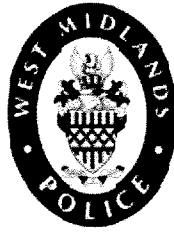




Evidence for the  
Licensing Hearing for  
La Bufet  
136 Boulton Road

RESTRICTED DOCUMENT



CONTENTS

Statement of Ps Wareham.....	1-3
Statement of PC Rohomon.....	4-7
Police log 7/5/19 .....	8-16
Photos .....	17-19
Decision Sub Committee B 12/3/19.....	20-21
Alcohol Licensing – Case Law ... ..	22-28

**WITNESS STATEMENT**Crime Number: **20BW/284519B/18****Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**URN 

--	--	--	--

Statement of: **ANDREW WAREHAM SGT 7181** .....Age if under 18: **over 18**..... (if over 18 insert 'over 18')Occupation: **POLICE SERGEANT**.....

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: Andrew Wareham 7181 .....

Date 17<sup>th</sup> July 2019 .....Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am Police Sergeant 7181 Wareham of West Midlands Police, currently posted to the Soho Road Neighbourhood Police Team and based at Summerfield Police station, Winson Green, Birmingham.

I have been a Police officer for 16 years and have been in my current posting as neighbourhood policing Sergeant for the Soho Road Neighbourhood team since February 2019. I Manage a small team of Police Constables and Police Community Support Officers, I am responsible for dealing with issues of crime, anti social behaviour and reassurance with the residents and traders in the area. This statement is provided based on my own knowledge and belief and is made in response to the license application made by the owners of 136 Boulton Road, Handsworth.

**Overview of area:**

The Soho Ward is an area on the borders of Central Birmingham and Smethwick, approximately 2 miles north west of Birmingham city centre on the A41. Soho covers an area of 4.8km squared and is a very ethnically diverse area. The Soho Road itself stretches for approximately 1 mile and has hundreds of independent retailers and is well established. Examples of such establishments are jewellery shops, clothing shops, financial services, food outlets and restaurants. During recent years the Soho road business improvement district (BID) has become a key partner in ensuring we address the key issues that are associated with a busy high street. To ensure better partnership working we have set up a neighbourhood tasking process where key statutory partners such as Birmingham city council, Soho BID, waste management, environmental services and third sector community groups such as residents associations and street-watch meet on a monthly basis to discuss issues and attempt to work in partnership to address these concerns. Boulton Road is a main arterial route linking the Soho Road to Winson Green.

**Issues identified:**

The priorities on the Soho Ward include begging, Anti-social behaviour, street drinkers and prostitution. Sex workers are often seen on a daily basis from 4pm loitering for the purpose of prostitution. They are drug and alcohol dependant and often refuse to engage with the Police. There are high levels of crime in the area including business robberies and street robbery. As a result of alcohol and drug addiction, there are high levels of violent offences including one incident recently whereby a shop keeper was stabbed in the neck with a knife on the Soho Road. There are high levels of shop lifting and business burglaries that are often committed to finance their alcohol and drug addiction.



The area of Soho road, Boulton Road, Holyhead Road, villa road and Rookery road have become priority locations and need a robust policing response on a daily basis. As a Neighbourhood Sergeant, if I fail to ensure officers are patrolling those areas, the consequence will be a significant increase in crime. I have reviewed all of the crime across the Soho Ward and can confirm that the majority occur around licensed premises. This is often fuelled by alcohol or drugs and is concentrated in and around convenience stores and late night refreshment houses. The large number of licensed premises selling cheap alcohol and counterfeit cigarettes help in making the area less desirable to attend and live.

**Action taken:**

Through our neighbourhood tasking process we have attempted to tackle these rising concerns. A street-watch group has been created made up of local residents which contribute weekly patrols in tackling the prostitution, litter, street drinking and begging issues. A few months ago a review of the officer coverage on the Soho Road was made and at that time both Neighbourhood Policing Teams were on identical shifts. It was concluded that the area would benefit by changing the shift of the Soho Road team so that it offered a more consistent Police presence in the area. Although this has had a positive impact initially, we have still seen an increase in Robbery, alcohol and drug related offences.

