

REPORT OF THE EXECUTIVE DIRECTOR OF NEIGHBOURHOODS

LICENSING SUB COMMITTEE – 15 JANUARY 2020

DETERMINATION OF AN APPLICATION FOR A REVIEW OF PREMISES LICENCE UNDER SECTION 52 OF THE LICENSING ACT 2003

COURTNEY DRIVE NEWSAGENTS, COURTNEY DRIVE, SUNDERLAND, SR3 1JS

Premises Licence Holder: Mr Jinni Nirappel Varkey

1.0 PURPOSE OF REPORT

- 1.1 To consider an application for the review of a premises licence relating to the above-mentioned premises.

2.0 DESCRIPTION OF DECISION

- 2.1 The Sub-Committee are requested to consider the application and to take such steps as they consider appropriate for the promotion of the licensing objectives.

3.0 INTRODUCTION/BACKGROUND

- 3.1 An application under Section 51 of the Licensing Act 2003 ('the Act') has been received from Sunderland City Council Trading Standards (Weights and Measures Authority) for a review of the above-mentioned premises licence on the grounds that the operation of the premises undermines the Licensing Objectives, in particular the Prevention of Crime and Disorder and the Protection of Children from Harm. The review application is attached as Appendix 1. A copy of the current premises licence is also contained within the above document.
- 3.2 Exhibits referenced CG/CC/01 (photo of 15 year old child) and CG/CC/02 (alcohol purchased in evidence bag) referred to in a statement attached to the review application will be shown to Members by Trading Standards Officers at the hearing.

4.0 CURRENT POSITION

- 4.1 Once such an application has been received, the Council, in its role as the Licensing Authority, must advertise the fact that a review is to take place and invite representations. Such notices were displayed for the statutory period of 28 days commencing on 19 November 2019.
- 4.2 Before determining the application the Council must hold a hearing to consider it and any relevant representations received.

- 4.3 Relevant representations have been received following consultation on the review application from Northumbria Police. A copy of the representation is attached as Appendix 2.
- 4.4 Mr Varkey has been advised that he should not be currently selling alcohol after he informed Trading Standards officers that Lisa Janet Hicks, the Designated Premises Supervisor (DPS), no longer worked at the premises. Officers of the Council's Licensing Team have since visited the premises during the consultation period and have found the premises to be closed. Following several unsuccessful attempts made by Licensing officers to contact Mr Varkey both by telephone and e-mail, on 3 January 2020 he contacted the Licensing office to confirm that he will be attending the review hearing.
- 4.5 For Members' information our records show that the premises licence was granted in November 2005, having been converted from the previous licensing regime. Mr Varkey has held the premises licence since 9 May 2018. Mr Varkey is also currently the premises licence holder and premises supervisor for other premises situated at 1a Silksworth Terrace, Silksworth, Sunderland, SR3 2AQ. In addition, Mr Varkey is currently a director of Varkeys Shoppings Limited, the holder of a premises licence for Phoenix House, Unit 6, Union Street, Sunderland, SR1 3BT. Mr Varkey is also shown as the premises supervisor on such licence. However, recent observations made by officers have revealed that these premises are currently closed.

5.0 REASONS FOR THE DECISION

- 5.1 To comply with the requirements of Section 52 of the Licensing Act 2003.

6.0 ALTERNATIVE OPTIONS

- 6.1 None submitted.

7.0 RELEVANT CONSIDERATIONS/CONSULTATIONS

- 7.1 The provisions of sections 11.16 to 11.23 of the Secretary of State's Guidance (powers of a licensing authority on the determination of a review) apply to this matter and are set out below.

11.16

The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.17

The licensing authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority

issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18

However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.

11.19

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

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

11.20

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

11.21

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

11.22

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

11.23

Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

8.0 GLOSSARY

8.1 No acronyms or abbreviations have been used in this report.

9.0 LIST OF APPENDICES

9.1 Appendix 1 – Review Application Form (including copy of current premises licence).
Appendix 2 – Northumbria Police Representation.

