10:00am	2:00am
I. Provision of facilities for making music (Indoors)	Monday to Saturday New Years Eve 10.00 hours until the start of permitted hours the following day.	10:00am	2:00am
L. Late night refreshment (Indoors)	Monday to Saturday New Years Eve	11:00pm 11:00pm	2:30am 5:00am
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday New Years Eve 10.00 hours until the start of permitted hours the following day.	10:00am	2:00am

## Licensing Act 2003 Premises Licence

BD/PRA0196

### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Saturday	10:00am	2:30am
New Years Eve	10.00 hours until the start of permitted hours the following day.	

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

## Part 2

### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Focusmaster Limited

14 Hallfield Road, Bradford, West Yorkshire, BD1 3RQ.  
Telephone 01274 736646

### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Focusmaster Limited

3788139

### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Michael Lee KILGALLON

Carlton lodge, 1 North Avenue, Bradford, West Yorkshire, BD8 7NH.  
Telephone 01274 548998

### PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. BD/PER1253

Issued by Bradford

### ANNEXES

#### Annex 1 - Mandatory Conditions

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.
3. The Licensee must ensure that any film which has received a Classification Certificate from the British Board of Film Classification is viewed only by persons as specified in the suitability category of this Certificate.
4. Films which have not received a Classification Certificate from the British Board of Film Classification must not be exhibited (subject to the proviso in Condition 5 below) unless, if taken as a whole, they are exempted works within Section 2 of the Video Recordings Act, 1984 or are:
  - (a) an event of local interest; or



## Licensing Act 2003

### Premises Licence

BD/PRA0196

#### ANNEXES continued...

(b) a programme lawfully recorded for public viewing from a television broadcast exhibited by the television broadcasting authorities;

(c) have been specifically approved by the Licensing Authority in writing.

5. Notwithstanding the conditions above, a film may be exhibited, or person, or any class of persons, may be admitted thereto if the permission in writing of the Licensing Authority is first obtained and any conditions of any such permission are complied with.
6. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Classification or approved for exhibition by the Licensing Authority, as the case may be.

#### Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

None

#### **The Prevention of Crime & Disorder:**

7. The Licensee shall at all times maintain a "zero tolerance" policy with regard to illegal drugs, including appropriate staff training in detection and prevention.
8. Staff shall be trained in efficient methods for ensuring customers leave the premises in a quiet and orderly fashion.
9. The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.
10. The CCTV System installed at the premises shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.
11. Alcoholic and other drinks may not be removed from the premises in open containers.

#### **Public Safety:**

12. All emergency lighting; fire fighting equipment and first aid facilities (including the accident book) shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use and about the evacuation procedures for the premises.
13. Access and egress doors into and out of the premises shall be kept clear and free from obstruction at all times.
14. The licensee shall ensure that all areas of the premises are cleared of glass bottles or glass drinking receptacles on a regular basis.

#### **The Prevention of Public Nuisance:**

15. Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.

## Licensing Act 2003

### Premises Licence

BD/PRA0196

#### ANNEXES continued...

16. The Licensee shall ensure that staff monitor, on a regular basis, noise emanating from the premises from regulated entertainment to ensure that neighbouring residents are not disturbed.

#### The Protection of Children from Harm:

17. The Licensee shall enforce an effective recognised "proof of age policy" at all times and ensure appropriate staff training in its operation.

#### Annex 3 - Conditions attached after a hearing by the Licensing Authority

Not Applicable.

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## Licensing Act 2003

### Premises Licence Summary

BD/PRA0196

#### Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION

### Penny Bank

40 North Parade, Bradford, West Yorkshire, BD1 4PS.

Telephone 01274 736646

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

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## Licensing Act 2003

### Premises Licence Summary

BD/PRA0196

#### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
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New Years Eve		
10.00 hours until the start of permitted hours the following day.		

