

Report

Licensing Sub Committee Report

Part 1

Date: 4 September 2018

Subject An application under Section 34 Licensing Act 2003 for the grant of variation of a Premises Licence in respect of:

Yummies Kebabs, 85 Upper Dock Street, Newport ,NP20 1DG

Purpose The consideration and decision in respect of an application under Section 29 Licensing Act 2003.

Author William Lewis (Licensing Manager)

Ward Stow Hill

Summary An application for a variation of the Premises Licence issued in respect of Yummies Kebabs was served on the Licensing Authority on 11th July 2017. These applications are required to be advertised in accordance with the Licensing Act 2003. This application has attracted representation from responsible authorities and requires determination by Newport City Council Licensing Sub-Committee.

Proposal To make a decision on the application as detailed within this report.

Action by Head of Law and Regulation

Timetable Statutory Consultation Period

Signed

Application

1. On 11th July 2018 an online application (copy at Appendix 1) was received by the Licensing Authority from Sergio Nocerino the holder of an existing Premises Licence in respect of 'Yummies Kebabs' 185 Upper Dock Street, Newport seeking the grant under Section 34 Licensing Act 2003 of a full variation of the Premises Licence.
2. The application seeks the inclusion of the licensable activity of the sale of alcohol (for consumption **off the premises**) between the hours of 15:45hrs until 01:45hrs Sunday to Thursday and 15:45hrs until 02:45hrs Friday and Saturday.
3. This premises has been licensed under Section 17 of the Licensing Act 2003 since 24th November 2005 permitting the licensable activity of the sale of Late Night Refreshment only. The Premises Licence was transferred to Mr Nocerino on 26th July 2013.
4. The Premises Licence (copy at appendix 2) authorises the sale of Late Night Refreshment between:

23:00 Monday to 02:00 Tuesday
23:00 Tuesday to 02:00 Wednesday
23:00 Wednesday to 03:00 Thursday
23:00 Thursday to 03:00 Friday
23:00 Friday to 03:00 Saturday
23:00 Saturday to 03:00 Sunday
23:00 Sunday to 03:00 Monday

Representations:

5. The consultation process in respect of this application began on 12th July 2018 and ended on 08th August 2018 during which representations from the responsible authorities of Heddlu Gwent Police, Newport City Council Licensing Authority and Aneurin Bevan University Health Board were received.

- **Responsible Authority of Newport City Councils Licensing Authority.**

A representation (copy at Appendix 3) in respect of the application was served by Mr Steve Pontin the responsible authority of Newport City Council Licensing Services on 30th July 2018. This representation was duly served on Mr Nocerino who responded by email and by telephone that he was not prepared to accept the following condition:

All alcohol orders must be paid for online or over the telephone in advance of delivery. No cash on delivery.

His response was communicated to Mr Pontin and while there was mediation no agreement could be reached, thus necessitating this hearing of the Licensing Su-Committee.

- **Responsible Authority of Aneurin Bevan University Health Board**

A representation was served (Appendix 4) by Executive director Dr Sarah Aitken on 06th August 2018 supporting the objection by Newport City Council Licensing Authority and the proposed conditions which should be attached to the Premises Licence if the application is to be granted. The representation also identifies that the licensing objective of Protection of Children from Harm is seriously compromised related to home delivery of alcohol without robust conditions attached to the licence. Evidence of this is produced at Appendix 4A.

- **Responsible Authority of Heddlu Gwent Police**

A representation served by Heddlu Gwent Police on the 30th July 2018 seeking attachment of a condition "that no alcohol shall be displayed for sale in the premises was accepted by Mr Nocerino and the Police representation was withdrawn". A copy of this representation

6. Premises Location





Legal Considerations.

Determination of application under section 34 LA2003

- (1) This section applies where the relevant licensing authority—
 - (a) receives an application, made in accordance with section 34, to vary a premises licence, and
 - (b) is satisfied that the applicant has complied with any requirement imposed on him by virtue of subsection (5) of that section.
- (2) Subject to subsection (3) and section 36(6), the authority must grant the application.
- (3) Where relevant representations are made, the authority must—
 - (a) hold a hearing to consider them, unless the authority, the applicant and each person who has made such representations agree that a hearing is unnecessary, and
 - (b) having regard to the representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.
- (4) The steps are—
 - (a) to modify the conditions of the licence;
 - (b) to reject the whole or part of the application; and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.
- (5) In this section “relevant representations” means representations which—
 - (a) are about the likely effect of the grant of the application on the promotion of the licensing objectives, and
 - (b) meet the requirements of subsection (6).
- (6) The requirements are—
 - (a) that the representations are made by a responsible authority or other person within the period prescribed under section 17(5)(c) by virtue of section 34(5),
 - (b) that they have not been withdrawn, and
 - (c) in the case of representations made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (7) Subsections (2) and (3) are subject to sections 9 to 21 (which require certain conditions to be

included in premises licences).

1. **Guidance and Licensing Policy**

Newport City Councils Statement of Licensing Policy includes specific reference to the inclusion of a Cumulative Impact Policy in an area of the city centre where the premises subject of this application is located.

“Cumulative Impact” is defined in the statutory guidance as, the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.

The cumulative impact of the number, type and density of premises in particular areas, such as the city centre, may lead to those areas becoming saturated with premises of a certain type making them a focal point for large groups of people leading to severe or chronic problems of public nuisance and anti-social behaviour. In such circumstances, the licensing authority may consider the adoption of a cumulative impact policy of refusing new premises authorisations within a defined area or areas, provided it is satisfied that it is appropriate and necessary having considered the evidence to support such a decision.

The effect of adopting a cumulative impact policy is to create a rebuttable presumption if relevant representations are received, that applications for new premises authorisations or club premises certificates or material variations will normally be refused, unless the applicant can demonstrate that the operation of the premises involved will not add to the cumulative impact already being experienced.

Applicants will need to address the cumulative impact policy issues in their Operating Schedules in order to rebut such a presumption. Although it must be noted that this presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation before the local authority may lawfully consider giving effect to its cumulative impact policy.

The Licensing Authority recognises that many different types of premises sell alcohol, serve food and provide entertainment. It recognises that some applications in cumulative impact areas will be unlikely to add significantly to the problems arising from saturation or indeed may diversify that area. Accordingly, where it can lawfully make decisions on applications in a cumulative impact area, it will have full regard to the effect different premises may have on that area. The Licensing Authority must grant any application in a cumulative impact policy area subject only to conditions that are consistent with the operating schedule submitted by the applicant if it receives no relevant representation.

