

## Public Document Pack

# Licensing (Licensing and Gambling) Sub-Committee

Wednesday, 24th June 2015  
at 6.00 pm

**PLEASE NOTE TIME OF MEETING**

Council Chamber - Civic Centre

This meeting is open to the public

### **Members**

Three Members drawn from the Licensing  
Committee

### **Contacts**

Democratic Support Officer  
Sue Lawrence  
Tel: 023 8083 3569  
Email: [susan.lawrence@southampton.gov.uk](mailto:susan.lawrence@southampton.gov.uk)

Head of Legal and Democratic Services  
Richard Ivory  
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Email: [richard.ivory@southampton.gov.uk](mailto:richard.ivory@southampton.gov.uk)

## **PUBLIC INFORMATION**

The Members of the Licensing Committee are Councillors Furnell, Galton, Lloyd, Painton, Parnell, Spicer, Thomas, Tucker, Vassiliou and Whitbread.

### **Terms of Reference**

The Sub-Committee deals with licences for which the Council is responsible under the Licensing Act 2003 and Gambling Act 2005, including:-

- Determination of applications for review of premises licences and club premises certificates;
- Determination of representations to applications for premises licences and club premises certificates, variations and various permits;
- Determination of police objections to applications for:
  - Variation of designated premises supervisors
  - Transfer of premises licences
  - Personal licences for the sale of alcohol
- Determination of objections to temporary event notices.

### **Relevant Representations**

Those who have made relevant representations may address the meeting about the matter in which they have an interest. New matters, not raised within a written representation, can not be relied upon at the hearing.

**When dealing with Licensing Act matters the Sub-Committee must only take into account the following statutory Licensing Objectives:-**

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

**Likewise, when dealing with Gambling Act matters the Sub Committee must only take into account the statutory Licensing Objectives below:-**

- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- Ensuring that gambling is conducted in a fair and open way, and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

### **Southampton City Council's Priorities**

- Jobs for local people
- Prevention and early intervention
- Protecting vulnerable people
- Affordable housing
- Services for all
- City pride
- A sustainable Council

**Fire Procedure:-** In the event of a fire or other emergency a continuous alarm will sound and you will be advised by Council officers what action to take.

**Access:-** Access is available for disabled people. Please contact the Democratic Support Officer who will help to make any necessary arrangements.

**Smoking policy:-** The Council operates a no-smoking policy in all civic buildings.

**Mobile Telephones:-** Please switch your mobile telephones to silent whilst in the meeting

**Use of Social Media:-** The Council supports the video or audio recording of meetings open to the public, for either live or subsequent broadcast. However, if, in the Chair's opinion, a person filming or recording a meeting or taking photographs is interrupting proceedings or causing a disturbance, under the Council's Standing Orders the person can be ordered to stop their activity, or to leave the meeting.

### **Dates of Potential Meetings Municipal Year 2015/16**

Meetings are scheduled on a weekly basis usually at 6pm on a Wednesday evening.

## CONDUCT OF MEETING

### **Terms of Reference**

The terms of reference are contained in the Council's Constitution.

### **Business to be discussed**

Only those items listed on the attached agenda may be considered at this meeting.

### **Rules of Procedure**

The meeting is governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Council Procedure Rules as set out in Part 4 of the Constitution, so far as it is applicable.

### **Quorum 3**

The minimum number of appointed Members required to be in attendance to hold the meeting is 3.

## **DISCLOSURE OF INTERESTS**

Members are required to disclose, in accordance with the Members' Code of Conduct, **both** the existence **and** nature of any "Disclosable Pecuniary Interest" or "Other Interest" they may have in relation to matters for consideration on this Agenda.

### **DISCLOSABLE PECUNIARY INTERESTS**

A Member must regard himself or herself as having a Disclosable Pecuniary Interest in any matter that they or their spouse, partner, a person they are living with as husband or wife, or a person with whom they are living as if they were a civil partner in relation to:

(i) Any employment, office, trade, profession or vocation carried on for profit or gain.

(ii) Sponsorship:

Any payment or provision of any other financial benefit (other than from Southampton City Council) made or provided within the relevant period in respect of any expense incurred by you in carrying out duties as a member, or towards your election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.

(iii) Any contract which is made between you / your spouse etc (or a body in which the you / your spouse etc has a beneficial interest) and Southampton City Council under which goods or services are to be provided or works are to be executed, and which has not been fully discharged.

(iv) Any beneficial interest in land which is within the area of Southampton.

(v) Any license (held alone or jointly with others) to occupy land in the area of Southampton for a month or longer.

(vi) Any tenancy where (to your knowledge) the landlord is Southampton City Council and the tenant is a body in which you / your spouse etc has a beneficial interests.

(vii) Any beneficial interest in securities of a body where that body (to your knowledge) has a place of business or land in the area of Southampton, and either:

- a) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body, or
- b) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you / your spouse etc has a beneficial interest that exceeds one hundredth of the total issued share capital of that class.

## **Other Interests**

A Member must regard himself or herself as having an 'Other Interest' in any membership of, or occupation of a position of general control or management in:

Any body to which they have been appointed or nominated by Southampton City Council

Any public authority or body exercising functions of a public nature

Any body directed to charitable purposes

Any body whose principal purpose includes the influence of public opinion or policy

## **Principles of Decision Making**

All decisions of the Council will be made in accordance with the following principles:-

- proportionality (i.e. the action must be proportionate to the desired outcome);
- due consultation and the taking of professional advice from officers;
- respect for human rights;
- a presumption in favour of openness, accountability and transparency;
- setting out what options have been considered;
- setting out reasons for the decision; and
- clarity of aims and desired outcomes.

In exercising discretion, the decision maker must:

- understand the law that regulates the decision making power and gives effect to it. The decision-maker must direct itself properly in law;
- take into account all relevant matters (those matters which the law requires the authority as a matter of legal obligation to take into account);
- leave out of account irrelevant considerations;
- act for a proper purpose, exercising its powers for the public good;
- not reach a decision which no authority acting reasonably could reach, (also known as the "rationality" or "taking leave of your senses" principle);
- comply with the rule that local government finance is to be conducted on an annual basis. Save to the extent authorised by Parliament, 'live now, pay later' and forward funding are unlawful; and
- act with procedural propriety in accordance with the rules of fairness.

## AGENDA

Agendas and papers are available via the Council's website.

### **1 ELECTION OF CHAIR**

To appoint a Chair for the purposes of this meeting.

### **2 APOLOGIES AND CHANGES IN MEMBERSHIP (IF ANY)**

To note any changes in the membership of the Sub-Committee made in accordance with the Licensing Act 2003.

### **3 DISCLOSURE OF PERSONAL AND PECUNIARY INTERESTS**

In accordance with the Localism Act 2011, and the Council's Code of Conduct, Members to disclose any personal or pecuniary interests in any matter included on the agenda for this meeting.

### **4 STATEMENT FROM THE CHAIR**

### **5 MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING) (Pages 1 - 4)**

To approve and sign as a correct record the Minutes of the meeting held on 3<sup>rd</sup> June 2015 and to deal with any matters arising, attached.

### **6 EXCLUSION OF THE PRESS AND PUBLIC**

At a predetermined point during the consideration of all items the Sub-Committee may move into private session in order to receive legal advice when determining issues. The parties to the hearing, press and the public, unless otherwise excluded by the Licensing Act 2003 (Hearings) Regulations 2005, will be invited to return immediately following that private session at which time the matter will be determined and the decision of the Sub-Committee will be announced.

### **7 APPLICATION FOR REVIEW OF PREMISES LICENSE - HATCHERS CARD SHOP, 92 - 94 HIGH ROAD, SOUTHAMPTON SO16 2HZ (Pages 5 - 40)**

Report of the Head of Legal and Democratic Services, detailing an application for a review of the premises licence in respect of Hatchers Card Shop, 92 - 94 High Road, Southampton SO16 2HZ, attached.

