

Blackpool Council

25 October 2022

To: Councillors Hutton, Sloman and Wilshaw

The above members are requested to attend the:

LICENSING PANEL

Thursday, 3 November 2022 at 9.30 am
in Committee Room B, Town Hall, Blackpool

A G E N D A

1 APPOINTMENT OF CHAIRMAN

To appoint a Chairman for the meeting.

2 DECLARATION OF INTEREST - LICENSING

Members are asked to declare any interests in the items under consideration and in doing so state:

(1) the type of interest concerned

(2) the nature of the interest concerned; and

(3) whether they have or have not sat on a Planning Committee which has previously considered a planning application in respect of a licensed premises which is also subject to consideration for a premises licence as part of the agenda for this meeting.

If any Member requires advice on declarations of interests, they are advised to contact the Head of Democratic Governance in advance of the meeting.

3 PROCEDURE FOR THE MEETING

The Chairman of the Panel will summarise the procedure and announce the equal maximum amount of time for each party to speak for the hearing.

A. Items 1 and 4 (b) will be undertaken in private session by the Panel and not in the Meeting Room.

B. Items 2, 3 and 4(a) will be recommended to the Panel to be held in public.

C. The Panel may decide to exclude the public from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public. (This includes a party and any person assisting or representing a party)

4 APPLICATION TO REVIEW A PREMISES LICENCE - TRADES HOTEL (Pages 1 - 82)

To consider an application to review the Premises Licence for the Trades Hotel, 51-55 Lord Street, Blackpool, FY1 2BJ.

- A. Application and representations submitted. To consider the attached report.
- B. Determination of the application to review the Premises Licence for the Trades Hotel.

The Licensing Panel will indicate how the decision is to be communicated to interested parties.

Venue information:

First floor meeting room (lift available), accessible toilets (ground floor), no-smoking building.

Other information:

For queries regarding this agenda please contact Sarah Chadwick, Democratic Governance Senior Advisor, Tel: 01253 477153, e-mail sarah.chadwick@blackpool.gov.uk

Copies of agendas and minutes of Council and committee meetings are available on the Council's website at www.blackpool.gov.uk.

Report to:	Licensing Panel
Relevant Officer:	Judith Brooks-Brennan, Licensing Officer
Date of Meeting :	3 November 2022

APPLICATION TO REVIEW A PREMISES LICENCE – Trades Hotel

1.0 Purpose of the report:

- 1.1 To consider an application by Lee Petrak on behalf of the Licensing Authority to review the Premises Licence issued in respect of the Trades Hotel, 51-55 Lord Street, Blackpool, FY1 2BJ.

2.0 Recommendation(s):

- 2.1 The Panel is requested to determine the review application.

3.0 Reasons for recommendation(s):

- 3.1 This application must be determined by a Panel of the Licensing Committee.

- 3.2a Is the recommendation contrary to a plan or strategy adopted or approved by the Council? No

- 3.2b Is the recommendation in accordance with the Council's approved budget? Yes

4.0 Other alternative options to be considered:

- 4.1 None, once a review application has been received it must be considered by a Licensing Panel.

5.0 Council Priority:

- 5.1 The relevant Council priority is:
"The Economy – maximising growth and opportunity across Blackpool."

6.0 Background Information

- 6.1 Trades Hotel, 51-55 Lord Street, Blackpool has the benefit of a Premises Licence PL1974 authorising the sale by retail of alcohol (for consumption on the premises only) 10:00 – 02:00 daily (for both residents and non-residents) and the provision of late night refreshment 23.00 – 05:00 daily.

- 6.2 On 2 September 2022 the Licensing Service received an application from Lee Petrak on behalf of the Licensing Authority to review this licence on the grounds of the prevention of crime and disorder. A copy of the review application is attached as Appendix 4a with additional still images to support that application attached at Appendix 4b.
- 6.3 A representation in support of the review has been received from Lancashire Constabulary and is attached as Appendix 4c.
- 6.4 The Premises Licence holder is currently Mr Neil Malcolm Cropper. The Designated Premises Supervisor is Mrs Kimberley Lesley O'Hare.
- 6.5 Local policy considerations:

6.2.3 - The licensing authority will view particularly seriously applications for the review of any Premises Licence where it involves the:

- Continuous breaches or contraventions of licence conditions
- Not operating the premises according to the agreed operating schedule
- Where the police are frequently called to attend incidents of disorder

- 6.6 National policy considerations:

Section 11 on reviews is relevant, in particular:

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

- 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;
- 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)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- 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 that the representations identify. The remedial action should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

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 that impact upon the licensing objectives.

If a suspension or revocation is being considered 11.23 should be taken into account: ".....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. 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."

6.7 Observations

This premises has been licensed since 4 September 2013. The current Premises Licence was transferred into Mr Cropper's name on 25 January 2016.

The licence has the following conditions endorsed upon it:

Annex 2 - Conditions consistent with the Operating Schedule

- 1 No entertainment of an adult nature will take place on the premises.
- 2 Only background recorded music may be played at the premises which will not exceed a maximum of 60db and will not travel beyond the curtilage of the building.
- 3 Non-residents are permitted on the premises and may be supplied alcohol between 10.00 and 02.00.
- 4 CCTV will be installed internally and externally at the premises and will comply with the following:
 - i. The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises are to be covered by the system. The system will incorporate a camera covering each of the entrance doors and will be capable of providing an image which is regarded as identification standard.
 - ii. The system will display on any recording the correct time and date of the recording.
 - iii. The system will make recordings during all hours the premises are open to the public.
 - iv. VCR tapes or digital recording shall be held for a minimum of 31 days and 28 days respectively, after the recording is made and will be made available to

the Police or any authorised persons acting for a Responsible Authority for inspection upon request.

v. The system will, as a minimum, record images of the head and shoulders of all persons entering the premises.

- 5 A staff member who is conversant with the operation of the CCTV system will be on the premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Office or to a Local Authority Enforcement Officer.
- 6 The licence holder shall notify the Police licensing unit on any occasion when the CCTV is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.
- 7 Appropriate signage alerting customers to CCTV recording shall be displayed in conspicuous positions on the premises.
- 8 Bi-annually documented maintenance checks of the CCTV system, including the recording system, will be undertaken by the licence holder to ensure that the system is in good working order and fit for purpose.
- 9 Risk assessments carried out by or on behalf of the licence holder which relate to a licensing objective will be available for inspection by an officer or a responsible authority.
- 10 No person under 18 will be allowed on the premises.
- 11 All staff to have received suitable training in relation to the proof of age scheme to be applied upon the premises. Records to evidence this will be made available to an authorised officer upon request.
- 12 At least one personal licence holder will be available on the licensed premises while the supply or sale of alcohol is being undertaken (whose identity will be known to all other staff engaged in the supply or sale of alcohol) except in the case of emergency.
- 13 Security arrangements are sufficient to discourage the sale and consumption of drugs and shall ensure such arrangements include regular checks of toilet areas.
- 14 A drugs prevention strategy for the venue shall be developed, applied and documented.

- 15 Confiscated and found drugs shall be stored, disposed, transferred in accordance with procedures agreed with Lancashire Constabulary.
- 16 Clearly visible notices, in a form prescribed by the Council, shall be displayed advising those attending that:
1. It is a condition of entry that customers agree to be searched, and
 2. Police will be informed if anyone is found in possession of controlled substances or weapons.
- 17 An incident book will be maintained, in which shall be recorded:
- i. All incidents of crime and disorder
 - ii. Refused sales to suspected under age / drunken persons
 - iii. A record of any person refused admission or asked to leave the premises.
 - iv. Details of occasions upon which the Police are called to the premises.
 - v. The use or discovery of drugs.

6.8 Does the information submitted include any exempt information? Yes

Appendix 4b is exempt from publication by virtue of Paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

7.0 List of Appendices:

- 7.1 Appendix 4a - Review application from Lee Petrak on behalf of the Licensing Authority.
 Appendix 4b – Still images to support Licensing Authority review application (not for publication)
 Appendix 4c - Representation from Lancashire Constabulary.
 Appendix 4d – Written submission from licence holder’s agent in response to review application.

8.0 Financial considerations:

8.1 None.

9.0 Legal Considerations :

9.1 Please see local and national policy in the background information.

10.0 Risk management considerations:

10.1 None.

11.0 Equalities considerations:

11.1 None.

12.0 Sustainability, climate change and environmental considerations:

12.1 None.

13.0 Internal/external consultation undertaken:

13.1 The application has been subject to a 28 day statutory consultation period.

14.0 Background Papers :

14.1 None.

Blackpool Council

APPLICATION FOR THE REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

LICENSING ACT 2003

**Review
requested by:**

Lee Petrak



Licensing Service
Blackpool Council
Municipal Buildings, PO Box 4
Blackpool, FY1 1NA

Contact

T: (01253) 47 8572 / 8589
F: (01253) 47 8372

www.blackpool.gov.uk/licensing

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. You may wish to keep a copy of the completed form for your records.

I	Lee Petrak
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[Insert name of person requesting review]

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 Details

Postal address of premises or club premises if any, or if none the ordnance survey map reference or description.							
Premises Name and Address	The Trades Hotel						
	51-55 Lord Street						
	Blackpool	Post Code	F	Y	1	2	B
State the Name of the premises licence holder or the name of the club holding the club premises certificate (if known)							
Neil Malcolm Cropper							
Premises Licence or Club Premises Certificate Reference Number (if known)						PL1974	

Part 2 – Applicant details

I am:

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

Title:	Mr	Mrs	Miss	Ms	<small>Other</small>	I am 18 years old or over	<small>Please tick</small>						
							Yes	No					
Forenames						Surname							
Home address													
						Post Code							
Telephone Number						Mobile Number							
E-Mail Address													

(B) Other Applicant or Representing Body

Name													
Address													
					Post Code								
Telephone No.													
Email Address													

(C) Responsible Authority applicant

Name	Lee Petrak												
Address	Trading Standards & Licensing												
	Municipal Buildings												
	Corporation Street				Post Code	F	Y	1		1	N	A	
Telephone Number	01253 477861												
Email Address	Lee.petrak@Blackpool.gov.uk												

Part 3 – Reason for Review

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

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

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

This review is brought on the basis that the operation of the premises has been conducted in a way, which undermines the prevention of crime and disorder objective. The review will provide a detailed background of the licensing history relevant to this review, including steps taken to improve management of the premises in early 2022. The review will focus on recent evidence obtained in relation to the premises supplying alcohol outside its permitted hours.