The absence of a special saturation/cumulative impact policy does not prevent any responsible authority or interested party making evidence-based relevant representations on a new application, on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

The adoption of such policies should not be understood to be an absolute bar to new authorisations being issued or granting significant variations to existing licenses. Applicants are entitled to seek any of the permissions available to them in the Act and the Licensing Authority does not, in any cumulative impact policy, intend to prevent applicants from exercising their statutory rights. Each application will be considered on its own merits, within the constraints of the legislation and having due regard to the relevant guidance and policy.

However, applicant statements such as, for example: - the premises will not add people to the area; - longer hours will create slower dispersal; - history of good management; - premises are well run; - the application is small in nature - alcohol is not sold; - clientele “are a cut above the usual”; will not be considered sufficiently exceptional to rebut the presumption. The issue is crime and disorder/public nuisance in the area as a whole, rather than that associated with individual premises.

Applications will be considered favourably if they are judged to encourage a greater variety of types of entertainment than currently exists in the area. In particular, the Licensing Authority welcomes applications which can be viewed as more family friendly and which offer a wider range of entertainment than that which is currently available because it is considered that these will undermine the licensing objectives.

Existing licensees who wish to materially alter and/or extend the premises to which the authorisation relates, are required to seek a new authorisation. This is because the Act prohibits the use of a variation application to substantially alter the premises to which the authorisation relates. Where the only change is to the physical extent or material layout of the premises themselves (i.e. in the absence of additional features such as change in style of operation, capacity etc.), it is highly unlikely this would trigger the Cumulative Impact Policy. However, this policy cannot restrict the right of any Responsible Authority or interested person to make relevant representations in that regard and if such are forthcoming, they will be given due consideration. Where other changes are envisaged then the Cumulative Impact Policy presumption may arise. Applicants in such circumstances are entitled to seek a provisional statement and are encouraged to engage with the Licensing Authority. The Licensing Authority will periodically review any cumulative impact policies to assess whether they are needed any longer or need expanding.

2. **Issues for discussion**

- The proposed addition of the licensable activities of the sale of alcohol sought by the application.
- The content of the operating schedule in promoting the four licensing objectives.
- The representations made in respect of the application.
- Newport City Council's Statement of Licensing Policy.
- Any conditions that are required by the Panel to be attached to the Premises Licence in order to promote the four Licensing Objectives, in light of the information contained in the applicant's operating schedule and representations received.

Appendix 1

Copy of application under Section 34 Licensing Act 2003 for grant of Full Variation of a Premises Licence



Newport
Application to vary a premises licence
Licensing Act 2003

For help contact
environment.licensing@newport.gov.uk
Telephone: 01633 656656

* required information

Section 1 of 18

You can save the form at any time and resume it later. You do not need to be logged in when you resume.

System reference This is the unique reference for this application generated by the system.

Your reference You can put what you want here to help you track applications if you make lots of them. It is passed to the authority.

Are you an agent acting on behalf of the applicant?
 Yes No Put "no" if you are applying on your own behalf or on behalf of a business you own or work for.

Applicant Details

* First name

* Family name

* E-mail

Main telephone number Include country code.

Other telephone number

Indicate here if you would prefer not to be contacted by telephone

Are you:

- Applying as a business or organisation, including as a sole trader
 Applying as an individual
- A sole trader is a business owned by one person without any special legal structure. Applying as an individual means you are applying so you can be employed, or for some other personal reason, such as following a hobby.

Applicant Business

Is your business registered in the UK with Companies House? Yes No Note: completing the Applicant Business section is optional in this form.

Is your business registered outside the UK? Yes No

Business name If your business is registered, use its registered name.

VAT number Put "none" if you are not registered for VAT.

Legal status

Continued from previous page...

Your position in the business

Home country

The country where the headquarters of your business is located.

Business Address

If you have one, this should be your official address - that is an address required of you by law for receiving communications.

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

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APPLICATION DETAILS

This application cannot be used to vary the licence so as to extend the period for which the licence has effect or to vary substantially the premises to which it relates. If you wish to make that type of change to the premises licence, you should make a new premises licence application under section 17 of the Licensing Act 2003.

I/we, as named in section 1, being the premises licence holder, apply to vary a premises licence under section 34 of the Licensing Act 2003 for the premises described in section 2 below.

* Premises Licence Number

Are you able to provide a postal address, OS map reference or description of the premises?

- Address OS map reference Description

Postal Address Of Premises

Building number or name

Street

District

City or town

County or administrative area

Postcode

Country

Premises Contact Details

Telephone number

Continued from previous page...

Non-domestic rateable
value of premises (£)

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VARIATION

Do you want the proposed
variation to have effect as
soon as possible?

Yes No

Do you want the proposed variation to have effect in relation to the
introduction of the late night levy?

Yes No

You do not have to pay a fee if the only
purpose of the variation for which you are
applying is to avoid becoming liable to the
late night levy.

If your proposed variation
would mean that 5,000 or
more people are expected to
attend the premises at any
one time, state the number
expected to attend

Describe Briefly The Nature Of The Proposed Variation

Describe the premises. For example the type of premises, its general situation and layout and any other information which could be relevant to the licensing objectives. Where your application includes off-supplies of alcohol and you intend to provide a place for consumption of these off-supplies, you must include a description of where the place will be and its proximity to the premises.

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PROVISION OF PLAYS

[See guidance on regulated entertainment](#)

Will the schedule to provide plays be subject to change if this application to
vary is successful?

Yes No

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PROVISION OF FILMS

[See guidance on regulated entertainment](#)

Will the schedule to provide films be subject to change if this application to
vary is successful?

Yes No

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PROVISION OF INDOOR SPORTING EVENTS

Continued from previous page...

[See guidance on regulated entertainment](#)

Will the schedule to provide indoor sporting events be subject to change if this application to vary is successful?

Yes No

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PROVISION OF BOXING OR WRESTLING ENTERTAINMENTS

[See guidance on regulated entertainment](#)

Will the schedule to provide boxing or wrestling entertainments be subject to change if this application to vary is successful?

Yes No

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PROVISION OF LIVE MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide live music be subject to change if this application to vary is successful?

Yes No

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PROVISION OF RECORDED MUSIC

[See guidance on regulated entertainment](#)

Will the schedule to provide recorded music be subject to change if this application to vary is successful?

Yes No

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PROVISION OF PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide performances of dance be subject to change if this application to vary is successful?