Tuesday, 16 June 2015

HEAD OF LEGAL AND DEMOCRATIC SERVICES

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SOUTHAMPTON CITY COUNCIL  
LICENSING (LICENSING AND GAMBLING) SUB-COMMITTEE

MINUTES OF THE MEETING HELD ON 3 JUNE 2015

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Present: Councillors Painton, Tucker and Vassiliou

1. **ELECTION OF CHAIR**

**RESOLVED** that Councillor Tucker be elected as Chair for the purposes of this meeting.

2. **MINUTES OF THE PREVIOUS MEETING (INCLUDING MATTERS ARISING)**

**RESOLVED:** that the Minutes of the meeting held on 9<sup>th</sup> April 2015 be approved and signed as a correct record.

3. **EXCLUSION OF THE PRESS AND PUBLIC**

**RESOLVED** that in accordance with the Licensing Act 2003 (Hearings) Regulations 2005 that the parties to the hearing, press and public be excluded at a predetermined point whilst the Sub-Committee reaches its decision.

4. **APPLICATION FOR VARIATION OF A PREMISES LICENCE - SHOOTING STAR, 40-42 BEVOIS VALLEY ROAD, SOUTHAMPTON SO14 0JR**

The Sub-Committee considered an application for a variation of a premises licence in respect of Shooting Star, 40-42 Bevois Valley Road, Southampton SO14 0JR.

Mr Pollard (Applicant) and Jackie Cherry and Alex Boucouvalas (Hants Constabulary) were present and with the consent of the Chair, addressed the meeting.

The Sub-Committee considered the decision in confidential session in accordance with the Licensing Act (Hearings) Regulations 2005.

**RESOLVED** that the application for a variation of a premises licence be refused.

After private deliberation the Sub-Committee reconvened and the Chair read the following decision:-

All parties will receive formal written confirmation of the decision and reasons.

The Sub-Committee has considered very carefully the application for a variation of a premises licence at Shooting Star, 40-42 Bevois Valley Road, Southampton SO14 0JR (Punch Taverns plc). It has given due regard to the Licensing Act 2003, the Licensing Objectives, statutory guidance and the adopted statement of Licensing Policy. Human Rights legislation was borne in mind whilst making the decision.

The Committee noted in particular that:-

- one effect of the CIP is that a rebuttable presumption applies to applications for premises licences.
- The rebuttable presumption is that such applications shall ordinarily be refused
- Licensing Policy CIP2 16.9 provides that the onus is upon applicants to demonstrate through their Operating Schedule and where appropriate supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced.

The Sub-Committee noted that the applicant had offered conditions including last entry at 01:00 hours and CCTV provision as well as submitting detailed Operational Policy and Training Procedures.

The Sub-Committee noted that no representations had been made by residents or Environmental Health, in particular, in relation to the application.

As a result, and in consideration of all the above, the application to vary the licence is refused in so far as it relates to the extension of hours for the sale of alcohol and the hours that the premises are open. The removal and replacement of conditions as set out within the application is granted.

### Reasons

The Sub-Committee considered very carefully the application including but not limited to the following points:

- The premises has a, relatively speaking, small capacity
- The premises has an older, more mature, clientele
- The premises does not run drinks promotions or operate irresponsibly
- The premises itself does not generate complaints from residents, Environmental Health or the Police
- Other premises within the CIP have closed
- That no entry or re-entry to the premises shall be permitted after 01:00 hours
- The condition requiring two door staff after 12:00 hours shall be retained.

The Sub-Committee fully accepted that the premises are well-run and that management is of a high standard at the premises. However, Police evidence showed concerns that a later terminal hour might increase the number of patrons at the premises and that longer hours of drinking would lead to the patrons being more susceptible to either committing crime, increasing the incidents of crime and disorder or being the victims of crime. As a result the Police view was strongly voiced that a later terminal hour would lead to an increase in crime and disorder within the stress area.

Whilst deliberating the Sub-Committee were referred to paragraph 16.14 of the Licensing Authority's policy which states:

"Whilst making any decision the Committee shall not ordinarily consider the following as an exception to the policies applying to stress areas or as justification for departure from those policies:



- The quality of management of the premises
- The character or experience of the applicant
- That the capacity, size, hours or any increase therein applied for, is not substantial
- That the applicant has a good understanding of how to reduce the potential for crime on the premises...”

Accordingly, whilst the Sub-Committee accepts that the premises are very well run it has had to pay due regard to the statement of licensing policy and in particular the rebuttable presumption created by the Cumulative Impact Policy. On the balance of probabilities, the Sub-Committee is not satisfied that the application will not add to the Cumulative Impact already being experienced. The potential for increased numbers leaving the premises over a longer period is likely, in the Sub-Committee’s view, to add to the stress issues in the area. In addition, patrons leaving the premises are more likely to be under the influence due to the longer hours that alcohol is served.

There is a right of appeal for all parties to the Magistrates’ Court. Formal notification of the decision will set out that right in full.

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# Agenda Item 7

**DECISION-MAKER** Licensing (Licensing and Gambling) Sub-Committee  
**SUBJECT** Hearing to Consider an application for Review of a Premises Licence –  
Hatchers Card Shop, 92-94 High Road, Southampton SO16 2HZ

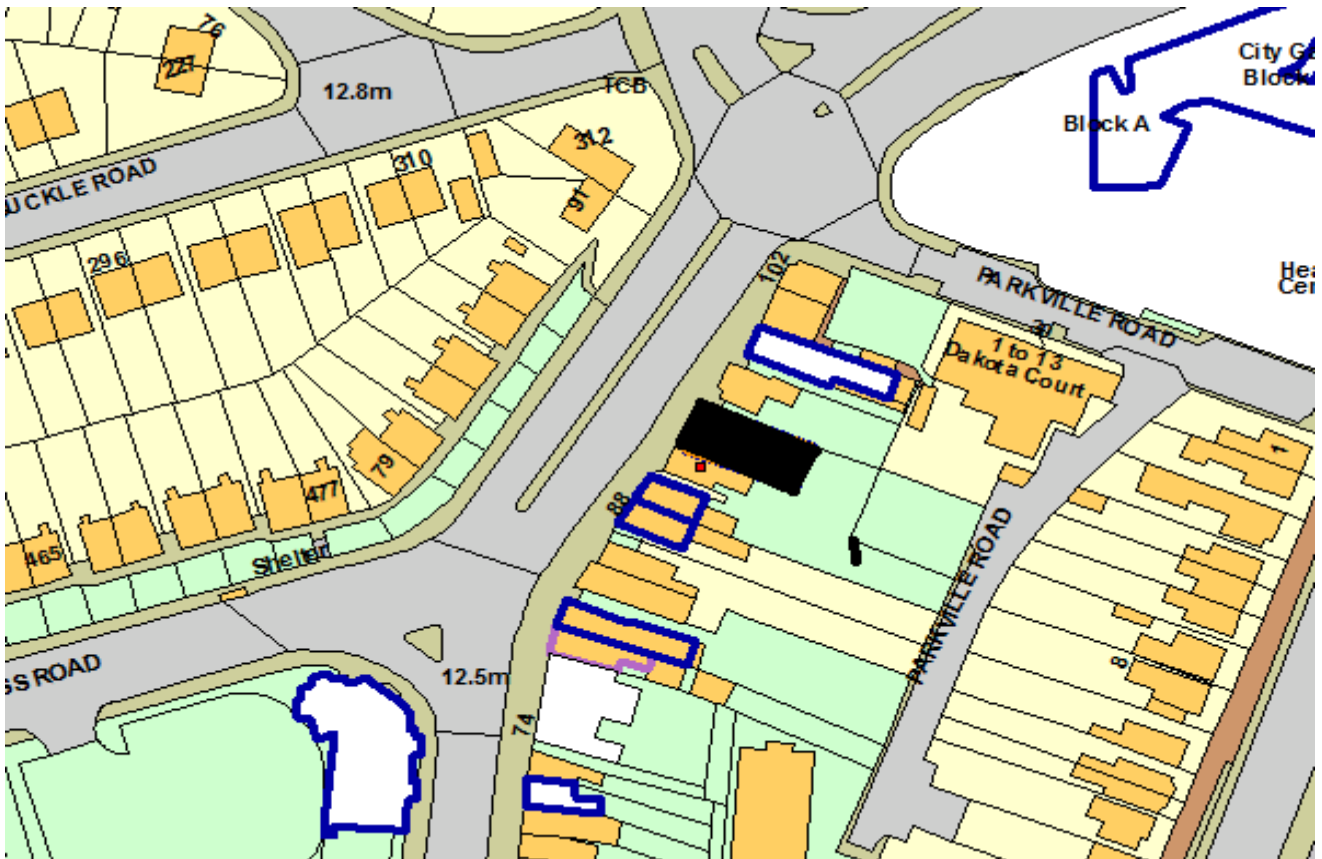
**DATE OF HEARING** Wednesday 24 June 2015 at 18:00