#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

#### NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Focusmaster Limited

14 Hallfield Road, Bradford, West Yorkshire, BD1 3RQ.

#### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Focusmaster Limited

3788139

#### NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Michael Lee KILGALLON

#### STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No restrictions.





**RESTRICTED**

**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, (insert name of applicant) West Yorkshire Police

- **Apply for the review of a Premises Licence under Section 51**
- **Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or Club Premises details**

Postal address of premises or, if none, Ordnance Survey map reference or description:

Penny Bank Public House – 40 North Parade, Centre

Town/City: Bradford

Postcode: BD1 4PS

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

Focus master Ltd – 14 Hallfield Road, Bradford BD1 3RQ

Number of premises licence or club premises certificate (if known): BD/PRA0196

**Part 2 – Applicant details**

Please 'check' appropriate box(es)

I am:

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**

Surname:

Forename(s):

I am 18 years old or over: ☐

Current postal address if  
different from premises

address:

Town/City:

Postcode:

Daytime contact telephone number:

E-mail address (optional):

**B – Details of other applicant**

Surname: \_\_\_\_\_ Forename(s): \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Town/City: \_\_\_\_\_ Postcode: \_\_\_\_\_  
 Daytime contact telephone number: \_\_\_\_\_  
 E-mail address (optional): \_\_\_\_\_

**C – Details of responsible authority applicant**

Mrs \_\_\_\_\_ Police officer \_\_\_\_\_  
 Surname: Dawson Forename(s): Susanne  
 Address: Trafalgar House, Nelson Street  
 Town/City: Bradford Postcode: BD5 0DX  
 Daytime contact telephone number: 01274 376695  
 E-mail address (optional): bradford.licensing@West Yorkshire Police

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

- |                                          |                                     |
|------------------------------------------|-------------------------------------|
| (a) The prevention of crime and disorder | <input checked="" type="checkbox"/> |
| (b) Public Safety                        | <input checked="" type="checkbox"/> |
| (c) The prevention of public nuisance    | <input checked="" type="checkbox"/> |
| (d) The protection of children from harm | <input checked="" type="checkbox"/> |

State the ground(s) for review (please read Guidance note 1):

These premises have the benefit of a Premises Licence which authorises the sale by retail of alcohol for consumption ON and OFF the premises between the hours of 10:00am and 02:00am.

The grounds for this review are as follows:

A joint initiative between West Yorkshire Police and West Yorkshire Trading Standards took place over a number of weeks.

A number of premises where concerns had been raised about the possibility of underage sales taking place were targeted and visited during that period of time, for which a number of premises failed the purchase including the Penny Bank.

The premises subject to this review were visited and test purchases were initiated and the details are as follows:-

At approximately 8:15pm on Saturday 14<sup>th</sup> March 2009 a sale was made of alcohol, namely 2 x bottles of WKD vodka blue to two 15 year old female Test Purchasers. As a result, that member of staff was issued with an £80.00 Fixed penalty Notice which was subsequently paid.

On the Tuesday 21<sup>st</sup> April 2009 Mr John Cordingley and Michael Kilgallon the current Designated Premises Supervisor were requested to attend Trafalgar House Police Station to discuss the sale. On this date only Mr John Cordingley attended. During the meeting Mr Cordingley was again reminded that the sale had taken place and agreed to an action plan.

## RESTRICTED

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

At approximately 8:30pm Friday 15<sup>th</sup> May 2009 a sale was made of alcohol 2 x bottles WKD vodka blue to two 15 year old female Test Purchasers. As a result, a different member of staff was issued with an £80.00 Fixed Penalty Notice which was subsequently paid.

As a result of the two above sales, a letter was sent by West Yorkshire Trading Standards, outlining what had happened and offering advice and the consequences of further underage sales taking place.

Week commencing 18<sup>th</sup> May 2009 a meeting was arranged between the Police Licensing Dept, John Cordingley and Michael Kilgallon to place the premises onto a final warning, regarding the second sale to a person under the age of 18 years, the meeting was to take place on 29<sup>th</sup> May 2009.

However during a Police Test Purchase Operation on the evening of Saturday 23<sup>rd</sup> May 2009 information was received that persons under the age of 18 years were present within the Penny Bank.

A decision was therefore made to make a further Test Purchase at the premises, using only West Yorkshire Police officers and Test Purchasers.

The result being that at approximately 9:56pm on Saturday 23<sup>rd</sup> May 2009 a sale was made of alcohol 2 x Bottles of Carlsberg Lager to two 15 year old male Test Purchasers. The person who made the sale on this occasion stated that he was the Bar Manager and was issued with an £80.00 Fixed Penalty Notice which has subsequently been paid.

The Designated Premises Supervisor was not present or available on any of the dates visited.

There have now been three underage sales at these premises within a 3 month period, 2 of which were within 7 days of each other, which is unacceptable to the police.

These sales subsequently have an impact on the Licensing Objectives in that alcohol is being made available to young persons and children with a further impact on the other Licensing Objectives.

It is requested therefore that the Premises Licence be reviewed by the Licensing Authority.