Yes No

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PROVISION OF ANYTHING OF A SIMILAR DESCRIPTION TO LIVE MUSIC, RECORDED MUSIC OR PERFORMANCES OF DANCE

[See guidance on regulated entertainment](#)

Will the schedule to provide anything similar to live music, recorded music or performances of dance be subject to change if this application to vary is successful?

Yes No

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PROVISION OF LATE NIGHT REFRESHMENT

Continued from previous page...

Will the schedule to provide late night refreshment be subject to change if this application to vary is successful?

Yes No

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SUPPLY OF ALCOHOL

Will the schedule to supply alcohol be subject to change if this application to vary is successful?

Yes No

Standard Days And Timings

MONDAY

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Start

End

TUESDAY

Start

End

Start

End

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

Continued from previous page...

Will the sale of alcohol be for consumption?

- On the premises Off the premises Both

If the sale of alcohol is for consumption on the premises select on, if the sale of alcohol is for consumption away from the premises select off. If the sale of alcohol is for consumption on the premises and away from the premises select both.

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Alcohol will only be supplied on delivery orders no alcohol will be sold on premises

Non-standard timings. Where the premises will be used for the supply of alcohol at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

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ADULT ENTERTAINMENT

Highlight any adult entertainment or services, activities, or other entertainment or matters ancillary to the use of the premises that may give rise to concern in respect of children.

Provide information about anything intended to occur at the premises or ancillary to the use of the premises which may give rise to concern in respect of children, regardless of whether you intend children to have access to the premises, for example (but not exclusively) nudity or semi-nudity, films for restricted age groups etc gambling machines etc.

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HOURS PREMISES ARE OPEN TO THE PUBLIC

Standard Days And Timings

MONDAY

Start

End

Provide timings in 24 hour clock (e.g., 16:00) and only give details for the days of the week when you intend the premises to be used for the activity.

Start

End

TUESDAY

Start

End

Start

End

Continued from previous page...

WEDNESDAY

Start

End

Start

End

THURSDAY

Start

End

Start

End

FRIDAY

Start

End

Start

End

SATURDAY

Start

End

Start

End

SUNDAY

Start

End

Start

End

State any seasonal variations.

For example (but not exclusively) where the activity will occur on additional days during the summer months.

Non standard timings. Where you intend to use the premises to be open to the members and guests at different times from those listed above, list below.

For example (but not exclusively), where you wish the activity to go on longer on a particular day e.g. Christmas Eve.

Identify those conditions currently imposed on the licence which you believe could be removed as a consequence of the proposed variation you are seeking.

I have enclosed the premises licence

Continued from previous page...

I have enclosed the relevant part of the premises licence

Reasons why I have failed to enclose the premises licence or relevant part of premises licence.

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LICENSING OBJECTIVES

Describe the steps you intend to take to promote the four licensing objectives:

a) General – all four licensing objectives (b,c,d,e)

List here steps you will take to promote all four licensing objectives together.

full name will be taken of the person who orders the meal so we can check the persons ID when we get to the property no super strength drinks will be sold (over 7.5%) lagers or ciders there will be no advertisement in store for alcohol only on our printed delivery leaflets with the THINK21 poster printed on there and Online orders will be warning our customers that ID will be asked if needed all the alcohol will be delivered in black/blue non see through bags so its not to be seen by the public when leaving the shop so we avoid trouble and disturbance no alcohol will be delivered to car parks or any other public places and a list of banned names will also be made for future references

b) The prevention of crime and disorder

if a customer is too drunk alcohol will not be supplied to customer and all drivers will be warned all the time about this concern and all staff will be fully trained

c) Public safety

no sales of alcohol will be done inside the premises its only telephone and Online orders ONLY and alcohol is only to be served with food

d) The prevention of public nuisance

a personal license holder will always authorize the sale of the purchase and sales of alcohol will not be permitted from the delivery vehicle under and circumstances all the drivers will also be able to check ID if its fake or not with a blue light or a marker checker

e) The protection of children from harm

if the person that that ordered the alcohol looks under 21 ID will be asked with no tolerance if ID is refused to be shown the alcohol will not be given to customer

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NOTES ON REGULATED ENTERTAINMENT

Continued from previous page...

In terms of specific **regulated entertainments** please note that:

- Plays: no licence is required for performances between 08:00 and 23.00 on any day, provided that the audience does not exceed 500.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Boxing or Wrestling Entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000. Combined fighting sports – defined as a contest, exhibition or display which combines boxing or wrestling with one or more martial arts – are licensable as a boxing or wrestling entertainment rather than an indoor sporting event.
- Live music: no licence permission is required for:
 - o a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - o any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500.
 - o any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - o any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

Continued from previous page...

- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500. However, a performance which amounts to adult entertainment remains licensable.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - o any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - o any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - o any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - o any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

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PAYMENT DETAILS

This fee must be paid to the authority. If you complete the application online, you must pay it by debit or credit card.

The fee to vary a Premises Licence is determined by the non domestic rateable value of the premises.

To find out a premises non domestic rateable value go to the Valuation Office Agency site at http://www.voa.gov.uk/business_rates/index.htm

Band A (No RV to £4300) the fee is £100.00

Band B (£4301 to £33000) the fee is £190.00

Band C (£33001 to £87000) the fee is £315.00

Band D (£87001 to £125000) the fee is £450.00*

Band E (£125001 and over) the fee is £635.00*

*If the premises rateable value is in Bands D or E and the premises is primarily used for the consumption of alcohol on the premises then you are required to pay a higher fee as follows:

Band D (£87001 to £125000) the fee is £900.00

Band E (£125001 and over) the fee is £1,905.00

If you own a large premises, the application is subject to an additional fee based upon the maximum number of persons in attendance at any one time as follows:

Capacity 5000-9999	£1,000.00
Capacity 10000 -14999	£2,000.00
Capacity 15000-19999	£4,000.00
Capacity 20000-29999	£8,000.00
Capacity 30000-39999	£16,000.00
Capacity 40000-49999	£24,000.00
Capacity 50000-59999	£32,000.00
Capacity 60000-69999	£40,000.00
Capacity 70000-79999	£48,000.00
Capacity 80000-89999	£56,000.00
Capacity 90000 and over	£64,000.00

* Fee amount (£)

100.00

DECLARATION

* I/we understand it is an offence, liable on conviction to a fine up to level 5 on the standard scale, under section 158 of the licensing act 2003, to make a false statement in or in connection with this application.

Continued from previous page...



Ticking this box indicates you have read and understood the above declaration

This section should be completed by the applicant, unless you answered "Yes" to the question "Are you an agent acting on behalf of the applicant?"