**REPORT OF** Head of Legal and Democratic Services

**E-mail** [licensing@southampton.gov.uk](mailto:licensing@southampton.gov.uk)

Application Date : 07 May 2015      Application Received 12 May 2015

Application Valid : 12 May 2015      Reference : **2015/01572/01SRAP**



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## ***Representations from Responsible Authorities***

<b>Responsible Authority</b>	<b>Satisfactory?</b>
Local Safeguarding Children Board	No Response Received
Hampshire Fire And Rescue	Yes
Environmental Health	No Response received
Planning & Sustainability	No Response Received

Public Health	No Response Received	
Hampshire Constabulary	No	
Trading Standards	No	
<b><i>Other Representations</i></b>		
<b>Name</b>	<b>Address</b>	<b>Contributor Type</b>
	None Received	

## ***Legal Implications***

1. Part 3 of the Licensing Act 2003 provides that a responsible authority or any other person may apply for review of a premises licence.
2. In such circumstances, the applicant for the review must serve a copy of the review application on the holder of the premises licences, the licensing authority and each of the responsible authorities.
3. On receipt of an application for review, officers will consider its validity under delegated powers. Reasons for rejection, in whole or in part, include:
  - that the grounds for review are not relevant to one of more of the licensing objectives and;
  - that the application is frivolous, vexatious or repetitious, unless it is made by a responsible authority.
4. The licensing authority must display a prescribed notice of the review application on the outside or adjacent the premises, on the authority's website and at the Civic Centre; the notice must remain on display for 28 days and any interested party or the responsible authorities may make representations in that period.
5. The licensing authority is then required to hold a hearing to consider the review.
6. In doing so the sub-committee must give appropriate weight to:
  - the steps that are appropriate to promote the licensing objectives; the representations (including supporting information) presented by all the parties;
  - its own statement of licensing policy
  - the Statutory Guidance
7. In determining an application for review, the legislation provides that the sub-committee may take any (or none) of the following steps, as it considers necessary:
  - modify the conditions of the licence;
  - exclude a licensable activity from the scope of the licence
  - remove the designated premises supervisor;
  - suspend the licence for a period not exceeding three months
  - revoke the licence.
8. The Licensing Act 2003 provides for appeal to the Magistrates' Court against the sub-committee's decision in relation to an application for review by the premises licence holder and any other party who made a representation to the application.

9. In considering this application the sub-committee will sit in a quasi-judicial capacity and is thus obliged to consider the application in accordance, in particular, with both the Licensing Act 2003 (Hearings) Regulations 2005 (as amended) and the rules of natural justice. The practical effect of this is that the sub-committee must make its decision based on evidence submitted in accordance with the legislation and give adequate reasons for reaching its decision.
10. The sub-committee must also have regard to:
- **The Crime and Disorder Act 1998**  
Section 17 of the Crime and Disorder Act 1998 places the sub-committee under a duty to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
  - **The Human Rights Act 1998**  
The Act requires UK legislation to be interpreted in a manner consistent with the European Convention on Human Rights. It is unlawful for the sub-committee to act in a way that is incompatible (or fail to act in a way that is compatible) with the rights protected by the Act. Any action undertaken by the sub-committee that could have an effect upon another person's Human Rights must be taken having regard to the principle of proportionality - the need to balance the rights of the individual with the rights of the community as a whole. Any action taken by the sub-committee which affects another's rights must be no more onerous than is necessary in a democratic society. The matters set out in this report must be considered in light of the above obligations.
11. Copies of the application for review and the representations to it are annexed to this report.

## Summary of application

<b>Premises:</b>	Hatchers Card Shop
<b>Type of application:</b>	Review of a premises licence
<b>Applicant:</b>	<b>Hampshire Constabulary</b>
<b>Licence Holder:</b>	Kamalnayn Patel & Mitesh Patel
<b>Agent for licence Holder:</b>	None
<b>DPS:</b>	Kamalnayn Patel

Designated Premises Supervisor who is responsible for the premises was in drink whilst working.

Hampshire Constabulary are minded to request revocation of the premises licence.

Hampshire Constabulary conducted a test purchase after information that the DPS had served previously in this premises whilst under the influence of alcohol.

On test purchase the DPS was witnessed to have served a child with alcohol.

When interviewed by Hampshire constabulary it became obvious that Mr Kamalnayn Patel was under the influence of alcohol.

Licensable activities.

<b>Sale by retail of alcohol</b>		
Monday	08:00	23:00
Tuesday	08:00	23:00
Wednesday	08:00	23:00
Thursday	08:00	23:00
Friday	08:00	23:00
Saturday	08:00	23:00
Sunday	10:00	22:30

Conditions attached to the premises licence.

Annex 2 – Conditions consistent with the operating Schedule

### 1 EMBEDDED CONDITIONS FROM THE LICENSING ACT 1964

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- (a) On weekdays, other than Christmas Day, 08:00 to 23:00
- (b) On Sundays, other than Christmas Day, 10:00 to 22:30
- (c) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30
- (d) On Good Friday, 08:00 to 22:30

The above restrictions do not prohibit:

- (a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;

(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(c) the sale of alcohol to a trader or club for the purposes of the trade or club;

(d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

## 2 EMBEDDED CONDITIONS FROM CHILDREN AND YOUNG PERSONS ACT 1933

It is a condition of your licence that you comply with the extant provisions of the Children and Young Persons Act 1933, as amended.

**Schedule 12  
Part A  
Premises Licence**

Regulation 33,34

<b>Premises licence number</b>	2005/00218/01SPRC
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**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description,</b>	
Hatchers Card Shop 92 - 94 High Road Swaythling Southampton SO16 2HZ	
<b>Telephone number</b>	023 8055 4862

<b>Where the licence is time limited the dates</b>
Not applicable

<b>Licensable activities authorised by the licence</b>
Supply by retail of alcohol

<b>The times the licence authorises the carrying out of licensable activities</b>
Supply by retail of alcohol
Monday 08:00 - 23:00
Tuesday 08:00 - 23:00
Wednesday 08:00 - 23:00
Thursday 08:00 - 23:00
Friday 08:00 - 23:00
Saturday 08:00 - 23:00
Sunday 10:00 - 22:30

<b>The opening hours of the premises</b>
Monday 08:00 - 23:20
Tuesday 08:00 - 23:20
Wednesday 08:00 - 23:20
Thursday 08:00 - 23:20
Friday 08:00 - 23:20
Saturday 08:00 - 23:20
Sunday 10:00 - 22:50



**Where the licence authorises supplies of alcohol whether these are on and / or off supplies**  
Alcohol is supplied for consumption off the premises

**Part 2**

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

Kamalnayn Patel  
92 - 94 High Road  
Swaythling  
Southampton  
SO16 2HZ

Business Phone Number                      023 8055 4862

Mitesh Patel  
92 - 94 High Road  
Swaythling  
Southampton  
SO16 2HZ

Business Phone Number                      023 8055 4862

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

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

Kamalnayn Patel  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]                      [REDACTED]

**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 Number: 2005/00724/02SPEC  
Licensing Authority: Southampton City Council

This premises licence is issued by Southampton City Council as licensing authority under part 3 of the Licensing Act 2003 and regulations made thereunder

Dated this 11th day of September 2005

Solicitor to the Council

Licensing – Southampton City Council  
PO Box 1344  
Southampton  
SO15 1WQ

## **Annex 1 – Mandatory Conditions**

1 No supply of alcohol shall 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 for the premises 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.