Please provide as much information as possible to support the application. Continue on a separate sheet if necessary. (Please read guidance note 3 before completing)

I submit this review on behalf of The Licensing Authority in my capacity as the Trading Standards & Licensing Manager.

Background

These premises, known as the Trades Hotel, are situated on Lord Street in the heart of the LGBTQ community. The hotel operates predominantly as a gay cruising venue and is men only. Our records indicate that the premises has been licensed for the sale of alcohol by retail since at least 2004. Mr Cropper, the current licensee and operator of the hotel, became Designated Premises Supervisor at the premises in June 2008. In January 2010 Mr Cropper transferred the licence to his name to become Licensee. In February 2013 following Mr Cropper's bankruptcy the premises licence lapsed. In July 2013 a third party applied for and restored the licence. In January 2016 Mr Cropper applied to transfer the licence to his name and he has been the licensee since.

These premises were the subject of review proceedings in 2009. At the time, the issues noted in that review included:

- Serving non-resident guests when not authorised
- Allegations a sex cinema was operating in the premises
- Electrical Safety issues subject to Health & Safety enforcement action
- Evidence of the distribution of Kamagra tablets within the premises

The review concluded with 7 new conditions being imposed on the Licence as well as a 7 day suspension being observed.

Similar issues regarding service of alcohol to non-residents surfaced again in 2021. The issues

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present at this time can be accurately summarised in my correspondence to Mr Cropper dated 21st December 2021 as appended to this review application marked **Document 1**.

Consequently, following discussion with Mr Cropper, on the 16th February 2022 he applied to vary his licence having the effect of ceasing the sale of alcohol to residents and non-residents at 2am. Conditions relating to the management of serving residents after 2am were also removed from the licence given they were now redundant. Following successful minor variation application, the licence in its current form was granted on the 3rd March 2022.

Circumstances

Despite the changes to the Licence outlined above, the Licensing Service continued to receive complaints about the Trades Hotel, some made anonymously. The complaints made generally relate to allegations that the premises continue to sell or supply alcohol outside their authorised hours.

Due to the nature of the allegations I tasked officers to conduct a Licensing visit at the premises, which was carried out at approximately 02.35 on Saturday 28th May 2022. Mr Verity, a Licensing Enforcement Officer, has provided a statement detailing his recollection of that visit, which is included with this review submission.

Due to the observations of officers I subsequently submitted a request to Mr Cropper for CCTV footage of the bar area between 01.45 – 02.45 on the 28th May 2022. I have reviewed the CCTV footage supplied and I believe the footage shows that the supply of alcohol has continued after the terminal hour of 2am. I have observed the following:

- 02.01 – Towel placed over pump to denote end of serving
- 02.05 – Male served with what looks like a pint of beer. Possible cash transaction
- 02.18 – Male served with what looks like a pint of beer. Possible cash transaction
- 02.23 – Male served with what looks like a pint of beer. Transaction via token/receipt system
- 02.28 - Male served with what looks like a pint of beer. Transaction via token/receipt system
- 02.29 - Male served with what looks like a pint of beer. Transaction via token/receipt system
- 02.34 – Licensing Officers enter bar area

In my view the CCTV footage clearly shows the supply of alcohol continuing during unauthorised hours. The bar area remains busy even after 2am the bar staff continue to operate the bar and guests continue to arrive in the bar area after the terminal hour. Five separate transactions can be observed taking place at the bar. I have included with this review a number of stills from the footage evidencing the transactions detailed above. These stills are marked A through to V as follows:

- A – Towel over pump @ 02.01
- B, C – Transaction @ 02.05
- D-F – Transaction @ 02.18
- G-L – Transaction @ 02.23
- M-O – Transaction @ 02.28
- P-U – Transaction @ 02.29
- V – Licensing Officers Attendance @ 02.34

Following the visit on the 28th May 2022 and upon obtaining the CCTV footage from Mr Cropper, I visited the Trades to collect the footage from Mr Cropper on the 7th June 2022. During that visit Mr Cropper volunteered some receipts stating that customers are ordering 4 pint pitchers before 2 am and drinking up after 2am. At the time I did not appreciate the significance of these receipts, which

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do carry a date but no time of sale. These receipts accompany this review marked **Document 2**.

I have included the following documents in support of my application:

1. Letter to Mr Cropper dated 21st December 2021
2. Copy of 5 receipts from Trades Hotel
3. Statement of Dave Verity, Public Protection Officer
4. CCTV footage stills marked A-V

Conclusion

Since the variation to the Licence earlier this year I believe that the evidence accompanying this review demonstrates that the operators of this venue have deliberately attempted to work around the change in licensing hours so that alcohol can continue to be supplied well after 2am. Despite the evidence detailing one incidence of this activity, I believe that these practices are part of the normal operation of the premises.

The unauthorised supply of alcohol detailed in this review is clearly being carried out with the knowledge of Mr Cropper since his presence can be seen in the CCTV footage. The conduct evidenced constitutes criminal activity described in section 136 of the Licensing Act 2003, which upon conviction carries a maximum penalty of 6 months imprisonment and/or a fine.

I believe that given all of the information detailed in this application for review, that Mr Cropper has significantly undermined the Licensing objectives in allowing the conduct described above to continue. Furthermore, due to the intervention leading to the minor variation in February this year, I believe that I have no option but to instigate review proceedings on this occasion.

Part 4 – Other relevant information

Have you made an application for review relating to these premises before?	Please tick	
	Yes	No
		X
	Day	Month
If yes please state the date of that application		
		Year

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

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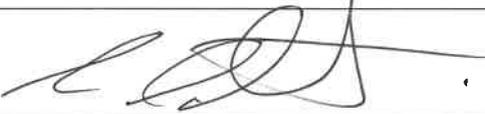
Please tick

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.	X
I understand that if I do not comply with the above requirements my application will be rejected	X

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 5 – 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 the behalf of the applicant please state in what capacity.**

Signed	
Print Name	Lee Petrak
Capacity	Trading Standards & Licensing Manager
Date	2/9/22.

Contact name and address for correspondence associated with this application. (Where not previously given) (See guidance note 6)									
Title:	<u>Mr</u>	Mrs	Miss	Ms	Other:				
Forenames	Lee			Surname	Petrak				
Address for correspondence associated with this application	Trading Standards & Licensing								
	Municipal Building, Ground Floor								
	Corporation Street			Post Code	F	Y	1	1	N
Telephone Number	01253477861			Mobile Number	07468472898				
E-Mail Address	Lee.petrak@Blackpool.gov.uk								

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 that we shall use to correspond with you about this application.

Date: 21 December 2021

Mr Neil Cropper

[Redacted]
[Redacted]
[Redacted]

Our Ref

LKP/PL1974

Your Ref:

Direct Line:

01253 477861

Email:

lee.petrak@blackpool.gov.uk

Dear Mr Cropper

Re: Trades Hotel, 51-55 Lord Street, Blackpool

Further to our recent conversations in connection with the above premises, I think it is entirely appropriate for me to clarify the current position regarding the recent incident recorded at the above Licensed premises.

As you are aware, at approximately 02.40 on Saturday 27th November 2021 two of my Licensing Enforcement Officers attended the above premises in an attempt to gain entry to the bar area after 2am as non-resident paying customers. The reason for the visit was in response to my service having received a substantial amount of complaints alleging such activities are regularly taking place in direct contravention with Licence conditions.

During the course of the above Licensing visit officers were able to evidence breaches of annex 2 conditions 26, 28 and 30. Essentially officers noted that approximately 25-30 patrons were visible in the licensed area with alcoholic drinks visible with no controls in place to determine whether customers were hotel guests or otherwise. No guest book could be produced to the officers as required by condition 30 nor was any form of Bar Pass Card scheme evident as required by condition 28.

You may recall that the conditions referred to above were imposed following a review of the premises licence in 2009 when similar issues regarding serving of non-residents after the permitted hours were evidenced. I appreciate that although you indicated you have worked at these premises since 2004, that you were not the licensee at that stage. However, it is my understanding that the nature of the business has not fundamentally changed throughout this period, therefore there can be no reasonable excuse for not having systems in place that safeguard against the concerns that resulted in the conditions referred to above being inserted into the premises licence following review. It is therefore extremely disappointing that conditions imposed over a decade ago are clearly not being followed.

You will appreciate that it is part of my responsibility to consider what action is appropriate when breaches of Licence conditions are detected. In this case I have given due consideration to the events described



above, whilst balancing that with the number of complaints received regarding the activities described above as well as the historical intervention from 2009. I have also considered whether additional conditions would improve the situation, but in this instance I am unable to suggest additional conditions since the existing conditions ought to be sufficient.

It is therefore my view that the terminal hour for the provision of alcohol ought to be brought forward to 00.00 hours regardless of the status of the guests. It would be my preference to deal with this by way of your application to vary the Licence with agreed changes. If we are unable to proceed on this basis I must consider whether review is appropriate in the circumstances. I appreciate you may wish to take advice in relation to these matters, therefore can I suggest you indicate your intentions by the 10th January 2022 to allow this to take place bearing in mind the Christmas and New Year break.

Yours sincerely

Mr L Petrak
Trading Standards and Licensing Manager





Trades Hotel
51-55 Lord Street
FY1 2BJ
TEL: 01253 626401

STEPH REG MASTER T1
FRIDAY 27 MAY 2022 051463
3 HS VODKA £10.50
Vat Reg. no.

HOPE YOU ENJOYED YOUR VISIT
SEE YOU AGAIN SOON



Trades Hotel
51-55 Lord Street
FY1 2BJ
TEL: 01253 626401

CARL REG MASTER T1
FRIDAY 27 MAY 2022 051464
1 4-PINT PITCHER £12.00
Vat Reg. no.

HOPE YOU ENJOYED YOUR VISIT
SEE YOU AGAIN SOON



Trades Hotel
51-55 Lord Street
FY1 2BJ
TEL: 01253 626401

CARL REG MASTER T1
FRIDAY 27 MAY 2022 051407
1 4-PINT PITCHER £12.00

TOTAL £12.00
CASH £12.00
Vat Reg. no.

