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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I PC 21945 Rackham

.....
(Insert name of applicant)

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

Part 1 – Premises or club premises details			
Postal address of premises or, if none, ordnance survey map reference or description			
Painters Arms, 18 Lake Road			
Post town	Portsmouth	Post code	PO1 4HA
Name of premises licence holder or club holding club premises certificate (if known)			
Bernice Gofton			
Number of premises licence or club premises certificate (if known)			

Part 2 – Applicant details

I am

Please tick yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

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

x

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

(A) INDIVIDUAL APPLICANTS (fill in as applicable)Please tick yes

Mr

Mrs

Miss

Ms

Other title (for example, Rev)

Surname**First names****I am 18 years old or over**(Please tick yes)**Current postal address if different from premises address****Post town****Post code****Daytime contact telephone number****Email address (optional)****Post Town****Post Code****(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
Email address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT
Name and address PC 21945 Rackham – Hampshire Constabulary Alcohol Harm Reduction and Licensing Team Licensing Office Guildhall Square Portsmouth Hampshire PO1 2AL
Telephone number (if any) 02392 688754
E-mail address (optional) peter.rackham@hampshire.pnn.police.uk

This application to review relates to the following licensing objective(s)	
	Please tick one or more boxes <input checked="" type="checkbox"/>
1) the prevention of crime and disorder	x
2) public safety	x
3) the prevention of public nuisance	x
4) the protection of children from harm	

Please state the ground(s) for review (please read guidance note 2)
The Chief Officer of Police has requested a review of the premises licence under the following grounds: <ul style="list-style-type: none"> • The prevention of Crime and Disorder • Public Safety • Prevention of a Public Nuisance <p>This is following a recent increase in incidents of violence at the premises, the premises</p>

being open for trade beyond its permitted hours and an inability by staff to be able to operate the CCTV following these incidents.

As a result of these incidents the Chief Officer of Police believes that this has seriously undermined the ability of the Designated Premises Supervisor and Premises Licence Holder, Bernice Gofton to be able to operate the premises in a way which supports the licensing objectives and as such will be requesting the licence be revoked.

Please provide as much information as possible to support the application (please read guidance note 3)

Painters Arms

The Painters Arms is a community pub in Lake Road, Portsmouth. It is situated in between a commercial area and residential area.

Currently the premises have a licence to sell alcohol Monday to Saturday until 23:00 hours and Sunday until 22:30 hours.

The Designated Premises Supervisor and Premises Licence Holder is Bernice Gofton. She has operated the premises for some time. As DPS and PLH she is the sole point of responsibility for the premises. Enterprise Inns do however own the property and have been included historically in discussions with the DPS.

History/Timeline of issues

Over the last few years the Police Licensing Team have engaged repeatedly with the DPS.

In August 2014 following a spike in the level of incidents PC Matt Moss wrote to the DPS and the Area Manager for Enterprise Inns. The letter raised issues with regards to:

- Potential under age drinking at the premises
- An increase in incidents of violence at the premises within the last month
- That the violence incidents are linked to persons who are drunk

PC Moss then made a number of suggestions to assist the DPS in preventing issues at the premises. These can all be found in **Annex A** of the Police bundle and include ensuring the CCTV system is in working order.

In July 2016 PC Jackie Cherry, following a spike in incidents over the weekend made contact with the DPS's bar manager. During this meeting the incidents were raised. CCTV operation at the premises was also raised and advice from PC Cherry was provided around ensuring that CCTV recorded for 31 days and could be operated by staff.

In December 2016 PC Smurthwaite from the local Neighbourhood Policing Team raises a number of issues at the premises which include:

- Known shoplifters entering the premises to meet and sell stolen goods to customers in front of staff and staff turning a blind eye to this.
- Staff member lone working in a busy environment who had received little training and whose attitude was to "pull pints and take the money".

- Cleanliness issues at the premises.
- CCTV unable to be accessed as the DPS and staff members do not know how to work it.

PC Smurthwaite speaks with the DPS regarding these issues and is unimpressed with the response from her with the DPS walking out of the premises mid conversation.

PC Smurthwaite provides advice to the DPS regarding how to manage the situation and minimise the issues which he has advised. A copy of a summary of these issues and the actions advised by PC Smurthwaite are found in **Annex B** of the Police bundle.