10.0 BACKGROUND PAPERS

10.1 None.

APPENDIX 1

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

I Sunderland City Council – Weights and Measures Authority
(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description Courtney Drive Newsagents Courtney Drive, Silksworth	
Post town SUNDERLAND	Post code (if known) SR3 1JS

Name of premises licence holder or club holding club premises certificate (if known) Jinni Rappel Varkey
--

Number of premises licence or club premises certificate (if known) 00CMPER1494
--

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

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

Please tick ✓ 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

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

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

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Sunderland City Council Trading Standards – Weights and Measures Authority Jack Crawford House Commercial Road Sunderland SR2 8QR Contact: Laura Brooks
Telephone number (if any) 0191 561 1607
E-mail address (optional) laura.brooks@sunderland.gov.uk

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

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

Please tick one or more boxes ✓

-
-
-
-

Please state the ground(s) for review (please read guidance note 2)

SEE ATTACHED GROUNDS FOR REVIEW DOCUMENT

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

SEE ATTACHED GROUNDS FOR REVIEW DOCUMENT

tick ✓ yes

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

Please

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

tick ✓ yes

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

Please

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant's solicitor or other duly authorised agent (please read guidance note 5). If signing on behalf of the applicant please state in what capacity.

Signature

Date **18th November 2019**

Capacity **PRINCIPAL TRADING STANDARDS OFFICER**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

1. 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.

GROUNDS FOR REVIEW – COURTNEY DRIVE NEWSAGENTS

1. The applicant is seeking a review of the Premises Licence for the sale by retail of alcohol at COURTNEY DRIVE NEWSAGENTS, COURTNEY DRIVE, SILKSWORTH, SUNDERLAND SR3 1JS. This is an appropriate course of action to address concerns relating primarily to the protection of children from harm and also to the prevention of crime and disorder.
2. The holder of the premises licence is Mr JINNI RAPPEL VARKEY and the Designated Premises Supervisor is Ms LISA JANET HICKS. Ms HICKS holds a personal licence issued to her by Sunderland City Council.
3. Intelligence was received by Trading Standards alleging that this premises is supplying alcohol to young people under the age of 18. This is contrary to section 146(1) of the Licensing Act 2003.
4. On 30th September 2019, Trading Standards carried out a test-purchasing operation in response to this intelligence. A 15 -year old child volunteer acting under trading standards instruction was sent into COURTNEY DRIVE NEWSAGENTS at approximately 5:45pm, where she was able to buy a bottle of BLUE WKD. A drink that contains 4% alcohol by volume.
5. The sale was made by the premise licence holder, Mr JINNI NIRAPPEL VARKEY and was observed by Consumer Protection Officer JOSH CARR. Mr CARR reports that there were no obvious distractions in the shop at the time of the sale and that Mr VARKEY made no attempt to ask the child how old they were or ask for identification to prove their age.
6. Immediately following the sale, Senior Trading Standards Officer CATHERINE GREEN and PC DAVID BROWN went into the premises again and spoke to Mr VARKEY. He agreed that he was the person responsible for the sale that had taken place but said that he thought the child to be 18 years old. Mrs GREEN inspected and signed the sales refusals ledger produced on request by Mr VARKEY and noted that it contained no entries, despite Mr VARKEY indicating that he'd had it for approximately a year. When this was queried, Mr VARKEY stated that "*he doesn't write it down when he refuses a sale*". Mr VARKEY was advised to ensure the refusals ledger was used with immediate effect.
7. Mr VARKEY was visited again by Trading Standards on the 8th October 2019. The purpose of this visit was to probe further as to the systems and practices in place at the premises that relate to the licensing objectives of protecting children from harm and prevention of crime and disorder. The following observations were made:-
 - a. *Repeat inspection of the sales refusals ledger showed that it was still not being used.*

Mr VARKEY admitted that he had refused sales since the visit of 30th September but these were not recorded in the ledger despite the request made to do so.