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:



## RESTRICTED

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

Please 'check' appropriate box(es)

- 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: ..... Pc 543 ..... Date: 08/07/09 .....

Capacity: Bradford South Police Licensing officer

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

Mr

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):

If you would prefer us to correspond with you using an e-mail address, please state 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.



## WITNESS STATEMENT

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

NICHE Ref. No:

URN:

Statement of Susanne Alexandria Dawson

Date of birth: Over 18

Occupation: PC 5413

This statement (consisting of: 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 29<sup>th</sup> March 2009

Signature:



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

I am a Police officer in the West Yorkshire Force stationed at Trafalgar House Police Station, Nelson Street, Bradford.

My current position is the Divisional licensing Officer for Bradford South, for which I investigate any Licensing offences relating to licensed premises ranging from Off Licences, Clubs, Public Houses and also Nightclubs, I have held this position since May 2005.

On the evening of Saturday 14<sup>th</sup> March 2009 a joint operation with West Yorkshire Trading Standards took place during which a number of licensed premises were visited for the purposes of Test Purchase of alcohol.

Also present during these visits were Susan Jenkins and Elizabeth Bagheri from West Yorkshire Trading Standards and the following officers being SC Gerry Slade, SC 8838 Neil Shann and SC 8790 James Gathrum.

Signature:

Signature witnessed by:

NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

We were assisted that evening with 3 juvenile volunteers 15 years of age

– 14 years of age and – 16 years of age.

At approximately 8:00pm that same evening we attended at the PENNY BANK – 40 North Parade, Bradford. At this time only the West Yorkshire Trading Standard officers and the 3 volunteers entered the premises to begin with shortly followed by SC 8838 Neil Shann and SC 8790 James Gathrum who were in plain clothes.

A short while later all 3 Test Purchasers along with their Police Officer minders returned to the Police Van and informed me that they had purchased alcohol within the PENNY BANK.

Myself and SC Gerry Slade then entered the PENNY BANK and spoke with the Trading Standards Officers who confirmed that they had observed the sale of 2 bottles of WKD wicked original vodka blue and had with them a female who they also identified as the person who had sold the alcohol.

I then spoke with this female who I now know to be JOANNE ELDERBRANDT bn: and under caution explained to her the offence that she had committed. At this time she elected to be dealt with by means of a Fixed Penalty Ticket which was issued to her (Ticket Number D 00397091 £80). She made NO REPLY.

I was informed that the Designated Premises Supervisor was not available but the Bar Manager Craig Birts was present, he was informed at the time by myself that the premises had just failed a test purchase that evening and that the Designated Premises Supervisor and Licence Holder would be made aware of the visit.

On Tuesday 21<sup>st</sup> April 2009 I requested a meeting with the Designated Premises Supervisor Michael Kilgallon and a representative for the Premises Licence Holder – John Cordingley. However only John Cordingley was present at the meeting and he was informed of the failure of the Test Purchase and placed onto an Action Plan. He agreed to sign on behalf of all parties and to speak with Designated Premises Supervisor and other members of the staff regarding asking for Identification for prove of age.

Signature:

Signature Witnessed by:

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NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

On Friday 15<sup>th</sup> May 2009 another joint operation with West Yorkshire Trading Standards took place during which a number of licensed premises were visited for the purposes of Test Purchase of alcohol.

Also present during these visits were Philip Bogle and Susan Jenkins from the West Yorkshire Trading Standards and the following officers, SC Gerry Slade, SC8838 Neil Shann, SC Allison Keighley.

We were assisted that evening with 2 juvenile volunteers – 15 years of age,  
14 years of age.

At approximately 8:30 pm that same evening we attended at the PENNY BANK – 40 North Parade, Bradford. At this time only the West Yorkshire Trading Standard officers and the 2 volunteers entered the premises to begin with shortly followed by SC 8838 Neil Shann and SC Allison Keighley who were in plain clothes.

A short while later both the Test Purchasers along with their Police Officer minders returned to the Police Van and informed me that they had purchased alcohol within the PENNY BANK.

Myself and SC Gerry Slade then entered the PENNY BANK and spoke with the Trading Standards Officers who confirmed that they had observed the sale of 2 bottles of WKD wicked original vodka blue and had with them a male who they also identified as the person who had sold the alcohol.

I then spoke with this male who I now know to be JAMES BIRT bn: and under caution explained to him the offence that he had committed. At this time he elected to be dealt with by means of a Fixed Penalty Ticket which was issued to him ( Ticket Number D 00397130 £80 ). He made NO REPLY.