The Soho Road Team have had heavy involvement with three licensed premises on the Soho Road who have been involved in allowing street drinking and drug dealing to take place in and around their premises. Examples are the 'Cross Guns Public House' situated at the junction of Boulton Road and Soho Road and the 'Moreish Restaurant' which is also on the Soho Road near to the junction with Boulton Road. Both of these locations cause a high level of demand in relation to street drinkers and alcohol related ASB. My team have conducted multi agency operations to tackle the sale of counterfeit cigarettes and alcohol in this area.

We have discussed the impact and context of a cumulative impact zone to local businesses and some residents, they are fully supportive.

**Consequences of these issues:**

Despite the best efforts of our policing teams and partnership working crime continues to rise by around 20% each year and the impact is that communities in Handsworth are feeling less safe. I believe that if we continue to grant license applications, then this will have a detrimental effect on the reputation of Handsworth and the Soho Ward in particular.

I have come to the conclusion that despite the best efforts of West Midlands police and our key partners we are not in a position to reduce crime unless other approaches are adopted such as introducing a cumulative impact policy which will help us get a degree of control of licensed premises in an already saturated area such as Handsworth.

**136 Boulton Road, Handsworth:**

I have reviewed the impact licensed premises have had in our locality and we have responded to 903 incidents to these premises which have resulted in 249 crimes being reported in the last 12 months. This is not an insignificant number. In the immediate vicinity of Boulton Road, we have 32 licensed premises which have contributed to 498 incidents to those premises and 118 crimes being recorded. I can produce this spreadsheet as Pol. Ref. (AW/1-17/07/19), Exh. No ( ).

On 07/05/19 log 1443 was created by West Midlands Police in response to a parent reporting that her 12 month old baby had been taken A&E following the consumption of anti-biotics purchased from the convenience store at 136 Boulton Road. The summary of the log is that the parents purchased some medicine called Augmentin ES - 600mg for £21.50 over the counter without prescription in powder form. They were told to mix the contents with water themselves before giving a single dose to their 12 month old baby to treat what they thought was an infection as the medicine is an anti-biotic. They have then attended City Hospital when the child didn't improve (he had cold like symptoms and a high temperature later diagnosed as the common cold) and have produced the

*AM* 7181



bottle to consultant [REDACTED] who has then become worried, not in terms of safeguarding of the child as she was happy with the parents explanation and did it in the best interests of their child, but for greater public safety issues.

[REDACTED] has explained that the medicine itself is a bone fide medical product but is not available for sale in the UK at all and is only available in Europe/Romania (actually where it can be brought over the counter), therefore it is not a prescription drug. [REDACTED] also explained that whilst on this occasion, with this particular child there was no danger, but stated that the product contained Penicillin that can be deadly if someone is allergic to it. Under the Human Medicines Regulation (HMR) 2012, it is a criminal offence to sell or supply medicines without an appropriate license. This matter is still being investigated by MHRA. The fact that these premises can knowingly sell medicine over the counter that is not legal in the UK and by untrained/unlicensed persons is extremely worrying and raises my suspicions with regards to whether they would try and sell illegal alcohol and cigarettes too. I can produce the above log as Pol. Ref. (AW/2-17/07/19), Exh. No. ( ). I have also taken three photographs of street drinkers on Grasmere Road, Handsworth which is in the vicinity of Boulton Road and highlights the issues that the Police are having in the area with alcohol related ASB. The photos show the litter that is left behind by the street drinkers and this is a daily occurrence in the area. I can produce the 3 x photographs as Pol. Refs. (AW/3- 17/07/19), (AW/4- 17/07/19) and (AW/5- 17/07/19), Exh. Nos. ( ), ( ) and ( ).

In light of all of the above, I feel it is right and necessary to object to the license application made by the owners of 136 Boulton Road. I feel it is vital in helping to safeguard the living conditions of local residents. Soho is a vibrant place to live, indeed that is why people choose to live there, but there has to be reasonable checks in place to stop the balance tipping irredeemably in favour of commercial gain at the detriment of quality of life for local residents.

The following comment is made by Lionel Idan, the Deputy Chief Crown Prosecutor for the West Midlands Region. "Community Impact Statements provide important relevant and useful information about the impact a crime or a particular incident is having on a particular community. These statements illustrate the concerns and priorities of a specific community over a set time period and ensure that all law enforcement agencies are better informed when making decisions in each case. Such decisions may include charging decisions, sentencing offenders, restorative justice and reparation interventions. These statements therefore play a key role in enabling communities to have a stronger voice in the criminal justice system as a whole." Lionel Idan.