* Full name	<input type="text" value="Sergio Nocerino"/>
* Capacity	<input type="text" value="N/A"/>
* Date	<input type="text" value="10"/> / <input type="text" value="07"/> / <input type="text" value="2018"/> dd mm yyyy

Once you're finished you need to do the following:

1. Save this form to your computer by clicking file/save as...
2. Go back to <https://www.gov.uk/apply-for-a-licence/premises-licence/newport/change-1> to upload this file and continue with your application.

Don't forget to make sure you have all your supporting documentation to hand.

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.

OFFICE USE ONLY

Applicant reference number	<input type="text" value="Nocerino"/>
Fee paid	<input type="text"/>
Payment provider reference	<input type="text"/>
ELMS Payment Reference	<input type="text"/>
Payment status	<input type="text"/>
Payment authorisation code	<input type="text"/>
Payment authorisation date	<input type="text"/>
Date and time submitted	<input type="text"/>
Approval deadline	<input type="text"/>
Error message	<input type="text"/>
Is Digitally signed	<input type="checkbox"/>

Appendix 2 – Copy of the Premises Licence

Schedule 12

Part A

(THIS PART OF THE LICENCE
MUST BE KEPT AT THE
PREMISES AT ALL TIMES AND
PRODUCED UPON REQUEST OF
AN AUTHORISED OFFICER)

Premises Licence City of Newport



Premises Licence Number	15/00589/LAPVM
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
Yummies Kebabs Ground Floor 185 Upper Dock Street Newport South Wales NP20 1DG	
Telephone number	01633 222308

Where the licence is time limited the dates
Not Applicable

Licensable activities authorised by the licence
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities
Late Night Refreshment Monday and Tuesday 23:00 - 02:00 Wednesday to Sunday inclusive 23:00 - 03:00

The opening hours of the premises
Monday and Tuesday 15:30 - 02:00 Wednesday to Sunday inclusive 15:30 - 03:00
Where non standard timings are authorised, the opening times shall be as those authorised for licensable activities with an additional 30 minutes on the terminal hour.

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

Part 2

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

Mr Sergio Nocerino
185 Upper Dock Street
Newport
South Wales
NP20 1DG

Business Phone Number 01633 222308

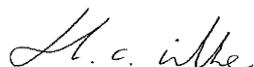
Registered number of holder, for example company number, charity number (where applicable)

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

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

This Premises Licence is issued by Newport City Council as Licensing Authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Dated this 09th April 2015



Helen Wilkie
Public Protection Manager

Mandatory conditions

1M03 Where at specified times one or more individuals may be at the premises to carry out a security activity, each individual must be licensed by the Security Industry Authority.

For the purposes of this section:

- i) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies; and
- ii) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Conditions consistent with the Operating Schedule

3SO03 Staff shall collect all rubbish within a 100 m radius of the premises.

3SO02 A rubbish bin shall be located both inside and outside of the premises for use by customers.

2SO01 A CCTV system shall be installed within the premises which is capable of recording the internal area of the premises. The system shall be operational at all times during which the premises is trading. All recordings shall be retained for a minimum of 28 days and shall be made available to an Authorised Officer on request

2SO02 No staff shall solicit custom by means of personal solicitation outside of the premises.

Conditions attached after a hearing by the licensing authority

NIL.

Plans

Please see attached plans (05/01580/LAPRER)

Appendix 3

Licensing Authority-Responsible Authority representation

Ask for / Gofynnwch am Steve Pontin
Our Ref / Ein Cyf 18/02106/LAPV
Your Ref / Eich Cyf
Tel / Ffôn **01633 656656**
Direct Dial / Rhif Union 01633 851333
DX 99463 Newport (Gwent) 3
E-Mail / E-Bost Steve.pontin@newport.gov.uk

Law and Regulation
Y Gyfraith a Rheoleiddio



Principal Licensing Officer
Licensing Authority
Newport City Council
Floor 4, Information Station
Queensway
Newport
NP20 4AX

Licensing Service/
Gwasanaeth Trwyddedu
PO Box 883/Bwlch Post 883
Civic Centre/Canolfan Ddinesig
Newport/Casnewydd
South Wales/De Cymru
NP20 4UR

Monday, 20 August 2018

Dear Sirs,

SECTION 69 LICENSING ACT 2003: NOTICE OF OBJECTION

TO AN APPLICATION UNDER SECTION 34 LICENSING ACT 2003 FOR A VARIATION OF THE PREMISES LICENCE IN RESPECT OF 'Yummies Kebabs, Ground Floor 185 Upper Dock Street, Newport, NP20 1DG, served upon the Licensing Authority on 11th July 2018.

Newport City Council's Licensing Authority acting in their capacity as a 'Responsible Authority' by virtue of section 182 (4) Licensing Act 2003 (amended guidance) wish to object to a variation of the Premises Licence as detailed above on the grounds that the application does not provide clear, measurable and enforceable provisions for promotion of the four 'licensing objectives' of:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance
- Public Protection
- Protection of Children from Harm

The Licensing Authority is seeking to attach the following conditions on the premises licence for Yummies Kebabs premises so as to ensure that the above detailed licensing objectives are fully promoted as currently the conditions offered are not clear, measurable and enforceable:

- No alcohol will be supplied for sale from within the premises. Sales will only be through online and telephone orders and will only be as an accompaniment to a delivery of a food.
- No alcohol will be displayed or advertised on the premises.
- All alcohol orders must be paid for online or over the telephone in advance of delivery. No cash on delivery.
- A Challenge 25 policy shall be operated at all times. Full name of person ordering the alcohol will be required when placing the order, either online or over the telephone. The delivery driver will then require proof of age ID from the named person upon delivery. No alcohol will be exchanged

without proof of ID. The ID must also match the person's details who have paid for the food order. The ID expected is a Passport, Driving Licence or National Proof of Age Standards Scheme (PASS)

- The Challenge 25 scheme will be advertised through the online ordering system and on delivery leaflets and explained when making a phone order issued by the premises.
- Delivery drivers will be trained to refuse to supply alcohol to customers who appear too drunk, proxy sales, underage sales.
- A comprehensive training package must be provided for delivery staff to ensure compliance with the 4 Licensing Objectives. All Delivery staffed must be trained before delivering alcohol or hold a Personal Licence, the training must take place quarterly and staff must sign documents that they have been fully trained, these documents must be produced at request of any Responsible Authority. The training package will be required to be approved by the Licensing Authority before sale of alcohol commences, any changes to the package must be notified to the Licensing Authority.
- Alcohol supply will be restricted to lager and cider and no single drink will be over 7.5% abv. Alcohol cannot be included for "free" or as part of a "meal deal" and must not be sold under the price of the item indicated on the menu.
- Alcohol will only be supplied to a residential or business address and not to car parks, public spaces or phone delivery collections at the premises.
- Sales taking place between 23:00hrs and 03:00hrs, delivery staff are required to wear Body Cams and record any refusals or incidents.
- An incident book will be kept and record any incidents.
- A list of banned properties shall be maintained and kept fully up to date.
- Alcohol must not be stored in a delivery vehicle.