- b. *Poor understanding of the licence holder as to the age verification policy being used at the premises (the licence conditions require a policy of this kind).*

Mr VARKEY stated that 'Challenge 21' was used but could not explain why this was the case when a 'Challenge 25' poster was on display. Mr VARKEY was unable to demonstrate an acceptable understanding of the requirements of these concepts and how they differ.

Furthermore, the test purchase was made by a 15 year old who does not look 18 years old and certainly not 21 or 25 years old. Mr VARKEY stated to Trading Standards Officers that he thought this child to be 18. In all eventualities, Mr VARKEY is not compliant with the licensing condition that alcohol is supplied in accordance with the adopted age verification policy.

- c. *Inconsistent use of an electronic till prompt to alert to product age restrictions.*

The till system can be programmed to introduce an alert for the salesperson to be reminded to check the age of persons attempting to buy age-restricted products. A manual intervention is then needed to accept or reject the sale before the till function can be completed. This alert was found to be programmed for alcoholic beverages but not for tobacco products. Furthermore, in the case of the test-purchase, the prompt to check the age of the buyer was clearly ignored as Mr VARKEY did not ask for ID.

- d. *Inappropriate person appointed as DPS*

Mr VARKEY told Trading Standards that he works alone at the shop and no other persons have been involved in the running of the business since August 2019. By default, this indicates that the current nominated Designated Premises Supervisor, LISA JANET HICKS, is not an appropriate person as she has nothing to do with the running of the business and thus the sale of alcohol.

- e. *Compromised promotion of licensing objectives*

The operating hours of the business are 8am to 11pm Monday to Saturday and 10am to 10:30pm on Sundays. As the only person working at the premises, Mr VARKEY is clocking in excess of 100 working hours per week to fulfil these hours. This gives rise to concerns that full and proper attention to promoting all licensing objectives is not sustainable on this basis.

8. On the 14th October 2019, Trading Standards made a visit to another premises in Sunderland where Mr VARKEY is recorded as being the licence holder and DPS. Namely VARKEYS CONVENIENCE STORE at 1A SILKSWORTH TERRACE

SR3 2AQ. Mr VARKEY was not present at the time of the visit but two members of staff were spoken to. Both confirmed that they had received no training from Mr VARKEY in relation to the sale of age-restricted products and were not aware of any member of staff that had. The systems being followed in these premises were those that had been in place prior to Mr VARKEY taking over the shop approximately a year or so before.

9. One of the staff members spoken to at SILKSWORTH TERRACE was LISA HICKS, the person named as DPS for COURTNEY DRIVE NEWSAGENTS (to which this review application relates). Ms HICKS confirmed that she had stopped working at COURTNEY DRIVE NEWSAGENTS approximately 7 weeks previously – information consistent with that provided by MR VARKEY. She indicated that this was a permanent move.
10. Ms HICKS also told Trading Standards that her home address was different to what is stated on the licence for COURTNEY DRIVE NEWSAGENTS and was aware of her appointment at these premises as DPS. She also confirmed that since stopping work at these premises she no longer has any kind of role in what happens there. This validates the grounds for review given at paragraph 7(d).
11. In light of all of the above, the weights and measures authority do not consider that Mr VARKEY is taking his obligations under the Licensing Act 2003 seriously. The evidence gathered indicates a general disregard of proactive steps needed to prevent sales of alcohol to children and thus protect them from harm. The fact of alcohol having been supplied from these premises to a child demonstrates failure to abide with both protection of children from harm and prevention of crime and disorder licensing objectives. These factors combined with it being the premise licence holder himself that supplied alcohol to a child leaves the applicant with no choice other than to request licence revocation.