Signature: Andrew Wareham SGT 7181



Signature witnessed by: .....

**WITNESS STATEMENT**

Crime Number:.....

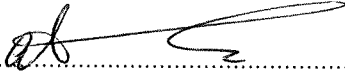
**Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**URN 

--	--	--	--

Statement of: Abdool Rohomon .....

Age if under 18: +18 ..... (if over 18 insert 'over 18') Occupation: Police Officer.....

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

Signature:  ..... Date: 24/7/19 .....

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

I am the above named person currently a serving Police officer within West Midlands Police with 28 years of experience. For the last 16 years I have been a specialist Licensing Officer covering Birmingham. I sit on the National Police Chief Council sub licensing group, and hold qualifications in risk management, risk assessment, inspection of licensed premises, science of people movement and level 2 BiiAb.

This statement is in relation to a licence application made by a Mr Stefan Mustatea for a new licence for a premises called La Bufet, 136 Boulton Road, Birmingham. The application seeks to allow the sale of alcohol for consumption off the premises between the hours of 1000 x 2200.

West Midlands Police have objected to this application and the reasons for this objection are described in pertinent detail within the statement of Sergeant Andrew Wareham.

There are several legal points that I wish to explain to the committee around the substantial weight West Midlands Police seek to place on this evidence and how this is supported within the Licensing Act 2003.

The section 182 guidance gives clear guidance on evidence provided by any responsible authority. At section 9.12 it states " Each responsible authority will be an expert in their respective field, and in some cases it is likely that a particular responsible authority will be the licensing authorities main source of advice in relation to a particular licensing objective....." it then goes on to say " The Police should usually therefore be the licensing authorities main source of advice on matters relating to the promotion of the crime and disorder licensing objective". At the end of this section it does state "it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing"

With this in mind I am asking the committee to carefully consider the evidence from Sgt Wareham and what he has produced. Firstly, this is an officer who has first-hand knowledge and experience of the local area, he runs a small team that deal with the issues in the area. This is a strong indication of the level of knowledge he has as the officers are tasked to deal with issues that come to them. The evidence of alcohol related crime and disorder and

ASB is well documented in his statement and the reason he can give such detail on it, is again due to the fact that they have to deal with it, and so this is strong relevant evidence, in terms of the issues in the area. This is supported with physical photographic images of the alcohol related problems in the area. The context of the area and its problems are very important, especially as the licensing act states that each application is determined on its own merits.

This is shown again through the Section 182 guidance and also relevant case law. Section 8.41 of the 182 guidance is around the steps to promote the licensing objectives. This section shows that the guidance expects applicants to have knowledge of the local area when describing the steps to promoting the licensing objectives. Firstly and this is not uncommon there is no reflection of the issues in the area contained within the application.

The operating schedule has generic wording that actually have no bearing as conditions and mean very little. For example the operating schedule says –

“The Designated Premises Supervisor and their staff will at all times remain aware of their responsibilities for the prevention of crime and disorder on the premises and demonstrate a responsible attitude to the marketing and sale of alcohol. Any person who appears drunk /aggressive will not be permitted on the premises. No consumption of alcohol will be permitted inside the premises”

If this is broken down there is no detail in what their responsibilities are, there is no detail in what is meant by “a responsible attitude to the marketing and sale of alcohol” so in effect these are pointless and unenforceable conditions. The schedule then goes on to replicate of parts of the legislation with conditions, such as no drunk person on premises or allow alcohol to be consumed on the premises. The guidance is clear that conditions should not replicate what is contained in other legislation.

So the applicant has not shown any knowledge for the area, which has easily be shown by the officer to be easily obtainable.

The application also states that they have a strong management and procedures to encompass the 4 licensing objectives. I would like to draw the committee’s attention to the incident that happen on the 7<sup>th</sup> May 2019. The incident is described by Sgt Wareham and the Police log is also attached but it is clearly evident that they do not have a strong management team, they are not aware of British law and on this occasion administered a drug to a minor that could have had serious consequences.

The circumstances are that on the 7<sup>th</sup> May 2019 West Midlands Police were called by a hospital, as the parents of a child had presented them at hospital suffering from side effects of goods they had bought over the counter. The drug that was bought over the counter is not available in the UK but available in places like Romania and Europe, it comes in powder form and needs to be mixed by a professional pharmacist. It is very concerning that these premises were willing to sell goods that should not be sold in the UK, and also in a form that should normally be mixed by a professional trained pharmacist. It does pose the question that if they are prepared to do this and have products to sell that are not authorised in the UK what would they do with alcohol.