Should the applicant volunteer that the above conditions be included within the premises' operating schedule in place of those offered as part of this application, the Licensing Authority acting in their role as a 'responsible authority' would withdraw their representation.

Yours sincerely

Steve Pontin
Licensing Officer

Appendix 4

Representation of Aneurin University Health Board



2nd August 2018

Dear Newport Licensing Authority

RE: Representation relating to an application for a variation of a premises licence under section 34 of the Licensing Act 2003 relating to "Yummies Kebabs, Ground Floor 185 Upper Dock Street, Newport, NP20 1DG"

Aneurin Bevan University Health Board, ('the Health Board') acting in its capacity as a Responsible Authority under the provisions of the Licensing Act 2003, is making a representation in support of Newport City Council who have objected to a variation of Premises Licence as detailed above. The Health Board supports the Newport City Council Notice of Objection and endorses the grounds detailed in the letter ref 18/02106/LAPV dated 01-08-2018.

In addition, the Health Board is submitting this representation under the 'Protection of Children from Harm' licensing objective for the following reason:

Underage drinking remains a key concern in Wales. Whilst it is illegal to sell alcohol to persons under 18 years old, in reality, children and young people can and do get hold of alcohol, either via 'proxy sales' or directly themselves.

Evidence¹ shows that a significant minority of children and young people in Wales acquire alcohol via supermarket websites and home delivery services, and test purchasing suggests that age verification policies are not being adequately adhered to.

Given that evidence, the Health Board supports the conditions laid down in the Newport City Council's letter referenced above, should the applicant volunteer that these conditions be included within the premises' operating

¹ On Your doorstep – Underage access to alcohol via home delivery services; Alcohol Concern June 2013

schedule in place of those offered as part of this application, the Health Board acting in its role as a 'responsible authority' would withdraw its representation.

Yours faithfully

A handwritten signature in black ink, appearing to be 'SA', written over a horizontal line.

Dr Sarah Aitken, MBBS FFPH
Executive Director of Public Health

Appendix 4A

A document published by Alcohol Concern/Alcohol Concern Cymru entitled 'On your doorstep'



Alcohol Concern
Making Sense of Alcohol

Alcohol Concern

Alcohol Concern is the national charity on alcohol misuse campaigning for effective alcohol policy and improved services for people whose lives are affected by alcohol-related problems.

Our work in Wales

Alcohol Concern opened its office in Cardiff in August 2009. Alcohol Concern Cymru is focusing on policy and public health in Wales, acting as a champion for alcohol harm reduction.

This project was written by Mark Leyshon and funded by Alcohol Concern.

The survey work was undertaken by RMG: Research and Marketing Group in January and February 2013.

Published by

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Executive summary



Underage drinking remains a key concern in Wales. Whilst it is illegal to sell alcohol to persons under 18 years old, in reality, children and young people can and do get hold of alcohol, either via 'proxy sales' or directly themselves.

Online supermarket grocery services, and late-night and 24 hour alcohol home delivery services, have to date received little attention as a potential source of alcohol for minors. In January and February 2013, an online survey was undertaken, on behalf of Alcohol Concern Cymru, of nearly 1,000 people in Wales aged 14 and 17 years old, to ascertain their usage of such services.

Of the 636 respondents who stated that they had previously bought or attempted to buy alcohol for themselves or someone else, 15 per cent stated they have successfully bought alcohol online, and over two thirds of these said they find it "easy" to do so. Similarly, 13 per cent said they have successfully bought alcohol by telephone from a home delivery service, and again over two thirds of these said it was "easy" to do so. Both online and telephone alcohol delivery services were chosen by many because they regarded them as easy ways to bypass age verification checks, and as a quick and convenient way of acquiring alcohol.

In March 2013, South Wales Police undertook a test purchases operation in Cardiff, using 15 year olds, to find out whether they were able to buy alcohol from major supermarket grocery websites. It was found that alcohol could be purchased online with relative ease, by simply agreeing to terms and conditions that indicated they were 18 years old or over, and being in possession of a debit card and email address. In 44 per cent of the test cases, alcohol was handed to the test purchasers in person with no proof of age requested.

The findings indicate that a significant minority of children and young people in Wales acquire alcohol via supermarket websites and home delivery services, and test purchasing suggests that age verification policies are not being adequately adhered to.

Alcohol Concern therefore makes the following recommendations:

Recommendation 1

Supermarkets and other off-trade retailers that provide an alcohol home delivery service should review their existing age verification procedures at both the point of sale and delivery stages, to ascertain whether they are fit for purpose. Particular attention should be paid to making it clearer to customers that receipt of orders that contain alcohol must be by an adult. Retailers should ensure that delivery staff have been given appropriate training in procedures relating to requesting and identifying proof of age, and implement these procedures as standard.

Recommendation 2

Further research should be undertaken in determining the proportion of children and young people who buy alcohol online and/or by telephone. More widespread test purchasing by police and trading standards is recommended.

Recommendation 3

The UK Government should review the efficacy of current licensing law relating to the home delivery of alcohol, in terms of whether it adequately protects children and young people from alcohol-related harm.

Introduction



The negative health implications of excessive alcohol consumption remain one of the biggest problems facing Wales. Thirty thousand hospital bed days are related to the consequence of alcohol consumption,¹ and the estimated health service cost of alcohol-related chronic disease and acute incidents is between £70 and £85 million each year.²

Particular concern is focused on the dangers of alcohol misuse amongst the young, and it has long-been recognised that controlling children and young people's access to alcoholic products should be at the forefront of interventions. In recent years, this has comprised policing under-age sales, with increased levels of fines for retailers caught selling alcohol to under-18 year olds.

Despite such interventions, evidence shows that young people are able to access alcohol in a variety of ways. However, one means that has received little attention to date is via alcohol home delivery services. This report considers the potential for services offered by bespoke alcohol delivery companies and supermarkets online to become an alternative or additional avenue for minors to source their alcohol. It includes the findings from an Alcohol Concern Cymru commissioned survey of 14-17 year olds in Wales and test purchases undertaken by South Wales Police.