HOPE YOU ENJOYED YOUR VISIT
SEE YOU AGAIN SOON



Trades Hotel
51-55 Lord Street
FY1 2BJ
TEL: 01253 626401

NEIL REG MASTER T1
TUESDAY 24 MAY 2022 051084
1 4-PINT PITCHER £12.00

TOTAL £12.00
PAY by BANK CARD £12.00
Vat Reg. no.

HOPE YOU ENJOYED YOUR VISIT
SEE YOU AGAIN SOON

Handwritten scribbles and numbers, possibly '1' and '2'.

KAOS

Trades Hotel
51-55 Lord Street
FY1 2BJ
TEL: 0 252 626491

STEPH	REF	MASTER CH
FRIDAY 27 MAY 2002		051405
4-PINT PITCHER		£12.00
Vat Reg. no.		

HOPE YOU ENJOYED YOUR VISIT
SEE YOU AGAIN SOON

Witness Statement

(Criminal Procedure Rules 2005, r27.1(1);
Criminal Justice Act 1967, s.9, Magistrates' Courts Act 1980, s5A(3)(a) and s.5B)

Statement of David Verity

Age if under 18: (if over 18 insert "over 18"). Occupation: **Public Protection 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.

Dated the 23rd day of August 2022

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

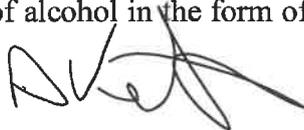
Signature



I am David Verity and I am currently employed as a Public Protection Officer, Licensing Enforcement (PPO) within the Public Protection Division of Blackpool Council,

On Friday 27th May 2022 I was on duty working in company with my colleague Public Protection Officer (PPO) Ryan Ratcliffe. As part of our duties we were conducting visits to licensed premises. We had been tasked by my line manager Lee Petrak with checking on a premises I know to be trades hotel located not far from the town centre at 51-55 Lord Street. Trades Hotel benefits from a premises licence issued by Blackpool Council, PL1974. The authority had received complaints in relation to the bar at Trades Hotel being operated in breach of licence conditions by the Designated Premises Supervisor (DPS) who is Neil Malcolm Cropper who it was alleged was allowing non-residents to continue purchasing and consuming alcoholic drinks after 02.00hrs. Annex 2 condition 3 of premises licence PL1974 states: *Non-residents are permitted on the premises and may be supplied alcohol between 10.00 and 02.00.* On arrival at the premises at approximately 02.35 hrs the front door was locked and I rang a bell after approximately three to five minute the door was opened by a male who goes by the name of Steph as the door was opened both PPO Ratcliffe and I walked into the premises unchallenged. We made our way the short distance to the bar area and I immediately observed approximately nine males some of the males were in possession of pint glasses of alcohol in the form of beer most of the glasses were virtually full which indicated to

Signature



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Signature witnessed by

myself the pints had not long been pulled. The males were dotted around the bar area some sitting at the bar with others around the pool table with some playing pool and one male was seen standing near the bar wearing nothing but a cap and a pair of shorts. I asked the male known as Steph to speak to Neil Cropper the DPS. He left and a short time later Neil Cropper appeared. I have met Neil Cropper on previous occasions and immediately recognised him. I asked why these people were still in the bar some thirty five minutes after the bar should be closed. Neil then stated he was under the impression that there was an hours drinking up time. I advised him this was not the case and there was nothing in the licence conditions to reflect this, and after thirty five minutes it would be reasonable to say all the males in the bar would have finished their drinks unless they had been recently purchased. I pointed out one male who had virtually a full pint on the bar in front of him as we stood in the bar. Neil Cropper made no reply to this. I then requested to see the CCTV footage for the bar area and stated I needed to see footage from 02.00hrs to establish if any alcohol had been served. Neil Cropper then stated he did not have the keys to the office with him therefore was unable to show the CCTV footage to us. This is in breach of annex 2 condition 4 which states: ***CCTV will be installed internally and externally at the premises and will comply with the following:***

- ***The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises are to be covered by the system. The system will incorporate a camera covering each entrance doors and will be capable of providing an image which is regarded as identification standard.***
- ***The system will display on any recording the correct time and date of the recording.***
- ***The system will make recordings during the hours the premises are open to the public.***

Signature



Page 22 Signature witnessed by

- *VCR tapes or digital recording shall be held for a minimum of 31 days and 28 days respectively, after the recording is made and will be made available to the police or any authorised persons acting for a Responsible Authority for inspection upon request.*
- *The system will, as a minimum, record images of the head and shoulders of all persons entering the premise.*

Furthermore premises licence condition 5 was also breached in that there was no keys available to open the office in the event of the DPS not being present condition 5 states:

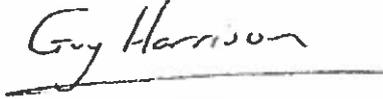
A staff member who is conversant with the operation of the CCTV system will be on the licence premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police officer or to a Local Authority Enforcement Officer.

On looking at the CCTV monitor located in the bar area it showed the single camera which covered the bar was not adequate to capture any incidents that may take place around this area. Neil Cropper was told it would be a good idea to check all cameras and install extra cameras to ensure there were no blind spots. PPO Ratcliffe and I had no further dealing with Neil Cropper we then left the premises at approximately 02.55hrs.



Signature

Page 23
Signature witnessed by

Blackpool Council Licensing Service				
Representation made by a Responsible Authority In support of an application for the Review of an existing Premises Licence or Club Premises Certificate				
Responsible Authority making representation				
Name of Responsible Authority	Lancashire Constabulary			
Name of Officer <i>(please print)</i>	PC 515 Guy HARRISON			
Signature of Officer				
Contact telephone number	01253 604074			
Date representation made	20	09	2022	
Do you consider mediation to be appropriate				NO
Name of Responsible Authority / Applicant who requested a review of this Licence				
Mr Lee Petrak, Trading Standards and Licensing Manager, Blackpool Council				
Premises Details				
Premises Name	Trades Hotel			
Address	51-55 Lord Street			
	Blackpool			
Post Code	FY1 2BJ			
Details of your representation in support of the review application (Please reference & attach supporting any documentation)				
<p>I am Police Constable 515 Guy Harrison of Lancashire Constabulary. I have been a serving Police Officer for 19 years and a Police Licensing Officer for the past 2 years.</p> <p>On behalf of the Chief Constable I would like to make representations in support of the review of Trades Hotel, 51-55 Lord Street, Blackpool, Lancashire, FY1 2BJ.</p> <p>The review has been instigated by Mr PETRAK on the basis that the operation of the premises undermines the prevention of crime and disorder licensing objective.</p> <p>The evidence is provided to assist the Licensing Committee to make an informed judgement on the evidence submitted.</p> <p>Evidence <u>Police Logs 31/08/21 – 31/08/22</u></p> <p>These dates have been included because they tie in with the review period.</p>				

LC-20211104-1607

Theft

Trades Hotel, 51 Lord Street, Blackpool

04/11/21 22:03 Hours

The informant from the hotel stated that a male had jumped behind the bar and had stolen a bottle of gin before running from the premises.

LC-20211107-0339

Assault

Trades Hotel, 51 Lord Street, Blackpool

07/11/21 05:36 Hours

A female complained that she was assaulted by staff who removed her from the premises. No further action was taken.

LC-20211205-0305

Licensing

Trades Hotel, 51 Lord Street, Blackpool

05/12/21 06:13

A report was received from a member of the public stating that the Trades Hotel are repeatedly breaching their alcohol licence.

LC-20211205-1120

Nuisance

Trades Hotel, 51 Lord Street, Blackpool

05/12/21 18:35

Report of a drunken male causing a disturbance in the hotel. Police attended and reported the male had gone to bed.

LC-20220122-0495

Assault

Trades Hotel, 51 Lord Street, Blackpool

22/01/22 10:15

Victim stated that he had been assaulted by door staff and thrown out of the premises. The victim did not co-operate any further and no further police action was taken.

LC-20220320-0396

Assault

Trades Hotel, 51 Lord Street, Blackpool

20/03/22 09:22

A male reported that he had been assaulted in the hotel by another male. He stated this was during a dispute about the victim's ex-partner. No further action was taken as the alleged offender could not be identified.

LC-20220712-0436

Suspicious Circumstances

Trades Hotel, 51 Lord Street, Blackpool

12/07/22 10:26

A report was received of a male running around the hotel with a knife. Upon police attendance a naked male was present. He had to be restrained and was described as being "under the influence and burning up". No knife was located. An ambulance attended and the male had to be sedated before he

could be taken up to the hospital.

As seen in the breakdown of logs above, 4 of the incidents above involved a reported crime. Two others relate to reports of disorderly behaviour at the premises. The other log is in respect of an allegation of Licensing laws being broken at the establishment.

Further Evidence:

On 22nd July 2021 PS Nat COX from the Police Licensing Department, sent a letter to Mr Neil CROPPER, DPS at the TRADES HOTEL. This followed a delay in Mr CROPPER being able to provide CCTV footage from the premises after a request from a detective investigating a street robbery in the area. The letter warned Mr CROPPER of his obligations under his Licence conditions and the fact that a copy of the letter would be retained and could be used against him in any subsequent hearings. A copy of the letter is attached as Appendix 1. Also attached as Appendix 2, is a copy of an electronic entry from the Police "Innkeeper" Licensing system, which evidences the fact that the CCTV system was subsequently upgraded as requested by the Police.

I would also like to draw the committees attention to the fact that Mr CROPPER received a Conditional Discharge on 15/01/14 from FYLDE MAGISTRATES COURT for the offence of "Carrying out a Licensable Activity from a premises other than in accordance with an authorisation".

Previous Convictions:

In addition to the above conviction in respect of Licensable Activity, Mr CROPPER also has the following previous convictions:

26/11/03 Blackpool Magistrates Court:

Driving a motor vehicle with excess alcohol, Driving other than in accordance with a licence, Driving whilst insured: 18 month driving disqualification and fined.

15/04/05 Telford Magistrates Court:

Driving whilst disqualified, Driving whilst uninsured: 8 penalty points and Community Service order.

08/07/19 Lancashire Magistrates Court:

Driving a motor vehicle with excess alcohol: 20 month disqualification from driving and fine.