Following this information an email is sent to the then Area Manager of Enterprise Inns Tony Warnants. This and his response to the matter including an email detailing the advice to the DPS is also found in **Annex B** of the Police Bundle.

19/02/2017 – 18:01 – Common Assault – 44170065155

Incident where two family members of the DPS. Niece and Daughter are behind the bar working. The Daughter is drunk and an argument ensues after the she is seen to provide alcohol without payment to customers, Daughter then hits niece.

The Police attending note that the daughter is drunk, slurring her words, unsteady on her feet and difficult to communicate with. No complaints are forthcoming from the niece and the daughter leaves the premises.

Following this incident Tony Warnants is contacted and alerted to the issues. **Annex C** of the Police Bundle shows the email where he states he will engage further with the DPS.

03/03/2017 – 22:50 – GBH with intent – 44170081472

Incident where there is a dispute between two females at the premises. A male becomes involved and in the ensuing melee falls to the floor where he alleges that two females stamp on him. This causes him to break a rib and later it transpires that he has a punctured lung as a result.

On Police arrival the two females have left the premises. No one at the premises is able to give an account of what happened and staff advise the Police that CCTV is not working.

As a result of the CCTV not working and of the lack of engagement from persons at the premises, Police are unable to identify any offenders or piece together an accurate account of what actually happened.

Following this incident PC Rackham attends the premises and speaks with the DPS. During this meeting concerns are raised with the CCTV not working yet again and advice is given to the DPS with regards to ensuring a new CCTV system is in place which works, utilising door staff at the premises to minimise issues and also to join the Portsmouth Business Crime Reduction Partnership in order to ensure that any persons posing a risk to the business can be identified and refused entry.

An email was sent to the DPS following this and also Tony Warnants. He replies and states that he believes that Enterprise are unable to assist further with the DPS due to her being fully aware of what is expected of her and due to tenancy issues. This can be found in **Annex D** of the Police Bundle.

21/05/2017 – 00:15 – ABH x2 – Public Order – Assault Police – 44170190227

A male who is barred from the premises enters and is refused service. He becomes aggressive threatening one person, punching two others leaving them with ABH injuries and when Police attend, spits at one of them.

This matter is still being investigated and is with the CPS for a charging decision at the time of writing.

Following this incident the DPS was able to provide CCTV of the incident which did indeed show the male being refused service.

However on looking back through the incidents as part of the review process it appears that this incident occurred some one hour and 15 minutes after the premises is meant to have finished serving alcohol and would indicate that the premises was open for trade after its permitted hours. Potentially offences have also been committed under the licensing act 2003 as a result.

26/06/2017 – 18:30 – Public Order – 44170244002

Staff member living above the premises reporting that when coming down to the bar two customers become aggressive to her, shouting at her abuse.

Police have attempted to contact the staff member to no avail so this matter has been filed.

09/07/2017 – 18:32 – Common Assault – 44170263374

Informant reporting that two females have entered the garden area of the premises and have begun drinking their own alcohol. As they are asked to leave they have thrown a can of alcohol at the informant.

Police attend and request CCTV in order to identify the offender and the staff member on site is unable to provide the CCTV as they cannot work it.

Police later return to the premises and find that the camera is positioned in a way which does not show the incident.

As a result the matter is filed.

09/07/2017 – 21:40 – Criminal Damage – 44170263474

Informant reporting that the DPS daughter has been refused service at the premises, refused to leave and then damaged a telephone and a chair at the premises.

Suspect is arrested and later charged with criminal damage. CCTV was able to be viewed on this occasion.

16/07/2017 – 00:30 – Criminal Damage – 44170272587

Female initially calling the Police to state that she had been assaulted by bar staff and customers at the premises. On Police attendance the female is seen to have lacerations to her hands and fingers which the female stated was caused by the assault.

CCTV was able to be viewed at the premises and shows a lawful ejection from the premises and the female punching a window pane causing the injury.

Following this CCTV was requested numerous times. The premises did not provide the CCTV and later decided to no longer pursue a complaint in this matter.

On looking back through the incidents as part of the review process it appears that this incident occurred some one hour and 30 minutes after the premises is meant to have finished serving alcohol and would indicate that the premises was open for trade after its permitted hours. Potentially offences have also been committed under the licensing act 2003 as a result.