This is still being investigated but I will draw the committee's attention to the point that it is not for the committee to determine any guilty but to look at the merits of what happened and whether these undermine the licensing objectives. It is the opinion of West Midlands Police that these premises have already shown that they cannot be trusted to uphold the licensing objectives.

I would like to draw the following case law and guidance issued, to the attention of the committee this has been obtained through the Home Office and Gov.uk website. I have included it in the bundle and it is labelled Alcohol Licensing: using case law.

No 3 is Hope and Glory Public House v City of Westminster Magistrates' Court and others. The guidance states – "the decision is important because it illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation. Confirms that this can include the impact that licensable activities have on a range of factors such as crime, the quality of life for residents and visitors to the area, and demand for licensed premises"

It is important to note that this is a direct lift from the guidance and the interpretation of what the case means is made by the Home Office, who issue all the guidance and advice for practitioners and enforcers alike.

This case shows that committee can look to the impact already in the area, which we have shown is already having a detrimental impact on residents with street drinkers, rubbish and alcohol on the street, prostitution and other crimes.

In Daniel Thwaites plc v Wirral Magistrates' Court and others – the guidance very helpfully indicates the role responsible authorities have in providing information to decision makers to contextualise the issue.

There is another very poignant paragraph which states –

"this case is sometimes misconstrued as requiring decisions to be based on "real evidence", and that conditions cannot be imposed until problems have occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications"

This paragraph is critical to the position of West Midlands Police in relation to this application. We have shown real evidence of the issues in the area, evidence of the fact that the premises are prepared to sell drugs not authorised for sale in the UK, so these representations should be given considerable weight and the application refused.

In East Lindsay District Council v Abu Hanif – it was the decision of the court and reaffirmed the principle that Responsible Authorities need not wait for the licensing objectives to be undermined before objecting to a licence being granted.

All this case law is significant to the objection of West Midlands Police and supports the position of us, and guides the committee that they do not need to wait for issues, and place significant weight to the Police evidence.

This argument is one I pursued in another application for a premises on the Soho Road (not far from this location)



and the decision of Sub Committee B on 12<sup>th</sup> March 2019 was to refuse the application. West Midlands Police are seeking that the committee refuse this application on the basis of the evidence contained in the statement from Sgt Wareham, this statement, the guidance under Section 182 and the relevant case law.

Signature: 

Signature witnessed by: .....

OFFICIAL (when complete)

**Witness contact details**

URN : / / /

Name of witness: Mr/Mrs/Ms/Miss/Dr .....

Former name.....\*Email address: .....

\*Email address needed for correspondence i.e. support material to be sent

Address.....Postcode: .....

Preferred telephone number:..... Alternate telephone number:.....

Agreed means of contact and frequency : .....

Gender..... Date and place of birth..... Ethnicity Code (16+1).....

**DATES OF WITNESS NON-AVAILABILITY:** (12 months) .....

AW / 2 - 17/07/19

Incident [REDACTED] of the 07/05/2019

Log Details CLOSED	
Urn	[REDACTED]
Date	07/05/2019 15:26
Owner	BVSP1
Initial Classification	CRIME
Response	P3 PRIORITY INV
Last Updated	10/05/2019
Reported by	TELEPHONE CALL [REDACTED]
Brief Incident Details	CHILD PRESENTED AT A&E PARENTS HAVE BOTTLE OF ANTI BIOTICS BOUGHT OVER THE COUNTER AT A SHOP ON ROOKERY ROAD, ROMANIAN SHOP IN HANDSWORTH. CHLD ATTENDINTG WAS NOTHING TO DO WITH THE DRUGS
Location of Incident	
Feature	[REDACTED] SE, 136
Street	BOULTON ROAD
Area	HANDSWORTH, BIRMINGHAM, WEST MIDLANDS
Postcode	B21 0RE
Beat	BWJC
OSGR	404293 289157
Location Ref	2/43/14/89
Caller	
Name	[REDACTED]
Title	[REDACTED]
House	CITY HOSPITAL NHS TRUST, DUDLEY ROAD HOSPITAL, MAIN HOSP
Street	DUDLEY ROAD
Area	WINSON GREEN, BIRMINGHAM, WEST MIDLANDS
Telephone Number	[REDACTED]
Ex-Directory	N
Warning Markers	
Crime Number	
Status	CLOSED
Date Closed	10/05/2019
Result	FURTHER ENQUIRIES/OBS
Final Incident Type	PUBLIC SAFETY/WELFARE SUSPICIOUS CIRCUMSTANCES
Closing Qualifiers	NONE
Free Text	
Number of Arrests	0