## **Annex 2 – Conditions consistent with the operating Schedule**

1 EMBEDDED CONDITIONS FROM THE LICENSING ACT 1964

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

(a) On weekdays, other than Christmas Day, 08:00 to 23:00

(b) On Sundays, other than Christmas Day, 10:00 to 22:30

(c) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30

(d) On Good Friday, 08:00 to 22:30

The above restrictions do not prohibit:

(a) during the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;

(b) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(c) the sale of alcohol to a trader or club for the purposes of the trade or club;

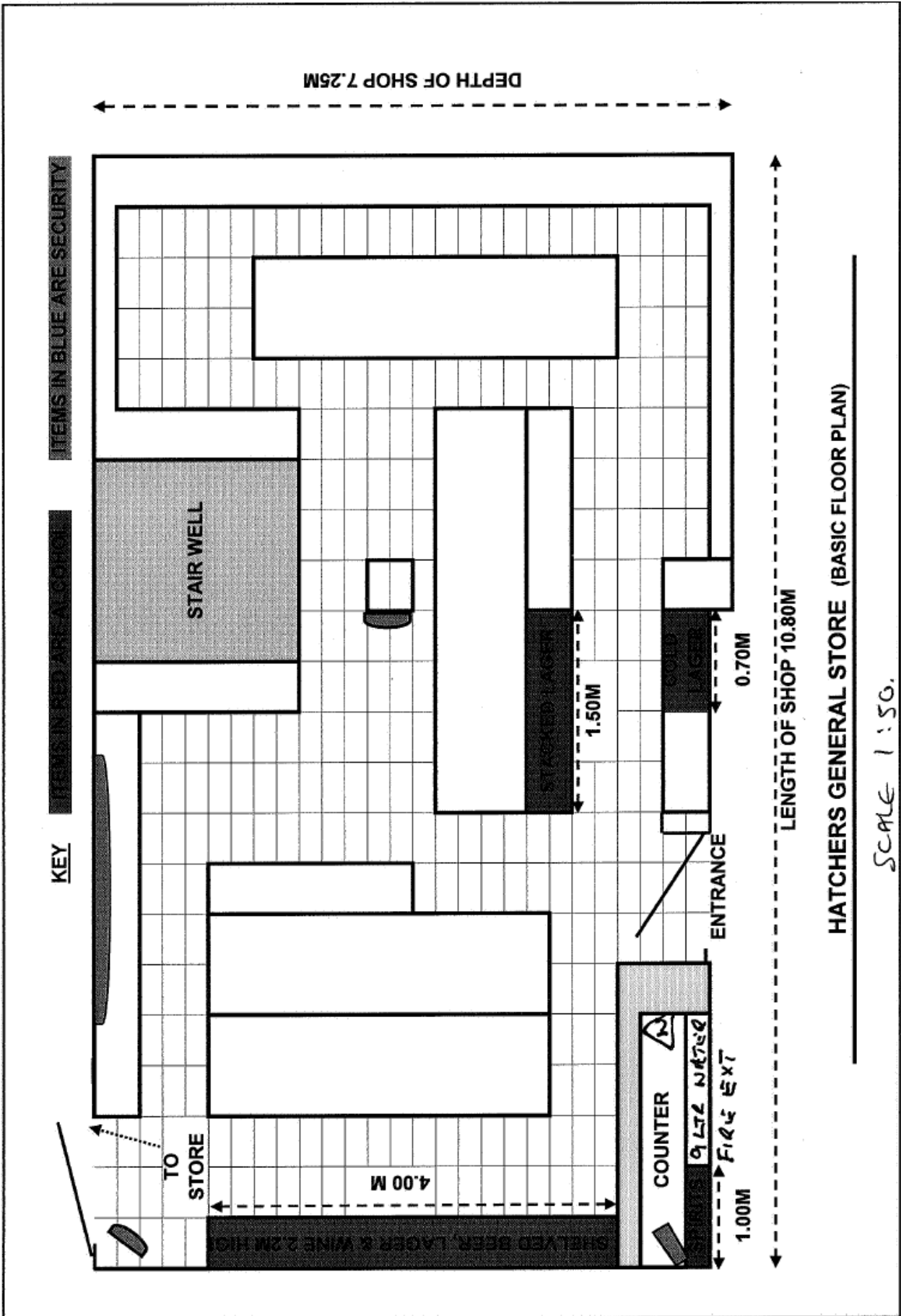
(d) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

2 EMBEDDED CONDITIONS FROM CHILDREN AND YOUNG PERSONS ACT 1933

It is a condition of your licence that you comply with the extant provisions of the Children and Young Persons Act 1933, as amended.

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

1 None



Plan not reproduced to scale.



**Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003**

Before completing this form, please refer to FPP 07001 (Licensing (Licensing Act 2003))

I PC 24272 CHERRY, on behalf of the Chief Officer of Hampshire Constabulary,  
(Insert name of applicant)

- Apply for the review of a premises licence.
- Apply for the review of a club premises certificate.  
(Select as applicable)
- Make a representation about a premises licence/club premises certificate

**Premises or Club Premises details**

Postal address of premises:	Hatchers Card Shop 92-94 High Road Swaythling Southampton
Postcode (if known):	SO16 2HZ

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

Number of premises licence or club premises certificate (if known)  
2005/00724/02SPEC

**Details of responsible authority applicant**

Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Other title / Rank: PC
Surname: Cherry First Names: Jackie
Current postal address : Southampton Police Station Southern Road Southampton
Postcode: SO15 1AN
Daytime telephone number: 02380 533368
E-mail address: (optional) [redacted]@hampshire.pnn.police.uk

Hampshire Constabulary is a responsible authority and the applicant has the delegated authority of the Chief Officer of Police in respect of his responsibilities under the Licensing Act 2003



**Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003**

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

- |   |                                     |
|---|-------------------------------------|
|   | <i>Select one or more boxes</i>     |
| 1) The prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) Public safety                        | <input checked="" type="checkbox"/> |
| 3) The prevention of public nuisance    | <input type="checkbox"/>            |
| 4) The protection of children from harm | <input checked="" type="checkbox"/> |

Please state the grounds for review which must be based on one or more of the licensing objectives together with supporting information:

Hampshire Constabulary who are a responsible Authority under the Licensing Act 2003 are requesting a review of the premises licence for Hatchers Card Shop, High Road, Portswood, Southampton. This particular premises is located within a residential area of Portswood; it is also an area of regeneration for a rapidly growing Student community.

Hampshire Constabulary are minded to request that consideration is given for the revocation of the premises licence. Revocation is sought because the Designated Premises Supervisor the person wholly responsible for the Premises Licence was in drink whilst working which seriously undermines the Licensing Objectives especially the objective "Protecting children from harm".

Furthermore, the main reason why this premises was subjected to a test purchase was that there was information that Mr Kamalnayn Patel has served previously in this premises whilst under the influence of alcohol generally towards the latter part of the day.

Police carried out the Test Purchase at these premises arriving at approx 1830hrs on a Saturday evening. Mr Kamalnayn Patel was witnessed to have served a child with alcohol who was only 16, English and no ID.