26/08/2017 – 23:44 – Common Assault – 44170331497

Informant reporting that a customer has slapped the back of a staff members hand.

02/09/2017 – 01:00 – ABH – 44170339912

Informant reporting that whilst in the smoking area of the Painters Arms Pub an unknown male has hit him in the side of the face causing an injury to his ear.

The informant allegedly reports this to staff at the premises who do nothing about the incident.

CCTV is requested as part of the investigation but the CCTV is not working and cannot be viewed or downloaded.

On looking back through the incidents as part of the review process it appears that this incident occurred some 2 hours after the premises is meant to have finished serving alcohol and would indicate that the premises was open for trade after its permitted hours. Potentially offences have also been committed under the licensing act 2003 as a result.

09/09/2017 – 00:05 – GBH with intent – 44170349208

Suspect becomes involved in an argument with a male. Suspect is in the garden area, victim in the street. The suspect jumps the fence and attacks the victim biting off his ear lobe causing GBH injuries.

On looking back through the incidents as part of the review process it appears that this incident occurred some 1 hour after the premises is meant to have finished serving alcohol and would indicate that the premises was open for trade after its permitted hours. Potentially offences have also been committed under the licensing act 2003 as a result.

On requesting the CCTV footage the premises advise that the CCTV is not working and has not done so for a while.

Following this incident PC Rackham makes contact with the DPS and new Area Manager for Enterprise Inns Paul Gill. They are advised of concerns around the operation of the premises. The importance of ensuring that CCTV is fixed without fail and sent conditions which PC Rackham are placed onto the premises licence in order to deal with these issues. PC Rackham advises that if these items are not rectified then a review of the licence will be considered in order to achieve the change needed to sort these issues. This correspondence

and the proposed conditions are provided in **Annex E** of the Police bundle.

Following this correspondence a meeting is arranged for the 19/09/2017 at the premises with the DPS and Paul Gill.

Following these issues the CCTV is replaced at the premises.

15/09/2017 – 23:54 – ABH x 4 – 44170358637

Following a wake the DPS's daughter becomes involved in an argument and assaults another female. Customers step in and the partner of the daughter assaults them.

Police attend. CCTV cannot be operated at the premises by any staff member. This matter is still under investigation.

On looking back through the incidents as part of the review process it appears that this incident occurred some 54 minutes after the premises is meant to have finished serving alcohol and would indicate that the premises was open for trade after its permitted hours. Potentially offences have also been committed under the licensing act 2003 as a result.

17/09/2017 – 19:01 – ABH – 44170360730

Customer smashes two glasses at the premises and uses a pool cue to hit another person with. Male leaves prior to Police attendance.

On Police attendance no one can work the CCTV.

The local inspector raises concerns with the DPS and considers closing the premises using powers under the Anti Social Behaviour Crime and Policing Act 2014 but does not once the DPS agrees to do so of her own accord.

Officers re attend following the incident and are told the following:

- CCTV does not work
- The DPS is too busy to provide it
- Staff cannot work the CCTV.

On 19/09/2017 PC Rackham and PCC Licensing Derek Stone attended the premises and met with the DPS and Paul Gill.

Our concerns were raised with the DPS around the consistent issues with CCTV and violence at the premises on a regular basis. We also raised the concerns that looking through the incidents it appeared that the premises had on a number of occasions been open beyond its permitted hours and that all of these points had seriously undermined the licensing objectives at the premises.

The DPS agreed that the premises had been open beyond its permitted hours and also that it had been selling alcohol beyond its permitted hours. The DPS also stated that she had been aware of this and had advised her staff to stop doing it but they had continued. The DPS was advised that this was concerning due to her inability to prevent staff from opening later. The DPS stated she was aware that she had to stop serving alcohol from 2300 hours and that it

was an offence to do so after this time.

The DPS was advised to ensure the following in the interim period between the meeting and any potential review as a way of minimising the risk at the premises:

- SIA registered door staff present from 19:00 to close of premises
- CCTV engineer called to train staff and change position of outside cameras
- Footage is burnt off of the incident on the 17/09 for investigating officers
- DPS to be present on Friday and Saturday nights to prevent opening past permitted hours.
- DPS joins the PBCRP in order to enable herself and staff to prevent banned persons entering the premises and causing issues.