01/06/22 Lancashire Magistrates Court:

Re-Using a Prohibited Company Name contrary to section 216 of the Insolvency Act 1986: Fine and Costs.



West Licensing Department
Bispham Police Office
Red Bank Road
Blackpool
Lancashire
FY2 0HJ

Mr Neil Cropper
Trades Hotel
51 – 55 Lord Street
Blackpool
FY1 2BJ

22nd July 2021

Dear Mr Cropper,

Re: Trades Hotel, Lord Street, Blackpool.

Please can I draw your attention to the following conditions of the premises licence:

- 8

CCTV will be installed internally and externally at the premises. Said CCTV system shall comply with the following criteria: (a) The CCTV system shall be installed, maintained and operated to the reasonable satisfaction of Lancashire Constabulary. All public areas of the premises, with the exception of the toilets, shall be covered by the system. (b) The system shall be recording during all hours the premises is open to the public. (d) VCR tapes or digital recording shall be held for a minimum of 30 days after the recording is made and will be made available to the police for inspection upon request. (e) the system shall, as a minimum, record images fo the head and shoulders of all persons entering the premises.

- 9

A staff member who is conversant with the operation of the CCTV system will be on the premises at all times the premises are open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Officer or to a Local Authority Enforcement Officer.

- 10

The Police Licensing Unit shall be notified on any occasion when the CCTV or radio system is to be inoperative for a period in excess of one working day and shall provide a certificate from a competent person stating the reason for the system being inoperative and the measures which have been taken to satisfy the licence conditions.

On 8th July 2021 a detective attended the Trades in an attempt to recover footage relating to an investigation of a double robbery on Lord Street the previous night. They were informed no one was able to operate the system and left contact details for a recall from yourself.

On 12th July the same detective reattended and spoke to you on the phone, where you stated you would obtain footage and recall.

On 13th July you recalled to inform the detective that the footage was only storing for 3 days and had therefore copied over itself.

On 14th July I spoke to you by phone and you explained to me that the system had been reset causing it to revert to factory settings. You informed me you had now amended the settings and it would be recording for the correct 30 days.

On 22nd July I attended the premises with PC Pritchard and you showed us the CCTV system, which had retained 5 days of footage.

I would advise that in accordance with section 136 (1) of The Licensing Act 2003 "A person commits an offence if a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than in accordance with an authorisation, b) he knowingly allows a licensable activity to be so carried on".

The maximum penalty for this offence is six months imprisonment and/or an unlimited fine.

I must also draw your attention to paragraph 11:10 of the Home Office Guidance that where authorised persons and responsible authorities have concerns about problems identified at a premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in

promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

I appreciate that you have now taken steps to address this issue by ordering a new CCTV system. I look forward to hearing from you that the new system is up and running and suitable staff have been trained in its usage to allow you to comply with the above conditions.

I must inform you that both my department and the Blackpool Council Licensing department received complaints in relation to this incident.

A copy of this letter will be retained on your premises file and may be used against you in subsequent hearings, if required.

Please don't hesitate to contact me if you have any questions about this matter.

Yours sincerely,

N J Cox

Sgt 3390 Nat Cox
West Licensing Department
Tel: 01253 604074
07970 336242

Visit 56117

TRADES HOTEL - NEW

Printed: 13/09/2022

Visit Details:

Premises ID: 9152	Time: 14:00
Reference:	
Date: 13/09/2021	
Address: TRADES HOTEL NEW 51 - 55 LORD STREET BLACKPOOL LANCASHIRE FY1 2BJ	Main Phone: 01253 626401 Alt Phone: Email: BOOKINGS@TRADESHOTEL.CO.UK Fax:

Description:

VISIT WITH PLH NEIL CROPPER FOLLOWING ISSUES WITH THE PREVIOUS CCTV SYSTEM. NEW CCTV SYSTEM INSTALLED NOW 2 CAMERAS IN THE FRONT OUTSIDE AREAS ONE LOOKING EACH WAY, ALONE COVERING THE BACK ALLEY, FRONT DOOR AND INSIDE FRONT DOOR AND STAIRWAY COVERED, POOL TABLE AND OUTDOOR SMOKING AREA COVERED, ONE ON BAR AND ONE BEHIND BAR. CURRENTLY RECORDING FROM 21ST AUGUST TO PRESENT DAY, HOWEVER IT WAS ONLY INSTALLED ON 20TH AUGUST SO IT MAY EVEN RECORD FOR LONGER. NEIL KNOWS HOW TO BURN OFF FOOTAGE AS IT'S THE SAME AS PREVIOUS SYSTEM. CCTV IS ON DISPLAY SCREENS IN THE HALL AND THE LOUNGE AS WELL AS IN THE OFFICE.

Officers:

4107 PRITCHARD, EMMA - Constable

Responsible People:

ID: 9381 Name: NEIL MALCOLM CROPPER

Notes:

Narratives:

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Trade's Hotel PL1974- Written Submission

The grounds for review in relation to this application have been cited as the Prevention of Crime and Disorder in that the Licensing Authority has alleged that Section 136 breaches occurred on the 28th of May 2022.

There is no doubt the Crime and Disorder Objective is wide-reaching, a well-established principle but the absence of disorder because of this alleged breach influences the lack of overall harm to the Objective.

2 Conditions on the Licence have been highlighted, those being;

Condition 3

Non-residents are permitted on the premises and may be supplied with alcohol between 10.00 and 02.00.

Condition 5

A staff member conversant with the operation of the CCTV system will be on the premises at all times open to the public. This staff member will be able to show recent data or footage with the absolute minimum of delay when requested to a Police Office or to a Local Authority Enforcement Officer.

Condition 3

Several practical and procedural points arise with condition 3.

Practical Points

The CCTV clearly shows the supply of alcohol taking place beyond 2 am, Mr. Cropper has sought to rely on the fact that because the sale occurred before 2 am then alcohol that has effectively been already purchased can be supplied to the customer when they are ready to consume it. He has taken money for several pitchers (usually sold as a 4-pint jug) but rather than serve the jug he has served the same quantity but in individual glasses. Mr Cropper says he has done this to keep the beer chilled.

When it was pointed out that this was not in line with the conditions and a practical explanation given Mr Cropper clearly began to understand the concerns the Authority must have.

A product (a pitcher) being handed across the bar before the terminal hour is one thing but payment for the pitcher before the terminal hour and then drip-feeding the customer at a time of their choosing is at odds with the condition on the Licence.

However, the practical difference between the 2 methods of service ends up at the same endpoint. In other words, whether a customer bought a 4 -pint pitcher and was served over the bar at 01.55hrs or they bought a 4-pint pitcher to be served in individual glasses when they were ready to be replenished would mean they would likely still be drinking 45 mins later.

The absence of any time on the receipts for sales also aggravates the position of Mr Cropper. As such it is acknowledged that some form of Regulatory action is appropriate.

Section 136 of the Licensing Act has been raised and the sentence written into the legislation has been quoted.

The decision to prosecute will be based on several matters such as the public interest, the harm, the blatant disregard for the law, previous warnings, or interactions for similar matters, and whether there is a defence in law.

Any prosecution would also need to be in line with the Council's own prosecution policy. Rv Addaway 2004 established that an Authority must be bound by its own policy. The facts of the case can be found at; <https://www.casemine.com/judgement/uk/5a8ff7a460d03e7f57eb0b14>

The Authority would need to overcome many policy hurdles as well as explore if any defence was available to Mr Cropper.

Section 139 of the Licensing Act 2003 states.

139 Defence of due diligence

(1) In proceedings against a person for an offence to which subsection (2) applies, it is a defence that—

(a) his act was due to a mistake, or to reliance on other information given to him, or to an act or omission by another person, or to some other cause beyond his control, and

(b) he took all reasonable precautions and exercised all due diligence to avoid committing the offence.

(2) This subsection applies to an offence under—

(a) section 136(1)(a) (carrying on unauthorised licensable activity),

(b) section 137 (exposing alcohol for unauthorised sale), or

(c) section 138 (keeping alcohol on premises for unauthorised sale).

The general defence in Section 139 (1) (a) should at the very least have been explored by the Authority before declaring as they do in the application that an offence has been committed,

It is noted that the Officer on the night did not administer the caution, usually given at the time when an offence is suspected, nor has a request for an interview been made.

it is incumbent on an investigating body to at least make reasonable inquiries to matters that may point away from a person's guilt as well as issues that point towards it, in other words, explore the possibility of whether the defence of mistake was open to the defendant.

Policy Hurdles Blackpool's Statement of Licensing Policy states in part 6 that it will act in accordance with its own enforcement policy.

The Environmental Services Enforcement Policy was published in October 2017 and references the Regulators Code, a document published in 2014. The spirit of that code is for regulators to deliver a targeted, proportionate, and transparent response to non-compliance.

Paragraph 2.2 of the Regulators Code states;

2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice,, requirements to ensure to ensuring that they are acting in a way that is proportionate and consistent. This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

The alleged breach of the condition occurred on the 28th of May 2022 and the first written notification that Mr Cropper received was the formal service of the Sec 51 Review on the 2nd of September 2022.

For 3 whole months to have elapsed before sending written notice of their concerns demonstrates there was no immediate action required and the matter fell into a lower category for response.

The statement of Mr Verity, the visiting Officer on the 28th of May 2022 was written on the 23rd of August 2022 which again demonstrates that the issues disclosed were not of immediate concern and the timing of the review is more likely to coincide with the Police application against Kaos. The tactic whilst not unlawful seeks to join the 2 cases together. Reviews being served simultaneously is sometimes necessary when the issues and locations overlap but, in this case, the only common theme is the owner, they share no other similar characteristics. The starting point with Licensing Applications is that each case is determined on its own merits, this tactic frustrates that principle.

The timing of this application appears to have been done simply to add weight to the case against Mr Cropper and blacken his name further with the Committee. The purpose of the objectives, and reviews is to bring licensees back on track and secure compliant trading. That is not the RA's intention here. Their efforts are directed toward putting the licensee out of business, and the decision to review and the timing of the review appear to be motivated by that.