When trying to interview Mr Kamalnayn Patel about this failed test purchase it soon became obvious that he was under the influence of alcohol and was in fact drunk, his breath smelt of alcohol; his behaviour was odd; he couldn't speak properly; he wasn't able to understand what we were trying to tell him albeit simple instructions; he was also insisting that the person he sold the alcohol to was Polish and had provided a Polish ID. He was unable to accept that there had been a further male who had entered the shop, purchased alcohol and didn't provide any proof of ID.

Whilst I was stood at the counter I also observed an open can of alcohol near to Mr Kamalnayn Patel. Mr Kamalnayn Patel denied drinking from this can initially but soon owned up to it belonging to him. Behind the counter, the cigarette section, which by law also has to be covered up at all times was left exposed to customers. Again Mr Kamalnayn Patel tried to lie by stating that he was in the process of restocking the shelves; when this was disproved he again admitted that he had forgotten to close the cover over the cigarettes.



[REDACTED]

**Application for the review of / Representation in respect of a  
Premises licence or Club Premises certificate  
under the Licensing Act 2003**

Page 3 of 5

presumably because he was not functioning as a sober person.

Mr Kamalnayn Patel was invited to attend Southampton Central Police Station to undertake a voluntary interview; he attended and received an Adult Caution for his impropriety. During his interview he advised that this was the first time that he had been under the influence of alcohol whilst serving in the shop, he stated that he has diabetes and just one can of alcohol affects him, this behaviour demonstrates that although knowing he will be affected he still drank anyway again displaying that he has no regard for the Licensing Objectives.

Attached is evidence that shows quite clearly that this consumption of alcohol by Mr Kamalnayn Patel is not just a one of occurrence.

Annex A - Letter sent to Mr Kamalnayn Patel October 2011 following a visit to the premises by Police Licensing Officers during September; this letter recommended conditions to operate within the premises to assist with meeting the Licensing Objectives. It also details Mr Kamalnayn Patels response at that time to each recommendation.

Annex B - Statement from PCSO 14490 Dawson who had attended this shop and witnessed Mr Kamalnayn Patel under the influence of alcohol (Oct 2011)

Annex C - Working sheet created by PC 20920 Prior again witnessing Mr Kamalnayn Patel under the influence of alcohol. She states that he was struggling to hold a conversation he initially put this down to tiredness, he then confessed and stated that he sometimes smokes and drinks at the shop. There was an open can of alcohol behind the counter he also admitted to drinking Whiskey on this occasion. (March 2012)

Annex D - Following the visit by PC 20920 Prior a test purchase was conducted at this premises; there was an older gentleman serving and the premises passed the test purchase.

Annex E - PC 24191 Wood visited the premises (March 12) following the test purchase to check if these refusals had been recorded in the refusal book. PC 24191 Wood believed that Mr Kamalnayn Patel smelt of alcohol but could not confirm this. Other than recording refusals no other recommendations had been implemented.

Annex F - (March 12) communication received from Mr Kamalnayn Patel's son who advised that he was looking to purchase CCTV for the premises.

Annex G - (July 12) PC 20920 Prior attended the premises and noted that on this occasion Mr Kamalnayn Patel was at the shop and was in fact Sober. CCTV was still not purchased at this time. Refusals were sporadic and she was advised that if the customer had no ID then they received no sale of alcohol.

Annex H - (Oct 14) PC 24272 Cherry sent a licensing letter following a visit to the premises in Sept 14. The reason for this visit was to check on conditions being operated within this premises. CCTV was now operating within the premises, refusals and training was not evident.





Application for the review of / Representation in respect of a Premises licence or Club Premises certificate under the Licensing Act 2003

Please tick

- 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 have sent a copy of this representation to the principal licensing officer of Council

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

Signature of Officer Completing

Name PC Cherry Collar Number: 24272
Signature: [Redacted] Date: 07/05/15

Signature of Authorising Officer (Inspector or above)

Name Inspector 2841 Justin Roberts Collar Number: 2841
Signature: [Redacted] Date: 12/05/15





**Hampshire Constabulary**  
**Chief Constable Alex Marshall**

Kamalnayn PATEL  
Hatchers News  
92-94 High Road  
Swaythling  
Southampton  
SO16 2HZ

Police Licensing Unit  
Southampton Central Police Station  
Southern Road  
Southampton  
Hampshire  
SO15 1AN

**Our ref:** 44080568721  
**Your ref:**

**Telephone:** 0845 045 45 45  
**Direct dial:** 023 8067 4768  
**Fax No:** 0845660037  
**Deaf/speech impaired minicom:** 01962 875000  
**Email:** [southampton.licensing@hampshire.pnn.police.uk](mailto:southampton.licensing@hampshire.pnn.police.uk)

31<sup>st</sup> October 2011

Dear Mr Patel,

This letter is in reference to our licence meeting on the 31<sup>st</sup> October 2011 at Hatchers News, Swaythling. At the meeting a number of items were discussed and are summarised on the attached sheet.

As you are aware Southampton Police are committed to working with the licensees in supporting the four licensing objectives i.e. –

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

At present you have not been able to provide evidence in support of these licensing objectives being adhered to. You should be aware that failure to support the licensing objectives is a serious matter and can lead to a premises licence being reviewed, or court proceedings being brought.

I have enclosed for your information a copy of conditions which are frequently found on premises licences. These should give you an idea as to how to demonstrate that you are supporting the licensing objectives. However, if you have any queries at all then please do not hesitate to contact me.

Yours Sincerely,

PC 24191 WOOD  
Violent Crime Reduction & Licensing Team  
Southampton Central Police Station



**Meeting at Hatchers News, Swaythling 31/10/11**

**Training**

Police: You currently have no training package in place. All your staff should receive due diligence training. This means educating your staff in order to prevent sales of alcohol to anyone under 18 years of age, or anyone who is drunk. It is an offence to make these sales, and failure to be able to evidence training of your staff could leave you liable for prosecution if another member of staff makes the sale. We would encourage you to put together a training package, to have each member of staff complete it, and to ensure that it is signed and dated by each staff member to confirm that this has taken place.

Venue: Advised that you don't really see the need for training as there is rarely anyone else in the shop making sales. However you did state that your wife helps occasionally, as we saw whilst at the premises.

**Challenge 21**

Police: At present you don't operate any 'Challenge' system. Challenge 21 is a scheme aimed at preventing young people gaining access to age restricted products including cigarettes and alcohol. Under the scheme, customers attempting to buy age-restricted products are asked to prove their age if in the retailer's opinion they look under 21, even though the minimum age to buy alcohol and cigarettes in the UK is 18. We would recommend the implementation of either Challenge 21 or Challenge 25 in order to assist your staff in the process of deciding who to request ID from, and who not. Challenging those who appear to be 21 or under provides you and your staff with a safety net to identify those who appear to be over 18 but who aren't, thus preventing underage sales.

Venue: You advised that you know the majority of people who come into your shop, that you know who is 18 and who isn't, and that those who are under 18 don't try to buy alcohol or cigarettes from you. You said that you accept passports, driving licences, and citizen cards. You agreed to operate a Challenge 21 scheme.

**Refusals/Incident Log**

Police: You currently have no log book. We would suggest that any licensed premises keeps a log book in the form of a diary. This can be used to record any challenges for ID, refusals of sale, any incidents (including shop lifting), and weekly checks of the CCTV system. Recording these items not only evidences the effectiveness of your due diligence training, but also your support of the licensing objectives – protection of children from harm, public safety, prevention of crime and disorder, and prevention of public nuisance.

Venue: You advised that you used to have a book but that you didn't know where it was. You indicated that you would introduce a new book to record the above items.

**CCTV**

Police: Your current CCTV system is out of order and really needs replacing. I have enclosed on the attached sheet an example of the CCTV condition often attached to licences. This should give you an idea of the standard expected in order to effectively



## Hampshire Constabulary

Chief Constable Alex Marshall

support the licensing objectives. Maintaining a good CCTV system is really very important as it can support you and your staff in the event of any disputes over payment, and identification of any offenders in crime.