This is contained in an email contained in **Annex F** of the Police bundle.

Whilst at the premises I noted that the banned individual from the incident on the 21/05/2017 was at the premises and being served alcohol.

Summary

Following these numerous issues of violence, trading beyond the permitted hours of the licence and a seeming inability to operate the CCTV system the Police have considered what is the most proportionate and reasonable action in these circumstances.

To do nothing is not an option. It is quite clear from the evidence that the DPS is unable to operate the premises in a way which promote the licensing objectives and unable to operate the premises in a way which prevents crime and disorder. The DPS has exacerbated these issues by operating beyond the permitted hours of the premises licence. It is also clear that to do nothing will also lead to further incidents of crime and disorder at the premises. Given that incidents are increasing in nature and violence is becoming more prevalent action needs to be taken.

The Chief Officer of Police believes that the following options should be considered by the committee as a way of resolving these issues and preventing crime and disorder at the premises:

Revocation of the Premises Licence

Revoking the premises licence should be seriously considered in this instance. The premises have been operated in a way which has undermined the licensing objectives, particularly the prevention of crime and disorder. The DPS has allowed persons to enter the premises and sell stolen goods. Guidance issued under S182 of the Licensing Act 2003 states that the committee should consider revocation in the first instance when they are used for the purposes of selling stolen goods.

Revocation of the premises licence would also immediately stop the premises from being able to continue being the focal point for a cycle of violence which has been prevalent in 2017 at the premises.

Removal of the DPS

It is clear to the Chief Officer of Police that the DPS is unable to operate the premises in a way which supports the licensing objectives. The DPS has also knowingly allowed the premises to remain open past its permitted hours and the evidence shows that this has in turn led to issues of violence.

The DPS also has repeatedly received the same advice from the Police with regards to what will resolve these issues. The DPS has repeatedly failed to act on this advice and this again has led to an increase in violence at the premises.

Removing the DPS would ultimately ensure that a new person could come in and work with the Police to resolve these issues. However the DPS is also the Premises Licence Holder. She would still have responsibility for the premises and be involved in management decisions involving the premises. Unfortunately a committee is unable to remove a premises licence holder and as such the current DPS will remain able to run the premises in a way which does not promote the licensing objectives and it is highly likely these issues raised will just continue.

Introduction of proposed conditions

As shown in **Annex E** the Police have previously proposed a set of conditions to be placed onto the premises licence which would, if complied with, minimise any risk of issues at the premises.

However, whilst this would be the case with a new management structure, the current management structure has demonstrated that they are unable to comply with their permitted hours, let alone a series of conditions.

It is the belief of the Chief Officer of Police that to impose these conditions with the same DPS and PLH would be pointless. The current DPS and PLH would just ignore them and the incidents of violence would continue.

Suspension of the Premises Licence

The committee could consider a suspension of the premises licence for up to three months in order for a change in management and give the premises to be able to comply with the premises licence conditions. However once again, even if the DPS is removed she will remain PLH and once the suspension is over the same issues are highly likely to manifest themselves once again.

Revocation

It is the opinion of the Chief Officer of Police that the DPS and PLH are unable to operate the premises in a way which promotes the licensing objectives. Anything other than a revocation of the premises licence will not deal with the issues and will just serve to allow them to continue. As such the Chief Officer of Police requests that the licence be revoked.

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Please tick <input checked="" type="checkbox"/> yes							
Have you made an application for review relating to the premises before?							<input type="checkbox"/>
If yes, please state the date of that application							
	Day		Month		Year		

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

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Please tick <input checked="" type="checkbox"/> yes	
<ul style="list-style-type: none"> 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. 	
<ul style="list-style-type: none"> I understand that if I do not comply with the above requirements my application will be rejected. 	
<p>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</p>	
<p>Part 3 – Signatures (please read guidance note 4)</p>	
<p>Signature of applicant or applicant’s solicitor or other duly authorised agent (See guidance note 5). If signing on behalf of the applicant please state in what capacity.</p>	
Signature	
Date	21 st September 2017
Capacity	Police Constable on behalf of the Chief Officer of Police for Hampshire Constabulary

<p>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)</p>			
Post town		Post code	
Telephone number (if any)			
If you would prefer us to correspond with you by email, your email address (optional)			

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.

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