Log Updates				
Date	Time	User	Terminal	Text
07/05/2019	15:26	57073	WBCHD4	CHLD ATTENDINTG WAS NOTHING TO DO WITH THE DRUGS
07/05/2019	15:26	57073	WBCHD4	HOSPITAL HAVE MOMS DETAILS IF NEEDED BUT SHE MIGHT
07/05/2019	15:26	57073	WBCHD4	NOT BE TERRIBLY COOP. SHE PAID £21.50 FOR THESE

Date	Time	User	Terminal	Text
07/05/2019	15:26	57073	WBCHD4	DRUGS OVER THE COUNTER, WRONG DOSAGE AND CHILD DIDNT
07/05/2019	15:27	57073	WBCHD4	NEED THEM ANYWAY. NO ALLERGY CHECKS SO CONSEQUENCES
07/05/2019	15:27	57073	WBCHD4	COULD HASVE BEEN VERY SERIOUS
07/05/2019	15:27	57073	WBCHD4	.
07/05/2019	15:28	57073	WBCHD4	LOTS OF SHOPS ON ROOKERY ROAD BUT FROM GOOGLE SEARCH
07/05/2019	15:29	57073	WBCHD4	MIGHT BE [REDACTED]
07/05/2019	15:29	57073	WBCHD4	[REDACTED]
07/05/2019	15:29	57073	WBCHD4	.
07/05/2019	15:29	57073	WBCHD4	[REDACTED] ROOKERY ROAD
07/05/2019	15:29	57073	WBCHD4	.
07/05/2019	15:30	57073	WBCHD4	P3 POTENTIAL RISK TO PUBLIC BY UNAUTHORISED SALE OF
07/05/2019	15:30	57073	WBCHD4	PRESCRIPTION DRUGS
07/05/2019	15:30	57073	WBCHD4	Incident Routed to Radio Operators
07/05/2019	15:30	57073	WBCHD4	Route To All Operators
07/05/2019	15:30	50377	BWR3	Incident Transfer Accepted by terminal BWR3
07/05/2019	15:31	50377	BWR3	IS THE MOM SAYING THAT THESE ANTIBIOTICS ARE FOR TEH
07/05/2019	15:31	50377	BWR3	CHILD THEY HAVE?
07/05/2019	15:41	50377	BWR3	Incident Switch to Terminal WBCHD4
07/05/2019	15:41	50377	BWR3	AS
07/05/2019	15:41	50377	BWR3	Incident Switch
07/05/2019	15:44	57073	WBCHD4	Incident Switch Accepted By WBCHD4
07/05/2019	15:45	57073	WBCHD4	MOM WENT INTO SHOP AND BOUGHT THE ANTIBIOTICS FOR
07/05/2019	15:45	57073	WBCHD4	HER CHILD WITHOUT A PRESCRIPTION AND INCORRECT
07/05/2019	15:45	57073	WBCHD4	DOSAGE INSTRUCTIONS WERE GIVEN
07/05/2019	15:50	50377	BWR3	ALL NHT COMMITTED WITH PICS..SHOULD BE ON AT 8AM
07/05/2019	15:50	50377	BWR3	WEDNESDAY 08/05#
07/05/2019	15:50	50377	BWR3	Defer to BWR3 Date 08/05/19 Time 0800
07/05/2019	15:50	50377	BWR3	TO TRY NHT
07/05/2019	16:28	53123	BVSD11	Changed Class From MISCELLANEOUS
07/05/2019	16:28	53123	BVSD11	Amending Incident Type
08/05/2019	02:11	58386	BWR3	Wednesday 08 May 2019
08/05/2019	08:00	Syscon	SYSCON3	Defer Time Reached
08/05/2019	11:21	52354	BWR3	Incident Deferral Accepted by terminal BWR3
08/05/2019	11:24	52354	BWR3	BWS32 WILL VIEW LOG