I was informed that the Designated Premises Supervisor was not available but the Bar Manager Craig Birts was present, he was informed by me, at the time that the premises had failed a test purchase that evening.

During the week commencing 18<sup>th</sup> May 2009 I spoke with John Cordingley representative of the Premises Licence Holder and informed him that the Penny Bank had yet again failed a Test Purchase

Signature:



Signature Witnessed by:

U IGA Bradford South\Licensing\ALL LICENSING ENQUIRIES & REPORTS\Penny Bank Review 2009\mg 11 dawson.doc

NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

and required himself and the Designated Premises Supervisor to attend a meeting for a final warning, the date was arranged for the 29<sup>th</sup> May 2009 at Trafalgar House Police Station.

On Saturday 23<sup>rd</sup> May 2009 a Police operation took place during which a number of licensed premises were visited for the purposes of Test Purchase of alcohol.

Also present on this operation were the following officers, SC Gerry Slade, SC 8838 Neil Shann, SC 8790 James Gatherum, SC 8725 Toby McLane and SC 8379 Whitaker.

We were assisted that evening with 4 juvenile volunteers 15 years,

15years, 16years, 16years.

During the evening I received information that Under age drinking was taking place within the Penny Bank – Northgate, Bradford and therefore made the decision to Test Purchase the premises that evening.

At approximately 9:56pm the same evening we attended at the Penny Bank and SC James Gatherum and SC Toby McLane entered the premises shortly followed by the 2 female test purchasers.

A short while later the 2 test purchasers returned to the police van along with their two plain clothes minders and informed me that they had purchased alcohol within the Penny Bank.

Myself and SC Gerry Slade then entered the PENNY BANK and spoke with SC Gatherum and SC McLane who confirmed that they had observed the sale of 2 bottles of Carlsberg lager and had with them a male who they also identified as the person who had sold the alcohol.

I then spoke with this male who I know to be CRAIG BIRT and the Bar Manager of the Penny Bank and under caution explained to him the offence that he had committed. BIRT was very upset and angry and I noted that he appeared to be under the influence of alcohol and due to him speaking loudly I chose to deal with him outside the premises and away from customers who had started to become involved in the conversation and I was afraid that the situation may escalate.

Once outside the premises under caution I pointed out the offence that BIRT had committed and he started to complain about the visit and that I had only visited the week before and that I should not have visited the premises again in such a short period of time.

Signature:

Signature Witnessed by:

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NICHE Ref. No:		URN:	
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Continuation Statement of Susanne Alexandria Dawson

BIRT agreed to be dealt with by means of a Fixed Penalty which was issued to him (ticket no D00479683) He made NO REPLY.

I was again informed that the Designated Premises Supervisor was yet again not available.

On Friday 29<sup>th</sup> May 2009 I again spoke with John Cordingley at Trafalgar House Police Station and on this occasion the Designated Premises Supervisor Michael Kilgallon was also in attendance.

They were both informed that the premises had yet again failed a Test Purchase and that it had been within a week of the 2<sup>nd</sup> failure and that this was not acceptable by the police.

Both were informed that a decision would be made within the next few weeks regarding a possible review of the premises licence of the Penny Bank – they did sign the Final Warning.

Signature:



Signature Witnessed by:

UAGA Bradford South Licensing ALL LICENSING ENQUIRIES & REPORTS Penny Bank Review 2009/mg 11 dawson.doc

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

NICHE Ref. No:

URN:

**Statement of** James GATHERUM

Date of birth: Over 18

Occupation: SC 8790

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

Dated: 24.05.2009

Signature:

Witnessed by:

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

I am serving West Yorkshire Police Special Constable based at Trafalgar House, Nelson Street, Bradford.

On Saturday 23<sup>rd</sup> May 2009, I was taking part in a test purchase operation. I was on duty in plain clothes attached to Operation Impact targeting public houses with regard to the selling of alcohol to minors. I was in company with three other officers: 8725 McCLANE, 8838 SHANN and 8379 WHITIKER. Four test purchasers were used; two males and two females, with ages ranging between 15 and 16. No police equipment was carried (that is to say protective vest, baton, hand cuffs, CS spray, or radio); mobile phones were used to communicate.