Alcohol and young people



In recent years there have been significant changes in both the way young people in the UK drink and how much they drink. Overall, the proportion of young people who abstain from alcohol is increasing; however, among those who do drink, there seems to have been an increase in alcohol consumption.³

In Wales, underage drinking remains a key concern. Statistics show that:

- 40 per cent of 15 year olds drink alcohol on a weekly basis⁴
- 20 per cent of 15 year olds report having been drunk for the first time at age 13 or younger⁵
- Since 1990 the amount of alcohol consumed by 11 to 15 year olds has doubled⁶
- In 2011-12 there were 830 referrals for treatment of alcohol misuse amongst patients aged 19 and younger⁷

Potential adverse consequences of alcohol consumption by minors include hospital admission, poor school performance, regretted sex and offending,⁸ as well as a higher risk of future alcohol-related problems.⁹ In 2010, the Chief Medical Officer for Wales recommended that children under 15 years of age should avoid alcohol completely, due to evidence that it can harm the developing brain, bones and hormones, whilst also warning that heavy alcohol use amongst older teens can be hazardous to health.¹⁰ Consequently, there is now a general acceptance that children and young people's access to alcohol needs to be robustly regulated.

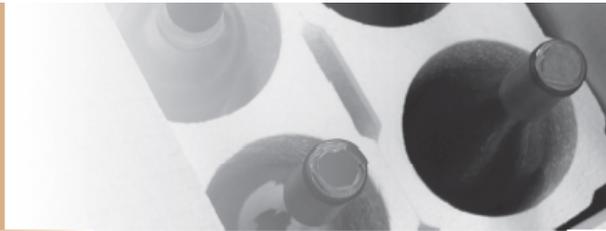
How do young people access alcohol?

The law in the UK states that it is illegal for anyone under 18 to buy, or attempt to buy, alcohol in a pub, off-licence, supermarket or other outlet or for anyone to buy alcohol for someone under 18 to consume in a pub or public place. (The only exception is where young people aged 16 or 17 can drink beer, wine or cider with a table meal if it is bought by an adult and they are accompanied by an adult.)¹¹ Likewise, a person commits an offence if he sells alcohol to a child under 18.¹²

In reality, children and young people under 18 in Wales can, and do, get hold of alcohol. Indeed, a survey of young people's use of alcohol home delivery services in Wales, on behalf of Alcohol Concern Cymru in 2013, found half of the respondents stating they find it "easy" to purchase alcohol (see more below). Other research has shown that this age group most commonly access alcohol through 'proxy sales', that is, via their parents (with or without permission) and, especially in the case of older teens, from their friends or asking another adult to buy it for them.¹³

However, significant numbers of under-18s directly purchase their own alcohol. A recent study of nearly ten thousand 15-16 year olds across North West England, for example, found over a quarter (28%) of drinkers reporting that they had purchased the alcohol themselves, 44% of whom stating they had done so without their age ever being checked by alcohol sellers.¹⁴

Age-checking



Historically, the policing of under-age alcohol sales by regulatory authorities has been uncoordinated, but the last decade has seen an increase in age-checking practices and awareness-raising aimed at ensuring that retail staff are adhering to the necessary regulations and processes.¹⁵ Research from Serve Legal and Plymouth University suggests that under-age checks now take place around three out of every four times a young person attempts to buy alcohol.¹⁶

In 2009-10 in Wales, Trading Standards organised 1,121 attempts by young volunteers to purchase alcohol, in person from off-trade retail premises, 147 (13%) of which resulted in a sale. Proof of age was found to have been requested in 89% of the attempts to purchase alcohol. Petrol filling stations were found to be the retailers most likely to sell alcohol; next were 'other traders' (which included post offices, discount retailers, a video rental store and fast food outlets), followed by newsagents and convenience stores.¹⁷

In the on-trade (pubs and clubs), 216 attempts made by young volunteers, 91 of which resulted in a sale (42%). Proof of age was requested in only 55% of all attempts to purchase alcohol.¹⁸

Various schemes and initiatives have been developed and adopted that represent good practice in alcohol retailing. Perhaps the most relevant to tackling under-age sales is 'Challenge 21', which was developed by The Retail of Alcohol Standards Group in 2006 to provide staff serving alcohol with a wide margin of protection to ensure that alcohol is not sold to anyone under 18, by making it a policy that all customers who look as though they are under 21 years old are asked for proof of their age when attempting to purchase alcohol. 'Challenge 25', launched in 2009, pushes this margin of protection even wider and has been adopted by large sections of the off-trade, including the big supermarket chains, although much of the on-trade continues to adopt the Challenge 21 policy. (Interestingly, recent changes to Scottish licensing law have seen a blanket Challenge 25 policy adopted throughout Scotland.)

Alcohol home delivery services



"Today the availability of alcohol is beyond comparison to previous generations. From corner store to supermarket, pub, off-licence and petrol station, wherever you are in this country alcohol is within the reach of all... it is against this background that home delivery services have proliferated."

Allan Brown, former lead on drug prevention and education for Cheshire Constabulary (2009)¹⁹

As consumers increasingly embrace the internet as a means to acquire goods, many of the major supermarkets now provide a home delivery service for groceries (and other goods) via their online websites. Indeed, the IDG Retail Analysis estimated in 2011 that, by 2015, the value of the internet grocery market will have doubled, with online sales set to reach £9.9 billion, and younger adults in particular expected to increase their use of these supermarket's home delivery services.²²

In recent years, there has been a noticeable shift in where consumers choose to consume alcohol. Research undertaken by Alcohol Concern in Wales in 2010 found that 50 per cent of drinkers said they now only drink alcohol at home, and an additional 21 per cent said they drink equally at home and in the pub.²⁰ This rise in the popularity of home drinking is likely a result of a combination of factors, most notably a fear of alcohol-related disorder and violence associated with town and city centres after dark and an increase in the availability and affordability of alcohol in the off-trade, with growing numbers of supermarkets offering heavily discounted alcohol. 46 per cent of drinkers in Wales have said they drink at home because it has become cheaper.²¹

Perhaps unsurprisingly, as more of us choose to drink at home, the marketplace has adapted to meet this demand. In particular, the presence of late-night and 24-hour alcohol home delivery services, whereby alcohol can be ordered either online or via telephone (in the latter case, often at marked up prices compared to the supermarkets), in larger towns and cities, is now commonplace across much of the UK, either as bespoke businesses or additional services offered by takeaway restaurants. In March 2013, for example, South Wales Police found at least four businesses in Cardiff to be operating an alcohol home delivery service, two of which were set up solely for the purpose of selling alcohol (see more below). A brief internet search shows this situation is likely replicated in large urban areas across the country.