Date	Time	User	Terminal	Text
08/05/2019	12:18	2858	IncApp	FROM PS MCGRATH TO [REDACTED]
08/05/2019	12:18	2858	IncApp	[REDACTED]
08/05/2019	12:18	2858	IncApp	[REDACTED] THIS WILL NEED THE MOM TO
08/05/2019	12:18	2858	IncApp	IDENTIFY EXACTLY WHAT SHOP THE PRODUCT WAS PURCHASED
08/05/2019	12:18	2858	IncApp	SO WE CAN INFORM [REDACTED]
08/05/2019	12:18	2858	IncApp	[REDACTED] CAN I REQUEST
08/05/2019	12:18	2858	IncApp	THAT OFFICERS ESTABLISH MOMS DETAILS AND REQUEST HER
08/05/2019	12:18	2858	IncApp	TO SHOW US THE EXACT LOCATION. WE NEED TO BE
08/05/2019	12:18	2858	IncApp	CONSIDERING SEIZING THE MEDICATION FRPM HOSPITAL AND
08/05/2019	12:18	2858	IncApp	COMPLETING A STATEMENT FROM MOTHER AND DR WITH A VIEW
08/05/2019	12:18	2858	IncApp	OF CRIMING ENCASE THE CHILD DETERRIATES. PLEASE CAN
08/05/2019	12:18	2858	IncApp	WE HAVE THIS REVIEWS BY RESPONSE SUPERVISOR.
08/05/2019	17:25	Syscon	SYSCON3	Overdue Time Reached
09/05/2019	02:00	59331	BWR3	Thursday 09 May 2019
09/05/2019	02:03	59331	BWR3	FOR A CALL BACK IN THE AM TO ACTION THE ABOVE
09/05/2019	08:03	Syscon	SYSCON3	Overdue Time Reached
09/05/2019	09:48	59543	BWR3	RCV19 Automatic STM notification generated
09/05/2019	09:48	59543	BWR3	RCV19 Allocated to Incident
09/05/2019	09:53	59543	BWR3	[REDACTED]
09/05/2019	09:53	59543	BWR3	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	A [REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	[REDACTED]
09/05/2019	10:20	3607	WebOASIS	SELLING MEDICATION ILLEGALLY/INAPPROPRIATELY? 3 - ARE
09/05/2019	10:20	3607	WebOASIS	THERE ANY OTHER CHILDREN IN THE ADDRESS THAT NEED
09/05/2019	10:20	3607	WebOASIS	SAFEGUARDING. CAN WE PLEASE DISPATCH SOMEBODY TO THE
09/05/2019	10:20	3607	WebOASIS	HOSPITAL IN THE FIRST INSTANCE TO PROGRESS THIS
09/05/2019	10:20	3607	WebOASIS	MATTER.
09/05/2019	10:27	21506	BWR4	WILL FIND A UNITN ASAP
09/05/2019	10:33	20992	BWRA	RCF1 Automatic STM notification generated