Venue: You advised that you would get the CCTV system fixed in the next few weeks.



EXAMPLE OF PREMISES LICENCE CONDITIONS

**CCTV**

*The premises shall have sufficient cameras located within the premises to cover all public areas including outside of the premises covering the entrance and exit. The system should be able to cope with strobe lighting and all levels of illumination throughout the premises as well as outside areas. The CCTV system must be operating at all times whilst the premises are open for licensable activity.*

*All equipment shall have a constant and accurate time and date generation.*

*There shall be sufficient members of trained staff available during operating hours to be able to provide viewable copies on request of the Police or local authority. Any images recovered must be in a viewable format on either disc or VHS.*

*The recording system will be able to capture a minimum of 4 frames per second.*

*Records must be made on a weekly basis and kept for inspection to show that the system is functioning correctly and that data is being securely retained.*

*CCTV warning signs to be fitted in public places.*

*Recordings to be kept for a minimum of 28 days.*

*The DPS or premises manager must be able to demonstrate that the CCTV system has measures to prevent recordings being tampered with, i.e. password protected.*

*In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Southampton Police Licensing Unit.*

**Incident book**

*An incident book will be provided and maintained at the premises and there will be a daily debrief of door staff (where used) at the close of business which will be evidenced in writing by the Manager on duty. Should there be no incidents then this will also be recorded at the end of the shift in the incident book.*

*The incident book will remain on the premises at all times and will be available to police upon request.*

*The book shall detail in brief, incident of injury/ejection/refusals/drug misuse/ i.d seizure/age challenge. Where there is an injury, ejection of physical altercation the entry shall be timed, dated and signed by the author. If the member of staff involved has difficulties reading or writing then the entry may be written by another party. This should however be read back to the person involved and counter signed. Should there be any*



## Hampshire Constabulary Chief Constable Alex Marshall

*physical interaction by members of staff and public the entry will include what physical action occurred between each party.*

### **Refusals book**

*A refusals book to be kept detailing numbers , dates and times of incident and description of people refused service of alcohol with reasons why(Including incidents relating to disorder )to the reasonable satisfaction of Hampshire constabulary. The refusals book will remain on the premises at all times and will be available to police upon request.*

### **Training**

*Staff are trained regarding appropriate precautions to prevent the sale of alcohol to persons under the age of 18; signs and symptoms of drunk persons, refusal of sale due to intoxication and that records are kept of such training, which are signed and dated by the member of staff who has received the training; that staff receive refresher training every six months as a minimum and that records are signed and dated by the member of staff are kept of this refresher training. Records will be available for inspection by Hampshire Constabulary and the licensing Authority. Records will be kept for a minimum period of two years.*

### **Challenge 21**

*There will be a Challenge 21 policy operated at the premises. Challenge 21 meaning that the holder of the premises licence shall ensure that every individual who appears to be under 21 years of age seeking to purchase or be supplied with alcohol at or from the premises shall produce means of identification acceptable to the licensing authority proving that individual to be 18 years of age or older. If the person seeking alcohol is unable to produce acceptable means of identification, no sale or supply of alcohol will be made to or for that person.*

**WITNESS STATEMENT**

**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

Statement of: PCSO Chloe Dawsson URN  
Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Police community support officer

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.

Signature: (witness) Date: 30/10/2011

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

I am PCSO 14490 Chloe Dawson currently based at Portswood Police station. I have been in post for approximately two and a bit years, throughout this time I have patrolled the flowers estate in Swaythling.

This statement refers to the time myself and PCSO 13133 Averis encountered a male clearly in drink, in charge of a store.

In this statement I will be referring to the owner of the store. I will refer to him as SHOP OWNER.

On the 25<sup>th</sup> October 2011 I was on duty on uniformed patrol with PCSO Averis. Whilst on patrol we regularly check in on the local shops to ensure they were not having any problems. On this particular evening at approximately 1830hrs myself and PCSO Averis attended Hatchers newsagents on High Road, Southampton.

Signature: ..... Signature witnessed by: .....

We entered the shop and SHOP OWNER was behind the counter. There were two other males in the store waiting to be served. Whilst we were waiting for SHOP OWNER to be free I selected a drink from the shelf and was planning on buying it whilst I spoke with SHOP OWNER.

When I approached the till I asked SHOP OWNER if there had been any problems recently, and he replied in a confused state something about rats. He then continued to ramble on about various things not making any sense. When I tried to buy the drink he completely failed to acknowledge that I wanted to be served and instead picked up the telephone and started to mumble into it. The telephone had not rung and I strongly believe there was no one on the other end. SHOP OWNER was unable to focus and was not communicating very well at all. I tried to engage in conversation with him for approximately three minutes before putting the drink back on the shelf and leaving the shop.

It was clear to both myself and PCSO Averis that SHOP OWNER was very much in drink and was unable to carry out simple tasks within the shop and was oblivious to what was going on around him.

I now know SHOP OWNER to be a Mr Kamal PATEL (20/01/1951). There had been previous concerns raised by local residents that he was drunk whilst working and there were fears that he would be taken advantage of by the local youths.

I spoke to SHOP OWNER for approximately 3 minutes and I was stood no further than 6ft away from him the entire time. There was no one else in the shop at the time of our conversation.

Signature: ..... Signature witnessed by: .....

2010/11

[Redacted]

**Supplementary Occurrence Report**

Hampshire Constabulary

Printed: 29/04/2015 10:10 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #20920 PRIOR, N.

Report time: 16/03/2012 22:06

Entered by: #20920 PRIOR, N.

Entered time: 16/03/2012 22:06

**Remarks:**

Licence visit to premise - Mr Patel on site and drunk - BWV taken

**Report:**

Visited premises due to recent information that the received from SNT Sgt for the area that the PLH / DPS was drunk and smoking on the premises - she has been requested by PS Marshman to provide a statement which she is sending to PC Harris.

On the 16/03/12 at around 1950 hours I attended Hatchers licensed premises and the PLH/DPS Mr Patel was on site, I introduced myself and went through a letter he had received from my colleague PC Wood after a meeting in October. The DPS stated that he had not got any staff training, that he had got a refusal book - this was seen and had approximately one entry a week for various refusals of alcohol / cigarette and lottery. The majority of refusal are earlier on in the afternoon and day, there was one seen for 1945 hours. It is not know which staff members make the entries as they are not named or initialled.

CCTV - this was discussed but the DPS stated that he had not got it done due to time and money but that he would if we said he should and ended by saying he'll have it done in a month

Drunkenness - it was quite clear that he was struggling to hold a conversation with me and he was slurring some of his words. When first pointed out that he was slurring and asked if he had been drinking he stated that he hadn't, he was tired as he'd been working since 6am. When informed that colleagues had been in and found him smoking and believed he had been drinking as there was an open drink behind the counter he then admitted that he did sometimes drink and smoke and that he had been drinking Whisky today. Told in no uncertain terms that smoking on the premises is against the law and drinking is completely unacceptable especially when selling alcohol.

Meeting to be arranged with PLH / DPS when he is sober and ideally when the other PLH (his wife I believe) is also available





## Supplementary Occurrence Report

Hampshire Constabulary

Printed: 07/05/2015 10:15 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #20920 PRIOR, N.

Report time: 17/03/2012 21:05

Entered by: #20920 PRIOR, N.

Entered time: 17/03/2012 21:05

**Remarks:**

TP OP 17/03/12 Passed - TP asked for ID - no sale

**Report:**

Older male on premises at time - worth checking refusal book, both TP's attempted it, one female and one male approximately 1905 hours one immediately after the other.





## Supplementary Occurrence Report

Hampshire Constabulary  
Printed: 07/05/2015 10:17 by 24272  
Occurrence: 44080568721 Z Prem Licence (Management Occurrence)

Author: #24191 WOOD, B.  
Entered by: #24191 WOOD, B.