The Guiding Principle of the Enforcement Policy set out a list of criteria, a relevant section is;

Except in the most serious cases or where advice/warnings have not been heeded, or where there is a matter of serious immediate public health, or in the case of problematic operators or trade sectors, or in addressing key Council priority issues, adequate opportunity will be given to rectify non-compliance before formal legal action is commenced;

⊖ Robust enforcement is seen as a final means of securing compliance with the appropriate standards, and not as an end in itself;

Section 182 Guidance encourages a similar approach to dealing with non-compliance

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in

promoting the licensing objectives should be encouraged and reviews should not be used to undermine this cooperation.

The Licensing Authority has cited previous problems at the premises in 2021 which led to a Minor Variation and the condition regarding “no supply of alcohol beyond 2 am” being added.

Having read the correspondence between Mr Cropper’s legal advisor and the Licensing Authority which was exchanged before the minor variation was submitted it was clear that the mischief the Authority was seeking to address was late drinking in the bar.

Due to the area being required to service a fire escape and the customer toilets the bar could not be declared as out of bounds. It is also noted that the licence allows the service of LNR (Late Night Refreshment) until 5 am which again would enable them to serve non-residents food. There is also no consideration for guests drinking their own alcohol or consuming soft drinks in the bar none of which would be contrary to the terms of the current Licence.

All these points of ambiguity should have been matters for discussion or clarification at which point the mistaken interpretation of the pitcher sales could have been spelt out.

Under the Section of the Enforcement Policy titled Consistency of Enforcement, there is a section referring to expediency.

Officers will endeavour to provide advice in a clear and simple manner and where any corrective or remedial work is necessary, an explanation will be given as to why it is necessary, and over what time scale it is required or recommended. In cases where compliance is a simple matter to ensure, then it will be expected to occur immediately. Where non-compliance may result in further enforcement action the matter will normally be confirmed in writing and any legal requirements will be identified separately from best practice advice. Where non-compliance results in prosecution the matter will be confirmed in writing when the prosecution file has been considered within the statutory time limits.

The matter regarding the sale of pitchers was simple and compliance with the condition could have been achieved immediately, indeed Mr Verity made his concerns known at the time. A simple follow-up formal warning to clarify the situation would have achieved the aim in this case and if the warning was not followed the Authority could have clearly demonstrated they had followed their own policy and the Section 182 Guidance.

Further on in the Standards section, it states.

Officers will generally seek an informal resolution to cases of non-compliance when this relates to minor or accidental technical breaches. This will not generally be the case where immediate formal enforcement action is required, (e.g. serious issues relating to Health and Safety, Food Safety, evidence gathering, etc)

As referred to earlier in this submission a customer being served a pitcher of larger at 01.55hrs would end up at the same conclusion as a customer paying for a pitcher at 01.55hrs but being served in pint glasses beyond the terminal hour. In other words, both sets of customers would still be consuming alcohol in the bar beyond 02.00hrs but in the first example no offence would be committed but in the 2nd an offence is possibly made out however the practical endpoint is the same (customers drinking in the bar beyond 2 am). Whether the offence is one of a technical nature or a flagrant disregard of regulations is again something that could have been spelt out shortly after the alleged breach was detected.

Under the Consistent Enforcement Section of the policy, further paragraphs are relevant.

Recognition of defences that would be available at law and exercising appropriate discretion where formal action is unwarranted;

A defence under Section 139 would apply to any charge under Section 136 of the Licensing Act 2003, Mr Cropper claims he made a mistake about the interpretation of the condition.

Recognition that we should not normally take formal enforcement action or prosecution in the case of minor infringements arising from innocent mistakes

Whether a mistake was innocent or negligent, the possibility of the defence being available has never been explored which would have been a necessary step for proceedings to be brought if the Authority was to follow its guidance in the policy.

To summarise this section of the submission, there is a significant difference between the Licensing Authority alleging an offence under Section 136 has been committed and the Licence Holder being convicted of that offence. The Sec 182 guidance suggests the following;

11.24 *A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.*

Strict liability offences usually have a due diligence defence, but that defence has not been explored. Local Authorities are also bound by their enforcement policy and the broader public interest test and whilst reference to the Council Enforcement policy has been made, I have not sought to detail an exhaustive list of areas of the policy that could be a barrier to prosecution even being considered.

Our submission is that the evidence produced discloses the potential for regulatory breaches, but we believe that the Council's guidance would normally steer them away from prosecution in such a case and encourage them to take more informal remedial steps.

At this moment in time, there has been no communication received that the council is considering formal legal proceedings instead they seem to have chosen the Sec 51 Review as a means of addressing the problems.

One could say that a review is entirely appropriate as it saves the Courts valuable time from being taken up allowing them to focus on cases that meet the public interest test. The Licensing Authority could be said to be intervening early without waiting for actual harm from such practice to reveal itself. Paragraph 11.5 of the Section 182 Guidance advises such an approach

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at the premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should

normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

Condition 5

Many of the points already illustrated also extend to the suggestion that a breach of condition 5 occurred. The Review application itself does not mention this condition but the statement of Mr Verity does.

The circumstances appear to be that immediate access to the CCTV system was not available. Mr Cropper reports that he had left the keys for the office at his club which is a 5-minute walk from the hotel. At best, access to this room could have been facilitated within 10 minutes.

The CCTV footage was produced for Mr Petrak and no attempts to obstruct the inquiry in any way have been made.

Mr Cropper has produced the images which in the end have been to his detriment. Another indicator pointing towards Mr Cropper’s thinking that what he was doing was not against the law.

The same policy points that apply to Condition 3 also apply to Condition 5.

Condition 5 has largely been complied with. Images and data have been produced for an Authorised Officer the only bone of contention is the ten minutes of delay in opening the office that would have been experienced had the opportunity been given. We say that 10 minutes in such circumstances is not unreasonable. In some large businesses, a regulator may be required to wait that long just to speak with the Manager.

Mr Verity made some verbal recommendations that additional CCTV alterations on the camera angles should be considered in the bar area, this was acted on and alterations were made but no follow-up check or visit has been conducted.

Police Representations

The police highlight several logs to which the LH has provided comments below.

Doc Reference	Police Narrative	LH Comments
Pg 2 of Police Representations	04/11/21 The informant from the hotel stated that a male had jumped behind the bar and had stolen a bottle of gin before running from the premises	The individual was abusive to staff and asked to leave, he ripped a bottle from the optic display from behind the bar and made off from the premises. LH came down to discover that a staff member had called the police and in his own words would have preferred to suffer the loss of a bottle of gin than have a black mark against his name with the police. This incident demonstrates

		that even when the premises are a victim of crime, they are somehow blamed for the theft. Many supermarket chains suffer wide-scale shoplifting issues but rarely incidents of theft are used against them
Pg 2 of Police Representation	07/11/21 05.36 hrs A female complained that she was assaulted by staff who removed her from the premises. No further action was taken	The individual in this incident is a known troublemaker, they have a history of befriending hotel guests and stealing their possessions. On discovery that this individual was on the premises, they were removed. The LH believes in removing such an individual he was doing what was reasonable to safeguard his guests from falling victim to pickpocketing
Pg 2 of Police Representation	05/12/2021 06.13 A report was received by a member of the public stating that the Trades Hotel are repeatedly breaching their alcohol licence	This information is unspecific about the nature of any alleged breaches, so the LH is unable to comment further
Pg 2 of Police Representation	05/12/2021 18.35 Report of a drunken male causing a disturbance in the hotel. Police attended and reported the male had gone to bed	A resident of the hotel returned from the town following a full afternoon of drinking. Staff intervened and put him to bed. The LH believes this course of action was appropriate
Pg 2 of Police Representation	22/01/22 10.15 The victim stated that he had been assaulted by door staff and thrown out of the premises. The victim did not cooperate any further and no police action was taken	The incident occurred at 23.30hrs on the 21 st of December 2022. At the time of the incident, the guest did not cooperate with the staff who had asked him to leave so he was removed using reasonable force only. The guest did not report the issue at the time but waited till the following day, the LH believes the call to the police was made to cause trouble for the premises.
Pg 2 of Police Representation	20/03/2022 A male reported that he had been assaulted in the hotel by another male. He stated this was during a dispute about the victim's ex-partner. No further action was taken as the alleged offender could not be identified	The individual SD is a regular customer, this was as described a domestic incident, the premises did nothing to contribute towards the incident and cooperated with the police
Pg 2 of Police Representation	12/07/2022 A report was received of a male running around the hotel with a knife. Upon police attendance a naked male was present. He had to be restrained and was described as being under the influence and	This individual was a resident of the hotel. Another customer ran down from upstairs and reported that someone had a weapon. The resident was running around early in the morning and had not been served any alcohol that day. He stayed at the hotel for several days and

	<p>burning up. No knife was located. An ambulance attended and the male had to be sedated before he could be taken to the hospital.</p>	<p>was not seen at all apart from early in the morning when he would take breakfast and then book the room for a further 24 hours. He stayed in his room for almost the entirety of his stay. He was a man suffering from self-induced intoxication that the premises had no knowledge of, he did not enter the bar area at any time. In total, this guest stayed for 1 week, and following the incident, he did not and will not ever return to the hotel</p>
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The letter sent by the police followed an informal request for CCTV which was left on a business card by DS Stu Kane, a copy of this card is found in **Appendix 1**. The card refers to 4 males being refused entry on the morning of the 7th of July 2022.

This card demonstrates 3 things

1. The request for information was not in connection with any crime at the premises therefore not linked to licensable activity at the hotel.
2. The practice of refusing entry to members of the public walking up to the hotel **does** occur and assists in rebutting the claim that serving alcohol to non-residents is common practice.
3. The request was not in line with the Constabulary policy on CCTV requests.

The GDPR requirements would be.

The use of CCTV captures personal data of individuals (defined as Data Subjects under the UK General Data Protection Regulation). As such, the Controller of this data must adhere to the principles in place to ensure appropriate collection and use, including sharing of such personal data. A request can be made for disclosure of such personal data; however, the Controller must be satisfied that disclosure is necessary for the purpose that they have been informed of. To comply with regulator’s guidance on the use of surveillance camera equipment and GDPR, there should be an audit trail of such requests. In this instance Lancashire Constabulary (the Police) requested disclosure. All police forces operate within legislation that allows them to request copies of personal information and Lancashire Constabulary do have forms for this purpose. These forms support an audit trail and are suitable for later reference. If not available, a formal request such as an email or later form should be provided where an urgent and time-sensitive disclosure is requested verbally.