I entered the PENNY BANK in company with 8725 with the two male test purchasers entering just prior to us. Upon entering it is my opinion that several of those within the PENNY BANK, consuming alcohol,

Signature:

Signature witnessed by:

Document2

NICHE Ref. No:		URN:	
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Continuation Statement of James GATHERUM

were under the age of 18. Also noted was that a 21<sup>st</sup> Birthday celebration was taking place within the premises.

The two test purchasers went to the bar, and asked for 2 bottles of Carlsberg, where a member of bar staff served them. Neither of the test purchasers were challenged for ID at any point and the transaction was completed. The two test purchasers handed the alcohol to 8725 who called for 5413 DAWSON and 8484 SLADE, who were in full police uniform, on his mobile phone. At which point we introduced ourselves as West Yorkshire Police Officers, taking part in a test purchase operation and that he had sold alcohol to minors, who were 15 and 16. He responded by claiming that they "looked over 21". He became agitated in his behaviour, particularly towards myself, as I was explaining the situation to him.

The member of bar staff in question then exited the premises while I and 8725 followed. While continuing to protest that the two test purchasers looked over 21 and therefore it was not necessary to check for ID, he was joined by a large group of customers, who backed him up.

5413 then explained the situation again confirming what we had told him, with regards to the selling of alcohol to minors, and subsequently completed a penalty notice for disorder. Throughout the encounter he was stating that he was unhappy about the situation continuing to reiterate that he believed the test purchasers to be looking over 21.

Upon leaving the PENNY BANK, several customers who I suspect to be under age exited out of an exit to the rear of the building, where they ran down NORTH GATE towards the City Centre.

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Signature:

\_\_\_\_\_

Signature Witnessed by:

Document2



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

NICHE Ref. No:

URN:

**Statement of** TOBY RORY MCCLANE

Date of birth: Over 18

Occupation: SPECIAL CONSTABLE

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

Dated: 24/05/09

Signature

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

On Saturday 23<sup>rd</sup> May 2009 I was in plain clothes on duty attached to OP INPACT (test purchasing of licensed premises). I entered THE PENNY BANK Public House with SC JAMES GATHERUM 8790 and two under age male test purchasers. When I entered the premises I noticed that a 21<sup>st</sup> birthday party was in full swing with loud music and two male youths singing along with the music, in my opinion several youths (including the ones singing) in the public house looked under the age of 18 years.

The two test purchasers went to the bar and brought two bottles of CARLBERG LAGER, they were not asked for ID at anytime and the transaction was complete by a male bar tender in his late thirties, bald head wearing a short sleeved light green shirt, a dark tie and dark trousers.

SC GATHERUM identified himself as a Police Officer and showed his warrant card, he then explained he'd just served two under age test purchasers; I escorted the two test purchasers from the Public House whilst he did this. I returned to the bar area moments later to find that the male server was very irate and kept saying "they looked old enough", "your police sign says 21, they looked 21". The way the

Signature

Signature witnessed by:

Document2

NICHE Ref. No:		URN:	
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Continuation Statement of TOBY RORY MCCLANE

male was acting suggested to me that he had been drinking; he was extremely agitated with the whole proceedings. PC DAWSON 5413 and SC SLADE 8484 turned up in uniform to issue a fixed penalty notice and he carried on being irate and even abusive at times. Whilst this was happening a group had gathered at the Public Houses main entrance complaining, one particular male in his early forties was very drunk and aggressive shouting and swearing, he was being held back by other customers and told to calm down and returned to the bar. During this whole event several youths including the ones I believed to be under age exited and ran from the public house, I can only assume it was because they were under age and thought they were going to get ID'd.

Signature,

Signature Witnessed by:

Document2



**WEST YORKSHIRE  
POLICE**

**WITNESS STATEMENT**

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

NICHE Ref. No:

URN:

**Statement of** Neil Shann

Date of birth: Over 18

Occupation: A/SO 8838

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 in it anything which I know to be false or do not believe to be true.

Dated: 08.06.09

Signature:

Witnessed by:

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

I am a serving West Yorkshire Police Special Constable based at Trafalgar House, Nelson Street, Bradford.

On Friday the 15<sup>th</sup> May 2009 I was carrying out a test purchase operation, in plain clothes, alongside officers from West Yorkshire Trading Standards Service who were authorised for the purpose of the Licensing act 2003.

The operation was accompanied by two 15 year old girls and

94 who were volunteering their services to Trading Standards to purchase alcohol.