Premises Licence

Premises licence number

00CMPREM00330

Part 1 – Premises details

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

Courtney Drive Newsagents
Courtney Drive
Silksworth

Post town Sunderland

Post code SR3 1JS

Telephone Number

Where the licence is time limited the dates

Licensable activities authorised by the licence

Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Standard days and timings

Sale by Retail of Alcohol

Monday to Saturday from 08:00 to 23:00
Sunday from 10:00 to 22:30

Non standard days and timings

Sale by Retail of Alcohol

Christmas Day from 12:00 to 15:00
Christmas Day from 19:00 to 22:30
Good Friday from 08:00 to 22:30

Licence Printed 11th November 2019

The opening hours of the premises

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

OFF

Licence Printed 11th November 2019

Part 2

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

Mr Jinni Nirappel Varkey

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 the supply of alcohol

Ms Lisa Janet Hicks

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

Personal Licence Number 00CMPER1494

Issuing Authority Sunderland City Council

Licence Printed 11th November 2019

Annex 1 – Mandatory Conditions

- 1) No supply of alcohol may be made under the premises licence at a time when there is no designated premises supervisor in respect of the premises licence, or at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.
- 2)
 - (1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
 - (2) For the purposes of this condition
 - (a) duty is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) permitted price is the price found by applying the formula where
$$P=D+(D \times V)$$
 - (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) relevant person means, in relation to premises in respect of which there is in force a premises licence
 - (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
 - (d) relevant person means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
 - (e) value added tax means value added tax charged in accordance with the Value Added Tax Act 1994.
 - (3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
 - (4)[1] Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
 - [2] The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.
- 3) Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Licence Printed 11th November 2019

- 4) The premises licence holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried out in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either a holographic mark or ultraviolet feature.

Licence Printed 11th November 2019

Annex 2 – Conditions consistent with the operating schedule

- 1) Alcohol shall not be sold or supplied except during permitted hours. In this condition, permitted hours means:
 - a. On weekdays, other than Christmas Day and Good Friday, 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) Alcohol shall not be sold in an open container or be consumed in the licensed premises.

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

Licence Printed 11th November 2019

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

Licence Printed 11th November 2019

Annex 4 – Plans

Licence Printed 11th November 2019

**SUNDERLAND CITY COUNCIL
TRADING STANDARDS**

STATEMENT OF WITNESS

*(Criminal Procedure Rules r. 27.2; Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, s.5B)*

Statement of: Josh Carr

Age (if over 18 enter 'over 18'): Over 18

Occupation: Consumer Protection Officer

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

I am a Consumer Protection Officer employed by Sunderland City Council within the Trading Standards Team. I am authorised to enforce the Licensing Act 2003.

On 30th September 2019 I took part in Operation Pluto, a test purchasing exercise across various premises in Sunderland. I was accompanied by Catherine Green, a Senior Trading Standards Officer at Sunderland City Council and Police Constable David Brown (1161) from Northumbria Police. Also present was Child A.

At approximately 5.45pm I entered Courtney Drive Newsagents, Courtney Drive, Silksworth, Sunderland, SR3 1JS. A short time later Child A entered the shop. I was browsing the area near to the till when I saw Child A approach the till, carrying a bottle of Blue WKD. An Asian male, who I would estimate to be between 60 and 70 years of age was working behind the counter. I watched as he told Child A the price of the item and then proceeded to take payment from Child A. At no point did he ask Child A her age or to provide any form of identification.

Child A then took her change and left the shop, carrying the bottle of Blue WKD. I then made a small purchase and left the premises.

Dated: 15/10/19

Signed.....

**SUNDERLAND CITY COUNCIL
TRADING STANDARDS**

STATEMENT OF WITNESS

*(Criminal Procedure Rules r. 27.2; Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, s.5B)*

Statement of: Catherine Green

Age (if over 18 enter 'over 18'): Over 18

Occupation: Senior Trading Standards Officer

This statement (consisting of 4 pages, each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated: 18th November 2019

Signed..

I am a Senior Trading Standards Officer employed by Sunderland City Council within the Trading Standards Team. I am authorised to enforce the Licensing Act 2003.

On 30th September 2019 I took part in Operation Pluto, a test purchasing exercise across various premises in Sunderland. I was accompanied by Josh Carr, a Consumer Protection Officer at Sunderland City Council and Police Constable David Brown (1161) from Northumbria Police. Also present was Child A, who I know to be 15 years old.