Report time: 28/03/2012 13:55  
Entered time: 28/03/2012 13:55

**Remarks:**

Visit 27/03/12

**Report:**

Attended in follow up to TP op and PC Prior's observations. The DPS did smell of what I think was intoxicating licquor but I am not 100% confident in saying that he was drunk. However, with the exception of logging refusals, none of my recommendations have been taken on board. The DPS does not have a copy of my letter sent in October and cannot recall what it said. I have repeated this and will be sending a further letter detailing the shortcomings. There are no breaches of the licence, however I do not believe that they are supporting the licensing objectives.





## Supplementary Occurrence Report

Hampshire Constabulary

Printed: 07/05/2015 16:02 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #24191 WOOD, B.

Report time: 28/03/2012 13:56

Entered by: #24191 WOOD, B.

Entered time: 28/03/2012 13:56

**Remarks:**

Email received from son of DPS

**Report:**

Hi Bethan,

We met yesterday at my fathers shop Hatchers, 94 High Road, Southampton.

After our discussion, i had a think, and want to move quickly with the installment of CCTV throughout the property.

I would be very grateful if we could arrange a time, and take advantage of you offer to help decide where to locate approx 8 x camers.

I will be able to fund these as i have been able to withdraw some money form another business of mine.

Let me know what you think and if this would be possible, and if you have a date/time in mind.

I can be around pretty much anytime, i work for myself so am very busy, but anytime would suit as i can just pop it in the diary.

Just incase you needed, here's our landline number for the shop



I look forward to hearing from you soon.

Many thanks,

Mitesh





## Supplementary Occurrence Report

Hampshire Constabulary

Printed: 07/05/2015 16:03 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #20920 PRIOR, N.

Report time: 27/07/2012 20:24

Entered by: #20920 PRIOR, N.

Entered time: 27/07/2012 20:24

**Remarks:**

Visit to premises - Refusal book seen, No CCTV yet and DPS sober

**Report:**

Visit on 27/07/12 at around 1945 hours

DPS, Mr Patel on site and SOBER which was evident instantly, I did comment on this and he stated that now it was no alcohol until he closed the shop. He showed me the refusals log which is used sporadically but is up to date, he states that they do not refuse often as 99% of customer are regulars so they ID the unknowns and if they have no ID then it is no sale. On the subject of CCTV he states he will get this summer, whereas he previously promised spring so it is worthwhile chasing.





**Hampshire Constabulary**  
Chief Constable Andy Marsh

Hatchers News  
92-94 High Road  
Portswood  
Southampton  
SO16 2HZ

Police Licensing Unit  
Southampton Central Police Station  
Southern Road  
Southampton  
Hampshire  
SO15 1AN

**Our ref:** 44080568721

**Telephone:** 0845 045 45 45

**Direct dial:** 023 8067 4768

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**Deaf/speech impaired minicom:** 01962  
875000

**Email:**

[western.licensing@hampshire.pnn.police.uk](mailto:western.licensing@hampshire.pnn.police.uk)

13<sup>th</sup> October, 2014

Dear Mr Kamalnayn Patel

This letter is with regard to our meeting on Wednesday 10<sup>th</sup> September 2014 at your shop Hatchers News, Portswood, Southampton. At the meeting a number of issues were discussed and are summarised on the attached sheet.

As we discussed, Hampshire Constabulary are committed to working with the licensees in promoting the four licensing objectives i.e. –

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

At this time, the police consider that further measures could be taken to ensure the licensing objectives are actively being promoted. Should further incidents occur at the premises and the suggested measures not been introduced, then we may look to take the matter further and this could be by a review of the premises licence.

Yours faithfully

Jackie Cherry  
Violent Crime Reduction & Licensing Team  
Southampton Central Police Station



**Hampshire Constabulary**  
Chief Constable Andy Marsh

**Meeting at Hatchers News Wednesday 10<sup>th</sup> September, 2014**

**Persons present during the meeting – Kamalnayn Patel DPS, PC 24272 Cherry and Vikki Barnard Hampshire Fire and Rescue**

**Premises Licence/Authorisation of supply of alcohol in absence of DPS**

**Police:** A condition of the premises licence is to have a copy on display at all times. Also a mandatory condition of the premises licence states that alcohol cannot be supplied unless authorised or made by a personal licence holder. A copy of the premises licence was not on display on our attendance. Recommended that a list of personnel authorised to serve alcohol should also be displayed.

**Venue:** You arranged for a copy of the Premises licence to be displayed on the wall behind the counter whilst I was in attendance at the shop. You also agreed with the recommendation to display the authorised personnel list with the premises licence.

**Challenge 25:**

**Police:** You are currently operating Challenge 25 at the shop, there are posters enforcing this policy visible.

**Venue:** No problems with enforcing this procedure. You advised that you accept driving licences, passports and citizen cards as long as they contain a photograph.

**Refusal Log:**

**Police:** Refusals are not being recorded, recommended that all record of refusals should be documented and the reasons behind this.

**Venue:** You advised that you don't have many refusals; however you have agreed to adopt our recommendation of logging any refusals.

**Incident Log:**

**Police:** No incident book, however not really required as long as the refusal book is being completed correctly.

**Venue:** You agreed with this observation.

**Training:**

**Police:** You advised that there is no formal training in place at the shop. All training is currently verbal as this is a very small shop, a family run business with only a couple of staff members.



## Hampshire Constabulary

Chief Constable Andy Marsh

We recommend that a formal training package be implemented as staff may become complacent. By having a formal training package enables staff to receive refresher training which enhances competency. This is also an effective way of monitoring staff's current level of knowledge and keeping them fully updated with any changes.

**Venue:** You admitted that formal training at the shop didn't exist; at the present time you have no plans to implement formal training as you have no problems at the shop. However should your shop start to incur problems then this recommendation may be considered.

### CCTV:

**Police:** The CCTV system you are operating has 6 cameras' all currently working. The system retains footage for 28 days; the date was correct but the time was incorrect by 30 minutes fast, you were advised to correct this. A password was recommended for security and integrity. Recommended that you also produce an operators guide to operate the CCTV as currently nobody appears to know how to operate it correctly.

**Venue:** You advised that your son operates the CCTV system at the moment, however you agreed to produce an operators guide so that the system can be operated by other members of staff should footage be required. You will consider adding a password.

## Supplementary Occurrence Report

Hampshire Constabulary

Printed: 07/05/2015 15:13 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #24272 CHERRY, J.

Report time: 06/05/2015 12:44

Entered by: #24272 CHERRY, J.

Entered time: 06/05/2015 12:44

**Remarks:**

failed test purchase 18/4/15

**Report:**

Test purchase carried out at Hatchers High Road, Portswood, Southampton on Saturday 18<sup>th</sup> April, 2015.

A test purchase was conducted at the above address following information received that the DPS Mr Kamalnayn Patel was usually under the influence of alcohol whilst serving in the shop.

At approx 1840hrs a test purchaser (15 years old) was asked to go into the shop and try and purchase some alcohol. A witness was also sent in to capture this possible sale.

A short while later the test purchaser exited the shop after purchasing 4 cans of Carlsberg Lager.

I took the cans from the test purchaser and re-entered the shop with PC 25323 Boucouvalas and Lucas Marshall from Trading Standards. Mr Kamalnayn Patel was serving behind the counter. There was nobody else present other than the customer currently being served.

Once the customer left the shop we asked Mr Patel to shut the shop so that we could speak with him privately. He kept saying yes but didn't actually do anything. I then tried to conduct a voluntary interview with him, he kept walking away from me; At first I thought it was because of a language barrier. It soon became apparent that the reason Mr Patel didn't seem to understand me was that he was under the influence of alcohol; his breath smelt of alcohol, he was unsteady on his feet, his total behaviour was odd he didn't appear to understand what was happening. There was also a can of alcohol open behind the counter, later Mr Patel admitted that he had been drinking from this can.