Date	Time	User	Terminal	Text
09/05/2019	10:33	20992	BWRA	RCF1 Allocated to Incident
09/05/2019	10:52	20992	BWRA	RCF1 Arrived at Incident
09/05/2019	12:18	5203	WebOASIS	RCF1 - I HAVE ATTENDED CITY HOSPITAL AND BY LUCK THE
09/05/2019	12:18	5203	WebOASIS	CALLER, CONSULTANT [REDACTED], WAS ON DUTY
09/05/2019	12:18	5203	WebOASIS	OVERSEEING THE DEPARTMENT TODAY. I HAVE SPOKEN TO HER
09/05/2019	12:18	5203	WebOASIS	ABOUT WHAT SHE HAS MENTIONED ABOVE AND SHE HAS
09/05/2019	12:18	5203	WebOASIS	CONFIRMED TO ME THAT THE CHILD [REDACTED]
09/05/2019	12:18	5203	WebOASIS	[REDACTED] 4/18 OF 18 [REDACTED]
09/05/2019	12:18	5203	WebOASIS	[REDACTED] BUT HOSPITAL DID NOT
09/05/2019	12:18	5203	WebOASIS	RECORD THEM SO WE DO NOT HAVE THEIR DETAILS) WAS
09/05/2019	12:18	5203	WebOASIS	PRESENTED AT THE HOSPITAL BY MOM AND GRANDFATHER WITH
09/05/2019	12:18	5203	WebOASIS	COLD LIKE SYMPTOMS AND WITH A SLIGHTLY HIGH
09/05/2019	12:18	5203	WebOASIS	TEMPERATURE. WHEN THEY WERE SEEN BY [REDACTED] THE BOTTLE
09/05/2019	12:18	5203	WebOASIS	OF MEDICATION (AUGMENTIN ES 600MG) WAS PRODUCED AND
09/05/2019	12:18	5203	WebOASIS	ADVISED THAT THEY HAD GIVEN THE CHILD A SINGLE DOSE
09/05/2019	12:18	5203	WebOASIS	OF THE MADE UP MEDICATION (IT COMES AS A POWDER FORM
09/05/2019	12:18	5203	WebOASIS	AND SHOULD BE DONE BY A QUALIFIED PHARMACIST) THE
09/05/2019	12:18	5203	WebOASIS	CONSULTANT WAS INFORMED THAT THEY HAD BROUGHT THE
09/05/2019	12:18	5203	WebOASIS	MEDICATION OVER THE COUNTER AT A 'ROMANIAN SHOP' ON
09/05/2019	12:18	5203	WebOASIS	ROOKERY ROAD BUT COULD NOT PROVIDE DETAILS OF THE
09/05/2019	12:18	5203	WebOASIS	SHOP PROBABLY DUE TO A LANGUAGE BARRIER AS NEITHER
09/05/2019	12:18	5203	WebOASIS	MOM NOT GRANDFATHER SPOKE GOOD ENGLISH. IT APPEARS
09/05/2019	12:18	5203	WebOASIS	THAT WHOEVER SOLD IT THEM DID SO WITHOUT A
09/05/2019	12:18	5203	WebOASIS	PRESCRIPTION AND WAS OVER THE COUNTER CHARGING THE
09/05/2019	12:18	5203	WebOASIS	PARENT £21.50 FOR THE MEDICATION. WHILST THE
09/05/2019	12:18	5203	WebOASIS	MEDICATION IS BONA FIDE AND DID THE CHILD NO HARM, IT
09/05/2019	12:18	5203	WebOASIS	DOES CONTAIN PENICILLIN WHICH CAN BE VERY DANGEROUS
09/05/2019	12:18	5203	WebOASIS	IF A CHILD OR ANYONE IS ALLERGIC TO IT. THE PRODUCT
09/05/2019	12:18	5203	WebOASIS	IS NOT SOLD IN THE UK AND WILL ONLY HAVE EVER BEEN
09/05/2019	12:18	5203	WebOASIS	SOLD IN ROMANIA/EUROPE. THE CHILD WAS CHECKED OVER
09/05/2019	12:18	5203	WebOASIS	AND DISCHARGED BACK TO THE HOME ADDRESS WITH A
09/05/2019	12:18	5203	WebOASIS	REFERRAL COMPLETED BY THE HOSPITAL FOR HEALTH VISITOR
09/05/2019	12:18	5203	WebOASIS	TO ATTEND. THE CONSULTANT WAS/IS NOT WORRIED ABOUT
09/05/2019	12:18	5203	WebOASIS	THE SAFEGUARDING OF THE CHILD AS SHE IS HAPPY THAT

17/07/2019

(12)