Before the operation I was filmed giving instructions to Child A regarding the procedures for the test purchasing of age restricted products. Still photographs were taken of Child A as a record of her appearance on the day of the exercise. I produce a print out of a photograph of Child A in evidence as exhibit CG/CC/01. Prior to the operation Child A was given money to attempt to purchase age restricted products.

At approximately 5.45pm I saw Josh Carr enter Courtney Drive Newsagents, Courtney Drive, Silksworth, Sunderland, SR3 1JS. This store is also known locally as Courtney Convenience Stores. A couple of minutes later I observed Child A enter the same premises. When Child A left the premises, she was carrying a bottle of Blue WKD. I placed the alcohol purchased in an evidence bag with the reference number PO0534821 before sealing it. I produce the alcohol as exhibit CG/CC/02.

Signed:

Continuation of Statement of Catherine Green

At approximately 5.50pm I entered Courtney Drive Newsagents with PC David Brown. The seller identified himself as Jinni Varkey and confirmed that he is the owner and license holder at the premises. I advised him that he had just sold a bottle of blue WKD to our 15-year-old child volunteer. He admitted to the sale and stated that he thought Child A looked 18.

I asked to see his refusals register which he produced. There were no entries in the refusals register even though he stated he had had it for approximately one year. When I asked him to explain this, he stated that he "doesn't write it down when he refuses a sale". I advised him that he should record all refusals for age restricted products in his refusals register. I then signed and dated the refusals register.

When asked for his address Mr Varkey stated that he lives _____ and gave his address as _____. I noted his contact details in my officer notebook and advised that I would be in touch at a later date regarding the sale. I then left the shop.

The following day the alcohol purchased by Child A was locked in our secure evidence cupboard.

On 8th October 2019 I returned to Courtney Drive Newsagents to conduct a follow up visit as a result of the underage sale. Jinni Varkey was working in the shop at the time of my visit. I asked to see his refusals register which he produced. There were no entries in it other than my entry from my previous visit. I asked whether he had refused any sales of age restricted products since my visit. He stated that he had but he doesn't record refusals in his refusals register. I advised him of the importance of completing his refusals register every time he refuses a sale. He confirmed that he would start doing so.

I asked Mr Varkey whether he operates a Challenge 21 or Challenge 25 policy. He advised that he uses Challenge 21. I asked why he has a Challenge 25 poster up behind the counter if this is the case. He did not appear to understand the difference between Challenge 21 and Challenge 25 and did not have a clear understanding of how the policy works. I explained the policies to him and recommended that he adopt a Challenge 25 policy which he stated he would.

Continuation of Statement of Catherine Green

I asked Mr Varkey if he has a till prompt and he confirmed that he does. However, when Mr Varkey showed me his till prompt in operation by scanning alcohol and tobacco products, the prompt only came up when scanning alcohol. He did not know why it wasn't working for tobacco products.

I noted that the shop has CCTV and Mr Varkey confirmed that he knows how to view and retrieve the footage recorded and stated that he keeps the footage for a 14- day period. When asked how many members of staff work in the shop, Mr Varkey stated that he works in the shop alone and has done so since August 2019.

During the visit Mr Varkey advised that he has problems with proxy sales where adults over the age of 18 buy alcohol in his shop to give to their underage friends. I advised him that both the adult buying the alcohol and the person selling it, can commit a criminal offence if they knew or suspected it was being bought on behalf of a child. I gave him some advice on how to avoid proxy sales, for example, monitoring his CCTV and being alert to adults buying age restricted products which he has just refused to sell to a child. I advised Mr Varkey that if he had any suspicion that an adult was buying an age restricted product on behalf of a child, he should refuse the sale and record it in his refusals book.

Before I concluded my visit and left the shop, I advised Mr Varkey that I would confirm my advice in writing and reiterated the importance of him following the advice given to him.

On 14th October 2019 I posted a letter addressed to Mr Varkey at Courtney Drive Newsagents confirming the advice given to him during my visit on 8th October 2019. I produce a copy of this letter in evidence as exhibit CG/CC/03.