When I tried to establish if he remembered who he had sold to, Mr Patel was insisted that it was a Polish male who had shown him a Polish ID. He had no recollection of our test purchaser and what he had just sold.

Lucas Marshall pointed out to Mr Patel that his cigarettes were uncovered which meant that he was breaking the law; Mr Patel said that he was in the process of restacking the cigarettes, Lucas Marshall pointed out to Mr Patel that this was in fact a lie as there were no cigarettes new or old around he purely hadn't covered them over owing to his current alcoholic condition. Mr Patel agreed that he had failed to cover the cigarettes.

I then asked why the shop's cctv camera wasn't working; Mr Patel said it was and the camera's were put on, unfortunately the cctv hadn't captured the failed test purchase and as there is no condition on his licence he was not in breach for this oversight.

As we were unable to conduct a viable conversation with Mr Patel I told him to shut his shop and not to re-open until he was sober. Mr Patel agreed; however he then picked up his car key, PC Boucouvalas fearing that Mr Patel was about to drive took his key away; it was then established that Mr Patel wasn't going to drive he was just going upstairs to his living quarters. His car key was returned.

Mr Patel was advised that I would return when he was sober to arrange for him to attend Southampton Central





Police Station for an interview.



**Supplementary Occurrence Report**

Hampshire Constabulary

Printed: 07/05/2015 15:14 by 24272

Occurrence: **44080568721 Z Prem Licence (Management Occurrence)**

Author: #24272 CHERRY, J.

Report time: 06/05/2015 14:05

Entered by: #24272 CHERRY, J.

Entered time: 06/05/2015 14:05

**Remarks:**

interview with Mr Patel 24/4/15

**Report:**

Interview with Mr Patel following the failed test purchase.

Mr Patel attended Southampton Central Police Station to undertake a voluntary interview.

He was very apologetic and advised that his family were ashamed of him. He went on to say that this was the first time he had done this he had been in business for approx 25 years and he has never had any trouble.

Mr Patel was offered a solicitor to represent him, he declined stating that what he had done a solicitor wouldn't be able to assist him.

He still couldn't recall the incident but agreed that it must have happened for him to be in this position. He accepted responsibility and agreed to receive a caution as a consequence for his behaviour and the severity of this incident.

Mr Patel was advised that owing to the severity of this incident we would be taking this premises to review.

**Trading Standards Service**  
Southampton City Council  
Civic Centre  
Southampton SO14 7LY

Direct dial: 023 8083 4930  
Fax: 023 8083 2656  
Email: [REDACTED]

Please ask for: Lucas Marshall  
Our ref:  
Your ref:

21<sup>st</sup> May 2015

Licensing  
Southampton City Council  
PO Box 1767  
Southampton  
SO18 9LA

Dear Sir/Madam

### Licensing Act 2003

I write in support of Hampshire Constabulary's application for review of the Premises Licence for Hatchers, High Road, Southampton, on the grounds that the Premises Licence Holder, Kamalnayn Patel, has failed to support the Licensing Objectives to prevent crime and disorder, public safety and to protect children from harm.

The Police and Trading Standards share responsibility in the enforcement of the Licensing Act 2003 with regard to under age sales of alcohol. I have read PC Cherry's application for the review of the above premises licence, which relates to sale of 4 cans of Carlsberg lager to a 16 year old boy, which took place on the evening of 18<sup>th</sup> April 2015 at Hatchers, 92-94 High Rd, Southampton.

I assisted the Police in this under age sales exercise and have enclosed a statement regarding the sale. Following the sale I entered the premises with PC Cherry and PC Boucouvalas. Kamalnayn Patel was clearly under the influence of alcohol: his speech was slurred, he did not appear to be able to respond to simple questions, his movement was uncoordinated and there was an open can of Fosters lager at the counter. As such he was not in a fit state to control the premises, and I believe that these circumstances contributed to his sale of alcohol to a child. Additionally there was a breach of the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 (as amended), in that tobacco products were being openly displayed (it has been a requirement under these Regulations since 6<sup>th</sup> April 2015 that cigarette gantries are kept covered, apart from when selling, and restocking, to prevent display).

For information Southampton Trading Standards Service conducted an under age cigarette test purchase exercise at the premises on 23<sup>rd</sup> March 2015, and no sale was made. Prior to that a test purchases had not been attempted at the premises by Trading Standards since a joint alcohol exercise with the Police over the summer of 2010, when no sales were made.

Hampshire Constabulary have asked in their application that revocation of the Premises Licence should be considered, which Trading Standards support. Should the licence not be revoked Trading Standards would ask that a lengthy period of suspension is considered, as a deterrent to further such incidents, and that the actions requested by Hampshire Constabulary in their application are implemented: removal of the DPS and the conditions relating to CCTV, refusals records, incident book, Challenge 25 and training of staff are imposed on the licence.

Yours faithfully

[REDACTED]



Lucas Marshall  
**Trading Standards Officer**

Cc Southampton Licensing Unit, Hampshire Constabulary, Central Police Station, Southern Road,  
Southampton SO15 1AN

Cc Mr Kamalnayn Patel, Hatchers, 92-94 High Road, Southampton SO16 2HZ

**WITNESS STATEMENT**

(Criminal Procedure Rules, Rule 27.1(1);

Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B

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Statement of: LUCAS MARSHALL

Age if under 18:	Over 18	Occupation:	<b>Trading Standards Officer</b>
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This statement (consisting of two 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.

~~(name of person making statement) being unable to read this statement I (name and address of person reading statement) have read it to him/her before he/she signed it~~  
Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature: 	Date: <u>21/05/2015</u>
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My name is Lucas Marshall. I am employed by Southampton City Council as a Trading Standards Officer. This statement concerns an under age sale of alcohol which took place at the business which trades as Hatchers, 92-94 High Road, Southampton, SO16 2HZ. On the evening of 18<sup>th</sup> April 2015 I assisted Hampshire Constabulary with an under age sales exercise in Southampton. At around 19:10 the test purchaser (George 16 years of age), entered Hatchers in the High Road, Southampton. Shortly after he left the store with a 4 cans of Carlsberg lager, which he said had been sold to him at the premises. I then entered Hatchers with PCs Boucouvalas and Cherry. We announced ourselves to the seller, who identified himself as Kamalnayan Patel, date of birth 20/0 . He agreed to shut the shop. Mr Patel appeared to be drunk: his speech was slurred, he did not appear to fully understand what had taken place with regard to the sale, and he was uncoordinated. There was an open can of Fosters lager behind the counter. I asked Mr Patel why it was there. He claimed that a friend had been drinking it, though there was no other person present at the store at that time. I noted that the right hand cover on the cigarettes/tobacco gantry was open, so that these products were visible to customers. George later confirmed that the right hand cover had been open when he purchased the alcohol. From the 6<sup>th</sup> April 2015 it has been an offence under the Tobacco Advertising and Promotion (Display) (England) Regulations 2010 (as amended) to openly display tobacco products, except in certain circumstances such as when restocking the cabinet when the display must last for no longer than is necessary. I asked Mr Patel why the cabinet was open. He said that he was restocking it, though I do not believe that this was the case: he had not been restocking when we entered the premises, and appeared to be able to do little

Signature:  Date: 21/05/2015

**WITNESS STATEMENT**

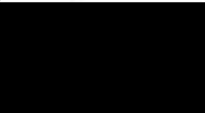
(Criminal Procedure Rules, Rule 27.1(1);

Criminal Justice Act 1967, Section 9; Magistrates Courts Act 1980, Section 5B

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Statement of: *LUCAS MARSHALL*

physically in his drunken state. I examined the store's refusals record whilst at the premises. There were only 6 entries for 2015 and the full date, including the year, had not been indicated on all entries. I also examined some food and drink labelling whilst at the premises: Polish lagers of up to 7% ABV were not labelled in English, contrary to the requirements of the Food Information Regulations 2014.



Signature:



Date: *21/05/2015*