Alcohol Concern Cymru's study



As shown above, some progress has been made in making it more difficult for underage young people to purchase alcohol for their consumption via public houses and in-store at supermarkets and off-licence venues. Alcohol Concern was interested to discover whether, perhaps as a consequence of this progress, minors are turning to alcohol home delivery services as an alternative means through which they acquire alcohol.

In January and February 2013, a short, anonymous online survey was completed by 976 people in Wales between the ages of 14 and 17 years old. The survey was advertised on various social media platforms, including Facebook and Twitter. It was also publicised with various schools, colleges and youth organisations across the country.²³ A limitation of the survey is that it was conducted via the internet and therefore excluded young people without internet access.

636 (65 per cent) of respondents stated that they had bought or attempted to buy alcohol for themselves or someone else. 26 per cent of these respondents were aged 14-15 years old and 74 per cent were aged 16-17 years old. The results below relate to these 636 respondents:

1. Alcohol purchases in general

- 50 per cent of respondents stated that they find it generally find it "easy" to purchase alcohol, including 24 per cent stating they find it "very easy". Only 15 per cent regarded it as "difficult".

2. Buying alcohol online

- 15 per cent of the respondents stated they have successfully bought alcohol online, whilst a further seven per cent have tried to buy alcohol online but were unsuccessful. A greater proportion of respondents from the 14-15 years old age group had successfully purchased alcohol online (21 per cent) than respondents from the 16-17 years old age group (13 per cent).

- Of those who have successfully bought alcohol online, 66 per cent said they had last done so within the past week and 22 per cent within the past month.
- Over two thirds (68 per cent) of respondents said that they find it "easy" to purchase alcohol online, including 43 per cent who regard it as "very easy".
- Those respondents who were successful in ordering alcohol online were asked their main reasons for purchasing alcohol in this way. The most common reasons cited were because it is easy to bypass ID checks (66 per cent) and it is quick (52 per cent).

3. Buying alcohol by telephone

- 13 per cent of respondents stated they have successfully bought alcohol by telephone from a local home delivery service, whilst five per cent have tried but were unsuccessful. A greater proportion of respondents from the 14-15 years old age group had successfully purchased alcohol by telephone (16 per cent) than respondents from the 16-17 years old age group (12 per cent).
- Of those who have successfully bought alcohol by telephone, 48 per cent stated they had done so within the past week and 13 per cent within the past month.
- Over two thirds (68 per cent) of respondents said that they find it "easy" to purchase alcohol via telephone, including nearly half (49 per cent) who find it "very easy".
- Those respondents who were successful in ordering alcohol by telephone were asked their main reasons for purchasing alcohol in this way. The most common reasons cited were because it is quick (63 per cent) and convenient (52 per cent).

Test purchases



In tandem with our online survey of young people, on 23 and 30 March 2013, test purchases on alcohol home deliveries from some of the major supermarket retailers, were undertaken by South Wales Police in Cardiff, using test purchasers aged 15 years old.

In all cases, the test purchases were instructed that they could lie about their age during the online or phone transaction. In cases where alcohol was subsequently delivered, if the test purchasers were asked by the deliverer for identification to verify age, the test purchasers would state they had none, and if asked their age, they would correctly state that were 15 years old.

A total of nine test purchasers were made from five supermarkets, with four supermarkets being tested more than once.

At the point of sale i.e. the online transaction, the following issues were noted:

- Purchasers were asked to agree to terms and conditions of sale, which included being of a legal age to purchase alcohol, although in all but one case, these were displayed on a separate webpage. In one case, purchasers were specifically asked to tick a box to confirm that they were 18 or older. In all cases, the system relied entirely on the honesty of the purchaser about their age.
- Purchases could be made with any debit or credit card, and the card details did not need to relate to the e-mail address given during registration or the delivery address. Where confirmation was requested as to whether the delivery address matched the billing address, this could be confirmed by the purchaser even when the two addresses given were in fact different.

Major supermarket's home delivery policies:	
Asda	If there is no one at the delivery address who is 18 years of age or over, we'll leave notification of our visit and will return the goods to our store. We'll then contact you to arrange re-delivery at a convenient time. Customers who are lucky enough not to look 25 or over will be asked by our driver to provide proof of age to show that they are 18 or over. Orders can only be delivered to persons over 18 years of age to ensure that we comply with laws regarding the sale of age-restricted goods e.g. alcohol. ²⁴
The Co-operative	Due to licensing restrictions our home delivery service is only available to persons over the age of 18. Proof of identity may be requested on delivery. ²⁵
Sainsburys	You or someone aged 18 or over on your behalf must be available to receive, inspect and sign for your grocery order. We will not be able to leave goods unattended under any circumstances. ²⁶
Tesco	All goods must be signed for on delivery by an adult aged 18 years or over. Tesco follows a "Think 21" policy, so if the person receiving the goods looks under 21, proof of age will be requested. If proof is not available and there is no-one of that age at the address when delivery is being made, the goods may be retained by the driver. ²⁷
Waitrose	Deliveries can only be left with someone over the age of 18. ²⁸
Ocado	You must be 18 years old or over and must have completed the registration process in order to participate in our service. If you have ordered alcohol from us and cannot be at home at your selected delivery time, it is your responsibility to ensure that a suitable person is there to receive the order. ²⁹



At the point of receipt, it was found:

- In four of the nine cases (44%), alcohol was handed to the underage test purchasers by delivery drivers with no proof of age requested.
- One supermarket failed on both dates test purchases were conducted.

Aside from the supermarkets, South Wales Police obtained details of 11 other businesses offering home delivery of alcohol in Cardiff. Of these, a number had either ceased trading, no longer had a license to sell alcohol, or were not contactable, for example the phone number provided was no longer in use. A total of four businesses were found to be operating a home delivery service and contactable:

- Two were takeaway restaurants selling primarily food, and not selling alcohol unless food was also bought. Both declined to deliver unless proof of age could be shown at the point of delivery.
- The remaining two were purely alcohol delivery services. One opened too late in the evening for it to be appropriate to use a 15 year test purchaser; the other declined to make a delivery unless proof of age could be shown.