The Controller, the Trades Hotel, then has to determine if the disclosure is appropriate and if so determined, can make a disclosure to the Police under the exemption contained in Schedule 2, Part 1, Para 2 of the Data Protection Act 2018 which is a discretionary exemption for Crime and Taxation purposes.

The Licence Condition relating to CCTV is there to serve as a prevention and detection method for any activity that occurs on or is linked to the premises, the crime, in this case, was a street robbery. The LH would have been under a moral obligation to assist the police in the same way that

neighbouring properties would be if they had external CCTV but to suggest there was a legal obligation to produce images is unfair.

The warning seems to have been issued as the storage of images had failed to record for the requisite number of days. CCTV systems are complex and very few are fitted with warning or notification devices that there is a recording fault. Power cuts or surges can cause systems to reset to factory settings and it could be some days before you realise there is a problem.

The technical issue with storage was not there when Mr Petrak requested images in June (1 month earlier)

The LH had recently upgraded the system on police request and frequently provides CCTV images to assist with any inquiries. He maintains that whilst the system may not have been recording to the correct capacity it was still recording and the hotel was not left vulnerable. If an incident had occurred in the hotel during this period images would have been available (albeit for a limited period).

The final part of the Police Representation relates to a list of convictions including spent convictions.

The police representation is dated the 20th of September 2022.

On the 17th of September 2022, a formal complaint relating to GDPR (General Data Protection Regulations) was submitted to Lancashire Constabulary for similar breaches that had occurred within the Kaos documentation.

The effect of such a complaint is that an Authority must cease all processing of the data until the complaint has been resolved. Re-listing the convictions after already being put on notice that they should cease puts the police in further contravention of GDPR. Therefore, a 2nd complaint was lodged about the material contained in the Police Representation for the Trades Hotel.

Listing spent convictions going back to 2003 is irrational. There is a separate mechanism for dealing with Personal Licences which came into force in 2017. It allows the Licensing Authority to review a Personal Licence for any relevant offences that are committed after 2017. Of the 2 convictions on the list which are post-2017, only 1 is a relevant offence under Schedule 4 of the Licensing Act 2003.

The LH notified the Authority of that conviction in accordance with the provisions of the Act (Licensing Act 2003) and had his Personal Licence endorsed. There was no decision made at the time of the notification to review his Personal Licence so one can only assume the Licensing Authority was prepared to tolerate such an offence category.

Whilst an initial response from Blackpool Council has been received regarding the GDPR point there remains a considerable difference of opinion which has meant the matter has been referred to the Information Commissioners Officer for a determination.

Sanctions

Reference in italics that follow are from the Section 182 Guidance

11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority from issuing an informal warning to the licence holder and/or recommending 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.

Some informal attempts have been made to resolve the situation, and this dialogue resulted in the Minor Variation, the legal advice alone on this process ran into many thousands of pounds. This is the conduct of a man who took the letter sent in November 2021 from Mr Petrak seriously but engaged the services of a Legal Professional to protect his business interest.

It is accepted that a written warning, in this case, may not be appropriate,

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.

Mr Petrak's letter and pragmatism regarding the invitation to vary and change the Licence is another reason why the Committee should not repeat that approach.

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 that 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.

Mr Cropper will say the cause is a misunderstanding however when the matter was explained, the penny quickly dropped, and Mr Cropper recognised the errors of his ways.

Certain responses demonstrate that Mr Cropper took the visit on the 28th of May 2022 seriously.

1. he engaged the services of a CCTV engineer to carry out the alterations to the camera angles.
2. he rectified the omission of a time stamp on the till system

The evidence produced within the Review application details the activity of one night, the committee is being invited to draw an inference from the evidence that the practice is both routine and commonplace. The police business card is proof that it is not common place.

The Authority had the opportunity to look back over the CCTV footage for at least the previous 30 days from the 28th of May 2022 and establish whether there was indeed a pattern as Mr Petrak suggests. They have also had the opportunity to follow up on the visit to establish their current position. In the absence of any evidence to demonstrate a pattern, Mr Cropper would push back against the suggestion that he is intentionally looking for ways to work around the condition but does accept that corrective action is appropriate.

The review process is often sufficient on its own to focus the attention of a Licence Holder. The Sec 182 Guidance indicates that modest suspensions are appropriate to serve as a deterrent for reoccurrence.

We say that this application sits comfortably in line with the paragraph below;

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 an appropriate means of promoting the licensing objectives or preventing illegal working. 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.

We believe that the evidence discloses conduct that could be construed as a Section 136 breach. But for the Authority to consider prosecution for such offences it must have regard for the overall public interest and its policy. The Council's policy is drastically in need of immediate review as it was published in 2017 with a commitment to be reviewed every year which is written into the Policy. This indicates that it is not a document frequently used as a point of reference for Officers considering what action is appropriate.

We are also of the view that the alleged offences are not on the list the Government Guidance would consider as serious which is detailed in paragraph 11.27

11.27 There is a certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- for the sale and distribution of illegal firearms;*
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;*
- for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;*
- for prostitution or the sale of unlawful pornography;*
- by organised groups of paedophiles to groom children;*
- as the base for the organisation of criminal activity, particularly by gangs;*
- for the organisation of racist activity or the promotion of racist attacks;*
- for employing a person who is disqualified from that work by reason of their immigration status in the UK; • for unlawful gambling; and*
- for the sale or storage of smuggled tobacco and alcohol.*

For these reasons, we say that para 11.28 cannot be relevant and the most appropriate sanction is a suspension.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement), and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the

licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

Conclusion

The Premises Licence for the Trades Hotel has certain things added or omitted which means that the practice of consumption of alcohol beyond 2.00 am is potentially not in breach of any condition in the licence. The facts in the case are how the alcohol was delivered or supplied.

Points to consider.

1. The Premises Licence does not have a closing time listed on the licence
2. The Licence allows LNR (Late Night Refreshment) until 5 am
3. The consumption of alcohol is not a Licensable Activity
4. Mr Cropper continued his activities from behind the bar under the glare of his own CCTV, he did not seek to conceal anything.

Mr Verity in his statement suggests that because drinking up time was not expressed on the Licence that possible offences had been committed by the fact that the customers had pints that looked like they had recently been pulled at 02.35hrs

What Mr Cropper cannot get around is the fact that the pints were served beyond 2 am which puts him in potential breach of Condition 3;

Non-residents are permitted on the premises and may be supplied alcohol between 10.00 and 02.00

However, if the pitchers had been delivered to a customer in a 4-pint jug before 2.00 am, then there would be no breach of the licence even though that customer may still only be halfway through that jug of beer at 02.35hrs.

The spirit of this argument was well-rehearsed in the EMRO proceedings in 2014, the industry representatives painted an abstract picture that if a 3 am closing time was imposed across the town centre people would merely stock up on alcohol before the terminal hour and consume it until the premises closed.

It is commonplace for Licensed Premises to have a closing time imposed on the Licence, this is often between 30 and 60 minutes after the terminal hour for the sale of alcohol. But where premises do not have a closing time, what is the position then?

We say that it would never have been in the spirit of the Licensing Act 2003 to allow service to a customer at 01.55hrs and expect them to drink up and leave by 02.00hrs. Mr Verity infers that there must be some flexibility with consumption beyond 02.00hrs, he just thought that 02.35hrs with a fresh pint seemed excessive.

Whilst only a hypothetical argument, in this case, the pitcher being served before 2 am but still being consumed at 3 am would not be in breach of this Licence, the only difference in the case is the way that pitcher was served (in individual glasses)

Mr Cropper was simply ill-informed or misunderstood that his method of service was permissible.

It is this misunderstanding that warrants corrective action from the Committee.

Revocation of this Licence would require that the Licensing Authority have explored all other possible steps, and nothing will achieve the promotion of the Licensing Objectives other than a Revocation.

Mr Cropper is experienced and capable enough to address the concerns highlighted, to kick the premises out of the club (revoke the licence) for this matter is excessive.

Putting premises such as this outside the regulatory reach of the Licensing Authority also brings with it its own risks.

The premises could move to a method of trading that falls between the cracks of regulation, for example, customers and guests bring their own alcohol to the hotel.

Important conditions already imposed on this licence such as the over 18 only conditions would fall away as would the requirement to have CCTV.

Powers of entry for regulators diminish where no licence is in place, and you find yourself relying on the Police to gain entry under Section 180 of the Licensing Act or using obscure powers such as the Health Act 2006 or the Health and Safety at Work Act 1974 all of which have limitations in terms of their scope and purpose

Allowing the Trades Hotel to remain on the Licensing Register guarantees future control, and remedial action such as a short suspension will serve as a clear message that Mr Cropper's ill-thought-out method of service is not in line with the Conditions on the Licence.

This review can serve as the yellow card and will send a clear message that future transgressions will not be accepted.

For all these reasons a short suspension is the most appropriate and logical step.