Checks with the Councils Licensing Department confirmed that Jinni Varkey is also the premise licence holder and designated premises supervisor at Varkeys Convenience Store, 1a Silksworth Terrace, Silksworth, SR3 2AQ. At approximately 11.00am on 14th October 2019 I visited Varkeys Convenience Store to speak to the staff regarding the systems currently in place in relation to the sale of age restricted products. The reason for this was to establish the suitability of Jinni Varkey as the premise licence holder and designated premises supervisor. Mr Varkey was not present at the time of my visit, so I spoke to the female shop assistant who identified herself as

advised that she has worked at the shop on a part time basis for 5 years. She stated that she has received no training from Mr Varkey in relation to the sale of age restricted goods.

Signed:



Neighbourhoods Directorate
Housing Services
Jack Crawford House
Commercial Road
Sunderland
SR2 8QR

Date: 10th October 2019

This matter is being dealt with by: Catherine Green, Senior Trading Standards Officer, 0191 561 1650, Catherine.green@sunderland.gov.uk

Dear Mr Varkey,

LICENSING ACT 2003

As you are already aware, on 30th September 2019 you sold alcohol to a 15- year old child volunteer acting under my instruction.

As a result of this, on 8th October I visited your shop, Courtney Convenience Stores, to check what procedures you currently have in place regarding the sale of age restricted products.

I found that you do not have adequate procedures in place to prevent the sale of age restricted products to children. As such, I recommended that you adopt the following policies with immediate effect:

- **Refusals Register** – you should record every refusal you make for all age restricted products in your refusals register. Maintaining a refusals register will help to demonstrate that you actively refuse sales and have an effective system in place.
- **Challenge 25** – you should adopt a Challenge 25 policy. This means that anyone appearing to be under the age of 25 is asked to verify that they are over 18 by showing a valid form of ID. If they are unable to do so, the sale should be refused and recorded in your refusals register. Asking for ID at an age limit that is higher than the legal age for the sale of the product means that you are much less likely to make an illegal sale to someone who looks older than they are. You should display Challenge 25 posters around the shop and behind the till.

- **Till prompt** – you should ensure that your till prompt works for all age restricted products. On the day of my visit your till prompt was not working when tobacco was scanned.
- **Proxy Sales** – you should refuse any sale of an age restricted product where you have reason to believe that an adult is buying the item on behalf of a child. In the case of alcohol, both the adult buying the alcohol and the person selling it can commit a criminal offence if they knew or suspected it was being bought on behalf of a child. You are perfectly within your rights to refuse a sale even though a customer may be over the legal age to buy the item. If in any doubt, refuse the sale.

If you have any questions or require further clarification on any of the points raised in this letter, please do not hesitate to contact me.

Yours sincerely

Catherine Green
Senior Trading Standards Officer
Neighbourhoods Directorate
Sunderland City Council

Appendix 2



Southern Area Command
Millbank Police Station
Station Road
South Shields
Tyne and Wear
NE33 1RR

Tel: 101
Fax: 0191 5635052

**Licensing Manager
Licensing Section
Sunderland Council
Jack Crawford House
Sunderland
SR2 8QR**

11th December 2019

Dear Sir

**APPLICATION TO REVIEW A PREMISES LICENCE
By Sunderland Council Trading Standard Service
Courtney Drive Newsagents, Courtney Drive, Silksworth,
Sunderland, SR3 1JS**

Northumbria Police, as a Responsible Authority within the Licensing Act 2003 wish to make a relevant representation and support the relevant representation of the Premises Licence Review application made by Sunderland Council Trading Standard Service, in relation to Courtney Drive Newsagents, Courtney Drive, Silksworth, Sunderland, SR3 1JS.

I hold delegated authority to make such representations on behalf of Southern Area Command. I have had sight of the application made by Sunderland Council Trading Standards Service. The application relates to a serious matter and I support that a review of the premises is required. Northumbria Police believe this representation is relevant in accordance with the licensing objectives to prevent crime and disorder and the protection of children from harm.

Any information received by Northumbria Police in relation to the selling or purchase of alcohol by persons under the age of 18 years is passed to Sunderland Council Trading Standards Service. This information along with Trading Standards Service intelligence forms the basis to conduct joint test purchase operations.