At approximately 20:30 members of Trading Standards entered the PENNY BANK public house in Bradford. Shortly afterwards, myself and 8771 Keighley also entered the PENNY BANK where the Trading Standards officers were being served drinks. 8771 and I moved to a different area of the bar and ordered drinks.

Signature: C

Signature witnessed by:

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NICHE Ref. No:

URN:

Continuation Statement of Neil Shann

As I was being served I noticed the two 15 year old girls enter the PENNY BANK and approach the bar where they ordered two bottles of WKD blue. The barman, whom I now know to be JAMES BIRTS, handed the girls the drinks and the girls made payment. The barman never asked the girls if they had any proof of their age. After making payment the girls moved towards the Trading Standards officers and passed them the drinks. 8771 and I then escorted the girls from the premises and back to the police van.

Signature:

Signature Witnessed by:

I: Personal Statements/penny bank 1 - test purchasing.doc



West Yorkshire  
Trading  
Standards Service

West Yorkshire Joint Services

## WITNESS STATEMENT

Criminal Justice Act 1967, s 9  
Magistrates Courts Act 1980, s.5B  
Criminal Procedure Rules, r 27.1(1)

**Statement of:** Susan Marie Jenkins

Age: Over 21

Occupation: Enforcement Officer

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

Dated: 4<sup>th</sup> June 2009

Signature:

I am an Enforcement Officer employed by the West Yorkshire Trading Standards Service, Nepshaw Lane South, Gildersome, Leeds LS27 0QP. I am an authorised officer under the Licensing Act 2003.

On Friday 15 May 2009 in a joint operation with my colleague Philip Edward Bogle and officers of the West Yorkshire Police Service I embarked on a series of underage alcohol test purchasing visits in the Bradford area. We were assisted on the evening by two 15 year old girls, Prior to commencing the visits I assisted Philip in the making of a video recording of the girls to confirm their appearance on the night.

At 20:30 hours accompanied by Philip I entered the premises of Pennybank, 49 North Parade, Bradford and approached the bar. I observed that there was an older man serving at the time. Philip and I were served with drinks by the man and then moved away from the bar to a position from where we could observe the proceedings.

Pc Neil Shann and PC Alison Keighley who were both wearing plain clothes then entered the

premises and were served with drinks.                      and                      then came into the pub and approached the bar. The man who had earlier served Philip and I, then sold 2 bottles of WKD Wicked Original Vodka Blue ABV 5% to the girls. He did this without asking their age or for any ID.                      paid for the drinks and then brought the bottles over to Philip and myself and then left the premises followed by the two plain clothed police officers.

Philip and I then approached the bar and spoke to the man who had sold the drinks to the two girls and who I now know to be **James BIRTS**. Philip told the man that we had just witnessed him sell alcohol to the girls who were under 18. **Mr BIRTS** replied ' the girls have been in here before.'

PC Susan Dawson and PC Gerry Slade then entered the premises and proceeded to issue **James BIRTS** with a PND in respect of the sale which had taken place. We then left the premises and continued on our visits.



## WITNESS STATEMENT

Criminal Justice Act 1967, s.9  
Magistrates Courts Act 1980, s.5B  
Criminal Procedure Rules, r 27.1(1)

Statement of: PHILIP EDWARD BOGLE.

Age: Over 21.

Occupation: Trading Standards Officer

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

Dated: 8th June 2009 Signature: \_\_\_\_\_

I am a Trading Standards Officer with West Yorkshire Trading Standards Service, based at Nepshaw Lane South, Gildersome, Morley, Leeds. I am an authorised officer for the purposes of the Licensing Act 2003.

On Friday 15th May 2009, I visited a number of on-licensed premises in the Bradford area of West Yorkshire in a joint underage test purchasing operation with my colleague Susan Marie Jenkins and officers from West Yorkshire Police Service. We were accompanied by two 15 year old schoolgirls; \_\_\_\_\_ and \_\_\_\_\_ who had volunteered to assist West Yorkshire Trading Standards Service in the test purchasing of alcohol. Immediately prior to carrying out the operation, I assisted Susan in making a video recording of the two schoolgirls to confirm their appearance on the night.

At approximately 8:30 pm, I entered the premises of the Penny Bank, 49 North Parade, Bradford accompanied by Susan and approached the bar. After a short wait, I was served with drinks by an older man who was serving at the bar. After being

served, we moved away from the bar to a location where I was able to witness all the happenings around the bar area.