South Wales Police also noted that the 11 businesses initially identified may also be a small proportion of the alcohol delivery services operating in the Cardiff area. Any licensee holding an off-trade licence, that is, a license to sell alcohol for consumption off their premises, could in theory offer to deliver alcohol. Licensees are requested to advise the licensing authority (in this case the City and County of Cardiff) if they are operating such a service, but are not obliged to under law.

The relevant law relating to home delivery of alcohol in England and Wales

Licensing Act 2003: Section 151

(1)(a) A person who works on relevant premises in any capacity, whether paid or unpaid, commits an offence if he knowingly delivers to an individual aged under 18 alcohol sold on the premises

BUT

(4) The above does not apply where – (a) the alcohol is delivered at a place where the buyer or, as the case may be, person supplied lives or works.

To illustrate, where a child answers the door and signs for the delivery of his parent's order at home, no offence has been committed under Section 151.

Discussion and recommendations



“Most underage drinkers realise that it’s now not that easy to walk into a shop to buy alcohol. This factor, added to more relaxed attitudes toward alcohol consumption by parents and relatives, added to the growth of the internet, is creating a perfect storm in the battle against underage drinking.”

Dr. Adrian Barton, Plymouth University (2012)³⁰

The results from our survey of young people aged between 14 and 17 years old indicate that home delivery services provide a source of alcohol for underage drinkers in Wales. They also tally with findings from two international research studies which have previously raised concerns about children and young people’s ability to acquire alcohol from home delivery services via telephone, and more recently, the internet.^{31 32}

Our findings also suggest that it is younger age groups, that is, children well below the legal drinking age, who source at least some of their alcohol by these means. Alcohol home delivery services are a unique form of alcohol availability in that the sale of alcohol is achieved with relative anonymity and privacy, away from traditional commercial outlets.³³ Respondents to our survey expressed their perception that these services offer less robust age verification practices, and provide a quick and easy way to acquire alcohol, especially for younger teenagers who would likely have greater difficulty in buying alcohol in person from in-store at a supermarket or a public house.

Failures highlighted by South Wales Police’s test purchasing exercises provide further evidence that young people are able to acquire alcohol in this way. These failings, whereby 15 year old test purchasers were able to buy alcohol for themselves, relate to online orders made at supermarket websites and subsequently delivered to their chosen address. Unlike the supermarkets, the other businesses in Cardiff identified as offering home delivery of alcohol met the required standards for age verification and therefore did not result in completed transactions. However, due

to practicalities, test purchasing was unable to be conducted with late-night only alcohol delivery services and it is clear that more extensive research is required to establish a fuller picture on whether age verification failings are an issue across the board or relate solely to supermarket delivery services.

Alcohol Concern Cymru has previously highlighted concerns about the robustness of age verification processes online relating to the promotion of alcohol, in particular how merely entering a fictitious date of birth or ticking a confirmation of age box enables underage users to access content on alcohol brand websites intended for adults only.³⁴ The test purchasing exercise found similar mechanisms on the supermarket delivery websites; purchases could seemingly be made by under-18s merely by ticking a box to demonstrate their agreement to general conditions of sale, which included a section on the legal drinking age, and being in possession of a debit card. South Wales Police concluded that, in all cases, the online component of the system relied entirely on the honesty of the purchaser about their age.

As alcohol industry representatives have been keen to express in the past, these online age verification processes are the best available standards,³⁵ and these issues go much wider as to how children and young people can be better prevented from accessing adult products in general. This suggests that, in order to provide relative certainty that alcohol is being supplied to an adult, robust age verification processes must be implemented at the delivery stage of the transaction. However, in 44 per cent of test cases, alcohol was handed to underage test purchasers by supermarket delivery drivers with no proof of age requested.

Interestingly, and as highlighted in this report, delivering alcohol to a child or young person at home does not appear to constitute a breach in licensing law, providing it has been ordered by an adult. On the other hand, there is a question of whether such activity goes against the spirit of the licensing legislation; one of the four objectives of the Licensing Act 2003 concerns protecting

children from harm, which is thought to encompass protecting under-18s from moral, psychological and physical harm.³⁶

The Mandatory Licensing Conditions, in force since 2010, provide that companies that sell alcohol remotely should operate an age verification policy.³⁷ As also shown above, all of the major supermarkets with an online grocery service, explicitly note on their websites that goods can only be delivered to an adult aged 18 or over. Presumably a key reason that this is in place is to ensure that any adult-only products that are part of the order from the supermarket, including alcohol, are only delivered to such persons. It would appear from the test purchases exercise, therefore, that supermarkets are failing to adhere to their own policies and consequently enabling children and young people to be in receipt of alcohol that they might then consume themselves.

In practice, what this means is that a child or young person with access to, or ownership of, a debit card and an email address, and who agrees with the terms and conditions of sale on the relevant website, can order quantities of alcohol from a supermarket and be in receipt of it the next day. A perfectly conceivable scenario would be where an under-18 orders alcohol from a supermarket online for a party planned for the following night. A significant minority of teenagers have told us that they have chosen to buy alcohol in this way within the past week because, in doing so, they are more likely to be able to avoid age checks.

Another, and perhaps more complex scenario, is where an adult has ordered alcohol from a supermarket online, perhaps as part of a larger grocery shop, and then has arranged for their teenage son or daughter to receive the goods the next day on their behalf. Legally, it would appear that supermarket delivery drivers are perfectly entitled to hand over goods which include alcohol to a minor in such a case. Morally, however, there is a question of whether this is appropriate behaviour given that such a child or young person would be unable to purchase the alcohol themselves.

This returns us to the argument that alcohol is not an ordinary commodity like other household goods, but instead a potentially addictive and harmful substance, particularly for the young, and should be treated and sold as such.

Alcohol Concern makes the following recommendations:

Recommendation 1

Supermarkets and other off-trade retailers that provide an alcohol home delivery service should review their existing age verification procedures at both the point of sale and delivery stages, to ascertain whether they are fit for purpose. Particular attention should be paid to making it clearer to customers that receipt of orders that contain alcohol must be by an adult. Retailers should ensure that delivery staff have been given appropriate training in procedures relating to requesting and identifying proof of age, and implement these procedures as standard.

Recommendation 2

Further research should be undertaken in determining the proportion of children and young people who buy alcohol online and/or by telephone. More widespread test purchasing by police and trading standards is recommended.

Recommendation 3

The UK Government should review the efficacy of current licensing law relating to the home delivery of alcohol, in terms of whether it adequately protects children and young people from alcohol-related harm.

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