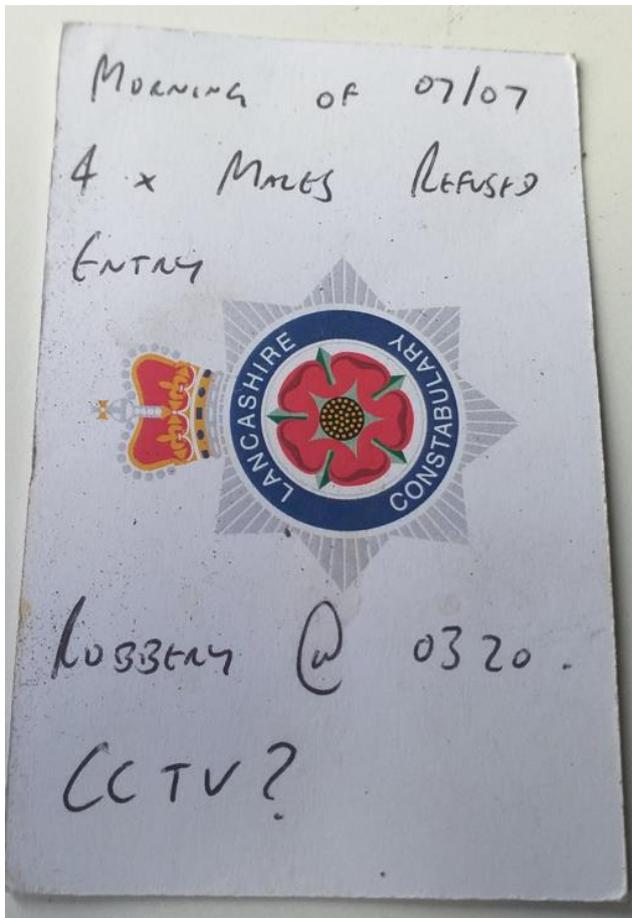
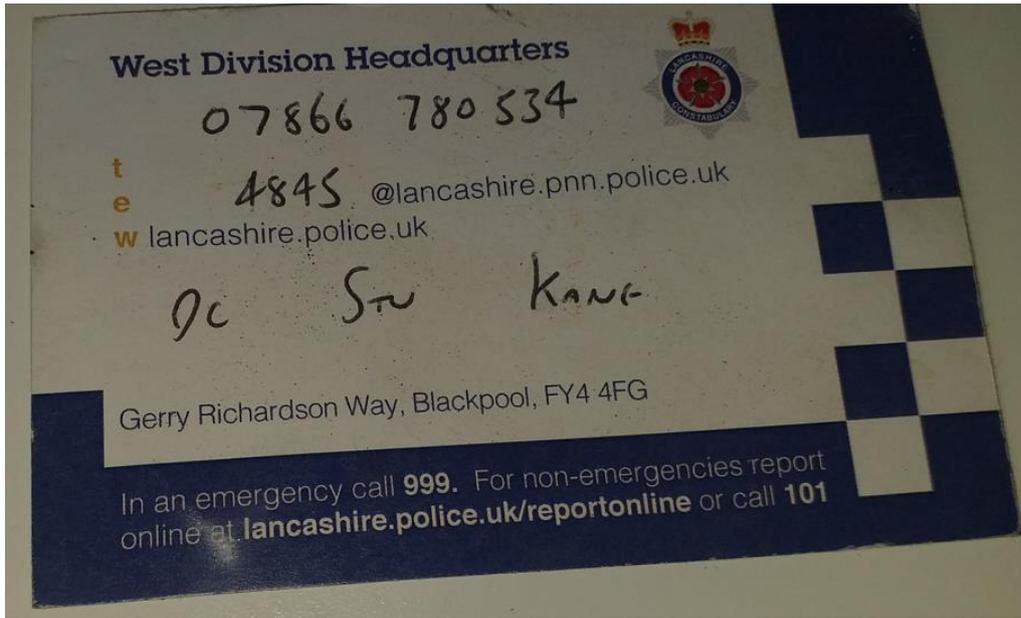
Attached by way of further supporting information are

1. A letter from Renaissance
2. The Environmental Services Enforcement Policy



Mark Marshall (FCILEX)

Date: 20th October 2022





21st January 2022

To whom it may concern,

I wish to present this document as a letter of support, pertaining to the operation of Trades Hotel as both a public and residents' bar/hotel.

Trades Hotel has been a pinnacle in Blackpool's LGBTQ+ landscape for more than 30 years. The property offers a safe space for gay and bisexual men, to feel safe and live their identity with no judgment.

The hotel has provided this safe space for its patrons for many years and is highly regarded within the LGBTQ+ community both locally and nationally.

As the manager of the local Sexual Health and LGBTQ+ Support Service, we work very closely with Trades Hotel and have been supported ourselves by the business for many years. They regularly welcome our sexual health outreach workers to deliver interventions to their patrons and support our charity with fundraising, to give back to the community it serves.

Over the years, Trades Hotel has raised much money to support those living with and affected by HIV within the community during times of crisis. Thanks to funds raised by the business and its management, Renaissance UK have been able to help some of those most vulnerable within our community, to live a healthier and happier life.

Trades Hotel operates a safe space for the LGBTQ+ community and predominantly for gay and bisexual men. There are many areas in Blackpool known to be public sex environments, where men of all ages, engage in risk sexual practises in public. These spaces expose the users to both abuse, prejudice and acts of violence, which in some cases that have resulted in death. Trades hotel has always been a haven for these individuals. A community venue, where they know they will be safe and can access support with a direct referral pathway to our services at Renaissance UK. These individuals are challenging to engage in support, and it is only thanks to venues like Trades Hotel and its management and staff, that we have been able to intervene and get certain individuals the support that they need.

Trades Hotel also welcomes our service as a community HIV testing hub. We often offer drop in testing at the Hotel, where men, who sadly must hide their sexuality in day-to-day life, can come to speak to a worker discreetly and receive a free and confidential HIV test. Many of the individuals that use this service, often explain that



they cannot and will not access a clinical service due to discretion and fear. Being able to offer this facility in the community is invaluable. As we work towards the government target of no new HIV infections by 2030, Renaissance UK intend to utilise our links with Trades Hotel, in order to deliver interventions and testing to this marginalised, but highly at-risk group, therefore delivering interventions on safer sex, testing and other HIV prevention methods such as PrEP. This, in turn reduces the financial impact on clinical NHS services. Without Trades Hotel, there is a measurable risk, that vulnerable individuals will be forced to return to public sex environments, risking both their safety and their health.

Trades Hotel continues to also support the local economy here in Blackpool, it has residents that only visit the town, to stay at Trades. Its reputation reaches all corners of UK and beyond and welcomes LGBTQ+ individuals to a safe space, which in turn further supports the towns economy and diversity.

I, along with the community I represent, hope that Trades Hotel continues to hold its position of pride within the town for many years to come and continues to offer a safe and non-judgmental space to a marginalised and often disrespected community.

Sincerely

Anthony Harrison-West
Sexual Health Manager & LGBTQ+ Community Development Lead
Renaissance UK



**COMMUNITY AND ENVIRONMENTAL
SERVICES DEPARTMENT**

ENFORCEMENT POLICY

OCTOBER 2017

INTRODUCTION

One of the functions of the Community and Environmental Services Department is to act as a regulator and an enforcement agency for a large range of legal duties and powers applied by Acts of Parliament, and the Regulations and Orders made under them (including various bylaws).

The legislation which the Department is responsible for enforcing is extensive and has not been listed here, but the following areas exemplify the range and diversity:-

- Health and Safety;
- Licensing;
- Planning;
- Housing;
- Public Health (including Food Safety);
- Trading Standards;
- Environmental Protection;
- Anti Social Behaviour;
- Commercial Waste.

This policy sets out the standards and guidance that will be applied by the Department when acting in its role as regulator and enforcement agency across a range of its relevant legal powers and duties. This Policy also covers the activities of officers of the Community Safety and BSafe teams in performing their relevant functions.

The policy applies to enforcement and regulation affecting members of the public, (e.g. residents and visitors) and businesses, (e.g. proprietors, employers and employees).

However, whilst the policy is intended to be reasonably comprehensive, it cannot cover every situation, especially where there are specific national or local codes or standards which have to be met. The Department has adopted the Cabinet Office Enforcement Concordat and the principles of good enforcement, policies and procedures in seeking to secure the highest possible level of compliance with Trading Standards and Environmental Health and Planning laws whilst conforming to the spirit of the European Convention of Human Rights (as implemented by the Human Rights Act 1998), the Antisocial Behaviour, Crime and Policing Act 2014, the Cabinet Office Enforcement Concordat and various statutory and voluntary Codes of Practice. The principal activities of the Department are directed towards avoidance of infringements, it is nevertheless inevitable that offences, and unauthorised developments, will occur, and the purpose of this policy is to ensure that they are resolved in a consistent, balanced and fair manner.

This policy needs to be read as a whole, as whilst trying to be as comprehensive as possible, taking an individual point alone could mislead.

This enforcement policy helps to promote efficient and effective approaches to regulatory inspection, interventions and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

OVERALL AIM

The Departments aim is to undertake its regulatory and enforcement role in a fair, open and consistent manner. In doing this it will act in accordance with the guidance and standards set out in this policy, and in any supplementary Departmental policies. In particular the Department will:

- ❖ Work with individuals and businesses to assist them in complying with their legal duties and obligations;
- ❖ Ensure its staff are appropriately trained and apply the policy and standards professionally and consistently;
- ❖ Make information about the policy and the local standards widely available to the public and businesses within the Borough;
- ❖ Monitor compliance with the policy and review it from time to time in consultation with elected members, and senior management.

GUIDING PRINCIPLES

In undertaking its regulatory and enforcement role the Department will have regard to the following

Guiding Principles:

- ❖ Any decision regarding enforcement action will be impartial and objective, and will not be affected by race, politics, gender, sexual orientation or religious beliefs of any alleged offender, transgressor, complainant, victim or witness;
- ❖ The Department believes the vast majority of individuals and businesses wish to comply with the legal and statutory requirements placed upon them and should be assisted in doing so;
- ❖ Education is an intrinsic part of enforcement and in order to contribute to corporate objectives the Department will provide information leaflets, advice, talks and seminars to interested businesses and communities..
- ❖ In dealing with any enforcement situation, the actions will be proportionate to the scale, seriousness and intentionality of any non-compliance;
- ❖ There will be consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case;
- ❖ Except in the most serious cases or where advice/warnings have not been heeded, or where there is a matter of serious immediate public health, or in the case of problematic operators or trade sectors, or in addressing key Council priority issues, adequate opportunity will be given to rectify non-compliance before formal legal action is commenced;
- ❖ Robust enforcement is seen as a final means of securing compliance with the appropriate standards, and not as an end in itself;
- ❖ Prosecution will be considered where it is in the public interest to do so and in serious or blatant cases, or where other approaches have failed, or are likely to fail;
- ❖ Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action, (e.g. Human Rights Act 1998, Code for Crown Prosecutors);
- ❖ Regard shall be had to the Council's Equal Opportunities and the Departments Customer Care Policies.
- ❖ The Division recognises that the investigation of offences that are to the detriment of Blackpool consumers and businesses, and the utilisation of the powers given within the Proceeds of Crime Act 2002 (POCA), can make a significant contribution to the disruption of criminal enterprises through the use of money laundering investigation to complement and aid criminal investigations and through the recovery of criminal assets.