In September 2019, a Police Community Support Officer (PCSO) was approached by two members of the public, who preferred to remain anonymous and informed that on two separate occasions within a three day period their daughters (one 14 years of age and living in the Washington area and the other 15 years of age and living in Silksworth) had bought alcohol from the Newsagents on Courtney Drive. They confirmed that their daughters were not challenged on their age.

As a result of the concerns raised by the members of the public, Northumbria Police shared the information with Sunderland Council Trading Standards Service on 24th September 2019.

Northumbria Police, alongside Sunderland Council Trading Standards Service took part in Operation Pluto, a partnership test purchase exercise at a number of premises. A test purchase was undertaken at the premises on the 30th September 2019, where a person under the age of 18 years was sold a bottle of blue WKD. Mr. Jinni Nirappel Varkey was identified as the seller.

Mr. Jinni Nirappel Varkey is the holder of a Personal Licence to sell alcohol, issued by Fenland District Council. The Premises Licence is also held by Mr. Jinni Nirappel Varkey.

The Designated Premises Supervisor of the premises is recorded by Northumbria Police as Lisa Janet Hicks, who holds a Personal Licence to sell alcohol, issued by Sunderland City Council.

Northumbria Police have concerns in Mr. Jinni Nirappel Varkey's ability to operate to the standard that is expected of a licensed premise within a local residential area, where upholding the licensing objectives of crime and disorder and the protection of children from harm are of paramount importance. Mr Jinni Nirappel Varkey's operational procedures during the test purchase operation and subsequent actions after, as outlined by Sunderland Council Trading Standards in their application for review, demonstrate a significant disregard for these licensing objectives.

Northumbria Police agree with the review of the premises licence for Courtney Drive Newsagents and support Trading Standards request for a premises licence revocation due to the number of relevant concerns raised during the test purchase operation, the follow up visits on the 8th October 2019 and the further visit to Mr Jinni Nirappel Varkey's other premises as licence holder, at 1A Silksworth Terrace, Silksworth, SR3 2AQ on the 14th October 2019.

The sale of alcohol to a 15 year old, with the justification that she looked 18 raises concerns around Mr Jinni Nirappel Varkey's understanding of his obligations in relation to age-related sales and the impact this has on the aforementioned licensing objectives. In addition, the lack of knowledge around the age-related sales policy used by Mr Jinni Nirappel Varkey in the store where he is the premises licence holder and the contradictions between his verbal response to the Senior Trading Standards Officer and the literature on display in the store, demonstrate his neglect to uphold the

licensing objectives of crime and disorder and the protection of children from harm. This is also evidenced, as contained in the application for review, when Trading Standards spoke to staff at his other premises, who confirmed that they have had no training on age-related sales and their display of uncertainty around which policy they have in force (Challenge 21 or Challenge 25) and for these reasons we view this application as proportionate and support Trading Standards Service in their review.

Furthermore, Mr Jinni Nirappel Varkey's failure to take on board the advice given by the Senior Trading Standards Officer on the use of a refusal register and his clear admission that he does not record when he refuses a sale, during the test purchase on the 30th September 2019, exacerbate his disregard for the licensing objectives of crime and disorder and protection of children from harm, as such procedures are implemented to evidence responsible trading. When Mr Jinni Nirappel Varkey also failed to execute the clear advice to complete the refusal register from the date of the failed test purchase to the follow up visit on the 8th October and his confirmation at this visit that he had refused sales on age restricted products but did not record them in his refusals register, demonstrated a further disregard for the licensing objectives outlined above.

Northumbria Police intend on attending any subsequent hearing and we would be grateful if you could inform us of the details once the hearing is scheduled. On attendance, further representations can be made to the Committee should any arise.

To conclude, Northumbria Police request that the above information is taken into account by the Licensing Committee at the Premises Licence Review hearing as it is clear that they have not been operating within the Licensing Act 2003 and the Licensing Objectives.

Yours faithfully



John Miller
Chief Inspector
Southern Area Command