A short time later, PC Neil Shann and PC Alison Keighley entered the premises and were served with drinks at the bar. The two police officers were both wearing plain clothes. A short time later, the two 15 year old schoolgirls entered the premises and approached the bar. I then witnessed the same barman who had served us earlier, a man I now know to be **James BIRTS** sell 2 bottles of WKD Original Vodka Blue (ABV 5%) to the girls. The barman did not ask the girls their age or for any proof of identification. [redacted] paid for the alcohol, then passed the two bottles to Susan and myself and then left the premises, accompanied by the two plain clothes police officers.

Susan and I then approached the bar and I introduced us to **James BIRTS** and advised him that I had just witnessed him sell alcohol to an underage child. **James BIRTS** stated that he had seen the girls in the bar on a previous occasion.

A short time later, PC Susan Dawson and PC Gerry Slade entered the premises and I related the circumstances of the offence to them. The police officers then proceeded to issue **James BIRTS** with a PND in respect of the sale which had taken place. We then left the premises and continued with the operation. I later allocated sample number 88420 to the alcohol. I now produce the two bottles of WKD Original Vodka Blue (ABV 5%) in evidence as an exhibit PB1.





## WITNESS STATEMENT

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

NICHE Ref. No:

URN:

Statement of Neil Shann

Date of birth: Over 18

Occupation: A/SO 8838

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 in it anything which I know to be false or do not believe to be true.

Dated: 02.06.09

Signature:

Witnessed by:

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

I am a serving West Yorkshire Police Special Constable based at Trafalgar House, Nelson Street, Bradford.

On Saturday 14<sup>th</sup> March 2009 I was carrying out a test purchase operation, in plain clothes, alongside officers from West Yorkshire Trading Standards Service who were authorised for the purpose of the Licensing act 2003.

The operation was accompanied by a 15 year old girl, =, a 14 year old girl,  
}, and )E, a 16 year old boy who were volunteering their services to Trading Standards to purchase alcohol. At approximately 20:00, members of Trading Standards entered the PENNY BANK public house in Bradford. Shortly afterwards, myself and 8790 Gatherum also entered the PENNY BANK a short distance behind the three test purchase volunteers. I noticed the Trading

Signature:

Signature witnessed by:

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Continuation Statement of Neil Shann

Standards officers were sat having been served already so 8790 and myself moved to a different area of the bar and ordered drinks.

As I was being served I noticed the test purchasers being served by a female whom I now know to be JOANNE ELDERBRANDT. The test purchasers purchased two bottles of WKD Blue. At no stage did ELDERBRANDT ask for any proof of age from the purchasers. IE then handed over the money for the drinks and all three test purchasers moved towards the trading standards officers and handed over the drinks. I then escorted the girls and the boy from the premises and back to the police van.

Signature:

Signature Witnessed by:

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# WITNESS STATEMENT

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

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[illegible]

**Statement of** SC 8790 James Gatherum

Date of birth: Over 18

Occupation: SC 8790

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

Dated: 01.07.09

Signature:

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

I am serving West Yorkshire Police Special Constable based at Trafalgar House Police Station, Nelson Street, BRADFORD.

On Saturday 14<sup>th</sup> March 2009, I was taking part in a test purchase operation in conjunction with West Yorkshire Trading Standards. I was on duty in plain clothes targeting public houses with regard to the selling of alcohol to minors. I was in company with another police officer: SC 8838 Neil SHAN and two trading standards officers, Susan JENKINS and Elizabeth BAGHERI. One male two female and test purchasers were used; \_\_\_\_\_ and \_\_\_\_\_ who were 16, 15 and 14 years of age respectively.

The two trading standards officers, JENKINS and BAGHERI entered the Penny Bank public House, 49 NORTH PRARADE, BRADFORD, followed by the three test purchasers approximately 5 minutes later

Signature:

Signature witnessed by:

Document3

NICHE Ref. No:		URN:	
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Continuation Statement of SC 8790 James Gatherum  
and then followed by myself and SC 8838. Myself and SC 8838 maintained a constant visual on the two test purchasers. The three test purchasers approached the bar and ordered 2 bottles of blue WKD. Myself and SC 8838 maintained visual contact at all times witnessing the transaction. There were 3 young women behind the bar serving at the time. The transaction was completed with the test purchasers mentioned above not being challenge for ID at any point. The alcohol was sold by one of the young women, who I now know to be Joanne ELDERBRANT. Upon completion of the transaction the test purchasers handed the bottles to the two trading standards officers who had taken up position to witness the transaction. Myself and SC 8838 then escorted the test purchasers out of the premises. I feel it is important to note that in my opinion a great many of the customers looked underage.