STANDARDS

The Department will always endeavour to meet the highest standards of service in undertaking its regulatory and enforcement function. The following specific level of service standards will be applied:

- ❖ Matters relating to enforcement and regulation will be dealt with promptly with enquiries and complaints generally receiving an initial response or acknowledgement within one working day;
- ❖ Except in the case of necessary and approved covert investigations, (e.g. the making of test purchases) officers will announce themselves on arrival at premises and will show credentials/identification when requested unless they are already well known to the person;
- ❖ Officers will provide their name and a contact telephone number to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter;
- ❖ Complaints relating to enforcement or regulatory matters will request that the name and address of the complainant is given. Any such identification will be treated in confidence, but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or business to which the complaint relates. Anonymous complaints may be investigated but the authority reserves the right not to so investigate if there are any reasons to suspect the complaint to be malicious or where we would have to gather evidence from the complainant's premises.
- ❖ Officers will be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible and where appropriate will seek to work with individuals and businesses towards compliance;
- ❖ Officers will endeavour to provide advice in a clear and simple manner and where any corrective or remedial work is necessary, an explanation will be given as to why it is necessary, and over what time scale it is required or recommended. In cases where compliance is a simple matter to ensure, then it will be expected to occur immediately. Where non-compliance may result in further enforcement action the matter will normally be confirmed in writing and any legal requirements will be identified separately from best practice advice. Where non-compliance results in prosecution the matter will be confirmed in writing when the prosecution file has been considered within the statutory time limits.
- ❖ On rare occasions there may be a perceived potential for conflict of interest where the Council has ownership or management interests in premises. Clear internal boundaries exist between enforcement officers of the Council so that they are not explicitly or implicitly expected to act in a fashion that might cause a conflict of interest. Inspectors will ensure that they retain their independence of decision and objectivity. They will deal with the premises in exactly the same way as any other undertaking.
- ❖ Officers will generally seek an informal resolution to cases of non-compliance when this relates to minor or accidental technical breaches. This will not generally be the case where immediate formal enforcement action is required, (e.g. serious issues relating to Health and Safety, Food Safety, evidence gathering etc);

- ❖ Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken, (e.g. when the enforcement notice is served);
- ❖ Where there is known to be an involvement of any other enforcement agency, or any case involves joint enforcement arrangements, the Council will consult with that other agency prior to taking any formal enforcement action.
- ❖ Where any charges or fees, other than by way of annual review, are to be levied for a service, individuals and businesses will be informed of the cost or rate of charge prior to the service being provided;

Any dissatisfaction with the manner in which a case has been handled will be dealt with under the Council Complaints Procedure, copies of which are available from offices of the Council, by accessing the Council's Web site (www.blackpool.gov.uk) or by telephoning the Department on 01253 478375.

CONSISTENT ENFORCEMENT

Consistent enforcement action is desirable, but absolute uniformity would be unfair by failing to recognize individual circumstances which may modify action to be taken. Consistency of approach whilst allowing a degree of discretion will be encouraged by:

- ❖ Appropriate training and supervision of enforcement officers;
- ❖ Ensuring there is compliance with the standards set out in this policy by all enforcement officers of the Department ;
- ❖ Recognition of defences that would be available at law and exercising appropriate discretion where formal action is unwarranted;
- ❖ Recognition that we should not normally take formal enforcement action or prosecution in the case of minor infringements arising from innocent mistakes
- ❖ Recognition that in some situations we have no legal discretion but to serve a formal legal notice, take formal legal action, or pursue the collection of a fine.

ASSESSING APPROPRIATE ACTION IN CASES OF INFRINGEMENT

Internal guidance provides consistent starting points for action to be taken in particular circumstances. Final action taken will depend on any modifying or mitigating factors present, and account will be taken of any national or local guidance available.

Formal action will normally be instigated where one or more of the following apply (but this list is not exhaustive):

- ❖ It is prescribed by law as obligatory;
- ❖ Informal approaches have failed, or they are likely to do so;
- ❖ The matter is of such seriousness or urgency that informal action is inappropriate;
- ❖ Enforcement is necessary to remedy an unsatisfactory condition relating to health, safety, amenity or the environment;

- ❖ There is a need to ensure a decision or policy of the Council or Council Committee is enforced, or where not to do so would militate against the success of a key Council priority.

Prosecution will normally be considered where one or more of the following Public Interest criteria are satisfied:

- There is a significant risk to health or safety of persons, or to amenity or the environment;
- The offence involves the threat of violence against any person, or obstruction of an Officer of the Council;
- False information either in written or verbal form is deliberately provided to the Council or to an investigating officer;
- Fraudulent or reckless practice or the threat of significant economic disadvantage to consumers or businesses is involved;
- The offender has a history of non compliance, relevant previous convictions, or simple cautions;
- The offender has ignored advice;
- There is a widespread disregard of the law and appropriate notice has been given to the public or the business community that legal proceedings will be considered for future breaches, (e.g. sale of tobacco products or alcohol to those under 18 years of age);
- The offender has failed to comply with a formal enforcement notice within the compliance period. It should be noted that as a general rule of thumb, non-compliance with Notices will normally lead to prosecution, however a time extension may be granted where there are extenuating circumstances by the relevant team manager, but each such extension must be reported to the Service Manager (Public Protection).
- There is evidence of the offence being premeditated, or due to the offender's neglect or failure to take all reasonable precautions and exercise due diligence to avoid the commission of the offence.
- The offender, by action or inaction, risks causing suffering to animals or has increased the risk of the spread of animal disease;
- Some other significant public purpose would be served;

There will be occasions when a decision will be made to adopt a stricter approach to enforcement in order to expedite compliance on the grounds of public interest. In those circumstances prosecution may be the first and final course of action.

The decision to prosecute, or to close premises, will be made by the Service Manager (Public Protection) and each such decision will be confirmed in writing within the relevant case file.

Mitigating factors could include the examples below, but these should always be balanced against the seriousness of the offence and the likelihood of it being repeated:

- The problem was revealed by an approach for advice from the person or business;

- Compliance with previous advice by Blackpool Council or guidance from government departments (we can get things wrong!);
- Co-operative attitude to prevent recurrence;
- Legitimate conflict of interpretation (not just disagreement) where it may be more appropriate to seek adjudication through another body, (e.g. Food Standards Agency);
- Previous good history or absence of complaints;
- Low general awareness of legislation when prosecution would "single-out" an individual or trader unfairly;
- The offence resulted from a genuine mistake and the offender is prepared to rectify the problem;
- The loss or harm caused was minor;
- There has been undue delay in bringing the matter to court (unless the delay was the fault of the offender or those associated or employed by them);
- A prosecution is likely to have a significantly detrimental effect on the victim's physical or mental health;
- The views of the Council's legal advisor, or a relevant expert witness(s).

MONITORING

Producing policies is all very well, but they are not likely to be effective unless they are continually and consistently applied. To ensure this happens the policy will be reviewed annually by the Service Manager and the Divisional Management Team

ENFORCEMENT ACTIONS AVAILABLE

We take a wide view of this term which includes provision of advice and guidance. Examples of the actions we can take are:-

<u>ACTION AVAILABLE</u>	<u>EXPLANATION</u>
Advice	Advice on how to comply with the law, statutory requirements and / or Council policy, typically following a request for advice, a programmed inspection or complaint.
Warning letter	Warning that recurrence or continuation of an

	infringement will result in legal action.
Enforcement notice	A wide range of legal powers to require persons to perform some act or desist from a course of conduct. In some extreme cases we have the power to close businesses or execute work in default. There are often appeals procedures or a requirement to have emergency action confirmed by a Magistrates' Court. (We provide details of those appeals procedures at the same time as the notice.) Failure to comply with the notice will generally result in prosecution.
Simple Caution (often called 'Home Office Cautions')	A special form of recordable warning which can only be given if:- An offence has been committed. <ul style="list-style-type: none"> • The person liable admits the offence. • A prosecution could be taken. • There are mitigating factors suggesting a Simple Caution is the more appropriate course of action.
Prosecution	Prosecution in Magistrates or Crown Court. There are very strict controls to ensure this only happens in appropriate cases or when other approaches have failed. Depending on the circumstances, we do not always warn or issue a statutory notice before taking prosecutions.
Licence Review	Where any licensed premises breaches 1 or more of the 4 themes of the Licensing Act 2003, then a "Responsible Authority" may apply to review the licence.
Community Protection Notice	These are issued where behaviour is ; Having a detrimental effect on the quality of life of those in the locality. Is of persistent or continuing nature. Is unreasonable. They are only issued after a Written Warning has been issued.
Closure Notice / Closure Order	A Closure Notice lasting up to 48 hours can only be issued with the approval of the Service Manager (Public Protection), or the Director of Commercial and Environmental Services. If such a Notice is to be issued, it will be due to ; Nuisance to the Public, or, Disorder near the premises. Thereafter a Closure Order of up to 3 months can be applied for to the Magistrates Court, but this again must have the approval of the Service Manager or Director. In the case of ; Serious nuisance to members of the public or , Disorderly, offensive or criminal behaviour Then an application can be made to the Magistrates Court for a further extension of the Closure Order for a further period of up to 3 months, but this again would require the approval of the Service Manager or Director.
Injunction to Prevent Nuisance and Annoyance	These can be applied for where, on the balance of probabilities, someone has engaged in, or is threatening

	to engage in , conduct which is capable of causing nuisance or annoyance.
Criminal Behaviour Orders	These can be applied for when a person has been convicted of an offence and has engaged in behaviour that has caused, or is likely to cause, harassment, alarm or distress, and the court believes that making the order will help prevent the offender from engaging in such behaviour.
Public Spaces Protection Order	These can be put in place, following appropriate consultation by the Council, and thereafter enforced by authorised officers. The antisocial behaviour being restricted must be having, or likely to have, a detrimental affect on the quality of life of those in the locality, be persistent or continuing, and be unreasonable.
Proceeds of Crime Recovery	In the case of acquisitive crimes then financial investigations may be used to recover criminal assets and this Policy should be read in conjunction with the Community and Environmental Services Department Proceeds of Crime Policy.
Civil Penalties etc	The Housing and Planning Act 2016 has introduced a range of measures to crack down on rogue landlords. These include; <ul style="list-style-type: none"> - Civil Penalties - Extension of Rent Repayment Orders - Rogue landlords database - Banning Orders

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