Signature:

Signature Witnessed by:

Document3



**WITNESS STATEMENT**

Criminal Justice Act 1967,s.9  
Magistrates Courts Act 1980,s.5B  
Criminal Procedure Rules, r 27.1(1)

**Statement of:** ELIZABETH EMMA BAGHERI

Age: OVER 21

Occupation: ENFORCEMENT OFFICER

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

Dated: 29<sup>th</sup> May 2009    Signatu

I am an Enforcement Officer employed by West Yorkshire Trading Standards Service.

I am authorised for the purposes of the Licensing Act 2003.

On Saturday 14<sup>th</sup> March 2009 I accompanied my colleagues SUSAN JENKINS and DENNIS AGER on a programme of underage alcohol test purchasing in the Bradford area of West Yorkshire. Three volunteers under the age of 18 had volunteered to assist us.

I met up with my colleagues at the Police Station in Bradford on Nelson Street. I assisted in the taking of a video recording of the volunteers. We proceeded to drive to a number of licensed premises. Police officer SUSAN DAWSON PC 5413 accompanied us.

At approximately 20.00pm Susan Jenkins and I entered the licensed premises known as the Penny Bank, 40 North Parade, Yorkshire Penny Bank, Bradford, BD1 3HZ. Susan and I ordered drinks and then moved away from the bar so we had a clear view of it.

Approximately five minutes later Susan and I then observed the three volunteers enter the pub along with 2 plain clothed police officers. They had no alcohol on them at the time. SUSAN JENKINS and I witnessed the under age volunteers request bottles of WKD Original blue Vodka. A sale was made by a female I now know to be JOANNE ELDERBRANT. Ms ELDERBRANT did not ask the volunteers for any identification to prove they were over 18.

/                      ✓



## WITNESS STATEMENT


Criminal Justice Act 1967, s.9  
Magistrates Courts Act 1980, s.5B  
Criminal Procedure Rules, r 27.1(1)

Statement of: SUSAN MARIE JENKINS

AGE: OVER 21

Occupation: Enforcement Officer

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

Dated: 2 June 2009. Signature: 

I am an Enforcement Officer employed by the West Yorkshire Trading Standards Service, Nepshaw Lane South, Gildersome, Leeds LS27 0QP. I am an authorised officer under the Licensing Act 2003. On Saturday 14 March 2009 accompanied by my colleague Elizabeth Bagheri, an Enforcement Officer I embarked on a programme of underage alcohol test purchase visits to On Licensed premises in the Bradford area. Also working with us on the night was PC Susan Dawson, PC Gerry Slade, PC Neil Shann and PC James Gathrum. We were assisted by a 15 year old girl and a 14 year old girl and a 16 year old boy who had volunteered their services on the night. PC Shann and PC Gathrum were not in uniform.

Prior to commencing the test purchase visits with the assistance of Elizabeth I made a video recording of the two girls to confirm their appearance on the night. At approximately 20:00 pm Elizabeth Bagheri and I entered the premises of Penny Bank, 49 North Parade, Bradford. We went up to the bar and were served with drinks. There were three young women serving at the time. Elizabeth and I then moved away from the counter to a position from where we could observe the proceedings.

Approximately five minutes later I observed the three test purchase volunteers and the two plain clothes police officers enter the premises and approach the bar.

I observed [redacted] ask one of the women, who I now know to be **Joanne ELDERBRANDT** for 2 bottles of WKD Wicked Original Vodka Blue. [redacted] paid for the drinks and then moved across and handed over the bottles to me. Ms **ELDERBRANDT** made the sale without asking the volunteers their age or ID.

PC Dawson and PC Slade then entered the premises and I informed PC Dawson that I had just witnessed **Joanne ELDERBRANDT** sell alcohol to a [redacted]. PC Susan Dawson then proceeded to issue Ms **ELDERBRANDT** with a Penalty Disorder Notice. We then left the premises and continued on our visits. I later allocated sample number 88442 to the alcohol and now produce the bottles ABV 5% in evidence as Exhibit SMJ1.



# 11. Reviews

## THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, 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.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

- 11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

### REPETITIOUS REPRESENTATIONS

- 11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
  - representations considered by the licensing authority when the premises licence was first granted; or
  - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

- 11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

- 11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

### POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

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

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

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

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

## REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.
- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

## REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.28 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review: The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.