Date	Time	User	Terminal	Text
09/05/2019	13:43	Syscon	SYSCON3	Defer Time Reached
09/05/2019	13:43	20992	BWRA	Incident Deferral Accepted by terminal BWRA
09/05/2019	13:43	20992	BWRA	Incident Transferred by terminal BWRA to SDRAD
09/05/2019	13:43	20992	BWRA	FOR SD RESOURCES PLSE
09/05/2019	13:43	20992	BWRA	Incident Transfer
09/05/2019	13:44	20992	BWRA	RCF1 Automatic STM notification generated
09/05/2019	13:44	20992	BWRA	RCF1 Allocated to Incident
09/05/2019	13:44	52694	SDR3	Incident Transfer Accepted by terminal SDR3
09/05/2019	13:50	52694	SDR3	Incident Transferred by terminal SDR3 to WFSP4
09/05/2019	13:50	52694	SDR3	TO HOLD
09/05/2019	13:50	52694	SDR3	Incident Transfer
09/05/2019	13:53	59540	BVRES3	Incident Transfer Accepted by terminal BVRES3
09/05/2019	13:54	20992	BWRA	RCF1 WILL BE TAKING OUT A CHILD NON ABUSE NUBMER
09/05/2019	13:55	20992	BWRA	THIS IS FOR DUDLEY OFFICERS TO ATTEND AS PER THE
09/05/2019	13:55	20992	BWRA	REQUEST FOR A SAFE AND WELL ON THE CHILD AND OBTAIN
09/05/2019	13:55	20992	BWRA	DETAILS OF PARENTS AND IF ANY OTHER CHILDREN PRESENT
09/05/2019	13:55	20992	BWRA	Incident Switch to Terminal SDR3
09/05/2019	13:55	20992	BWRA	AS PER THE LAST FOR DY OFFICERS TO ATTEND THE LOCN
09/05/2019	13:55	20992	BWRA	Incident Switch
09/05/2019	13:56	52694	SDR3	NOTED
09/05/2019	13:56	52694	SDR3	PLSE SEND THE LOG TO SDR4
09/05/2019	13:56	52694	SDR3	Incident Switch Accepted By SDR3
09/05/2019	13:58	59540	BVRES3	Incident Transferred by terminal BVRES3 to SDR4
09/05/2019	13:58	59540	BVRES3	AS PER REQUEST
09/05/2019	13:58	59540	BVRES3	Incident Transfer
09/05/2019	14:12	59540	BVRES3	Transferred, but not accepted
09/05/2019	14:12	59540	BVRES3	Incident Transferred by terminal BVRES3 to SDR4
09/05/2019	14:12	59540	BVRES3	AS PER REQUEST
09/05/2019	14:12	59540	BVRES3	Incident Transfer
09/05/2019	14:17	59540	BVRES3	Transferred, but not accepted
09/05/2019	14:18	59540	BVRES3	Incident Transferred by terminal BVRES3 to SDRAD
09/05/2019	14:18	59540	BVRES3	PER REQUEST
09/05/2019	14:18	59540	BVRES3	Incident Transfer
09/05/2019	14:18	52694	SDR3	Incident Transfer Accepted by terminal SDR3



Date	Time	User	Terminal	Text
09/05/2019	14:18	52694	SDR3	Incident Transferred by terminal SDR3 to SDR4
09/05/2019	14:18	52694	SDR3	DY
09/05/2019	14:18	52694	SDR3	Incident Transfer
09/05/2019	14:18	50306	SDR4	Incident Transfer Accepted by terminal SDR4
09/05/2019	14:19	56717	BWR1	OFFICERS WILL ATTEND RCF1
09/05/2019	14:19	56717	BWR1	RCF1 Automatic STM Notification generated
09/05/2019	14:19	56717	BWR1	RCF1 Despatched
09/05/2019	14:38	5203	IncApp	CHILD IS SAFE AND WELL. I HAVE ATTENDED THIS ADDRESS
09/05/2019	14:38	5203	IncApp	BEFORE AND CAN CONFIRM THE OCCUPANTS SPEAK VERY
09/05/2019	14:38	5203	IncApp	LITTLE ENGLISH. THE ADDRESS HAS BEEN IDENTIFIED AS 136
09/05/2019	14:38	5203	IncApp	BOULTON ROAD, HANDSWORTH.
09/05/2019	15:19	5203	WebOASIS	RCF1 - THIS WILL NEED REFERRING TO LICENCING
09/05/2019	15:19	5203	WebOASIS	POTENTIALLY AS CST ARE UNABLE TO ADVISE AS TO WHAT
09/05/2019	15:19	5203	WebOASIS	OFFENCES, IF ANY, HAVE BEEN COMMITTED. I WILL DO THIS
09/05/2019	15:19	5203	WebOASIS	TOMORROW WHEN I'M BACK ON DUTY (I'VE TRIED CALLING
09/05/2019	15:19	5203	WebOASIS	JUST BUT THERE WAS NO ANSWER).
09/05/2019	16:11	59416	BWRA	RCF1 Not attached to this Incident
09/05/2019	16:11	59416	BWRA	RCF1 Cancelled
09/05/2019	16:11	59416	BWRA	BOOK OFF
09/05/2019	17:11	52644	SDR4	APPEARS RCF1 HAS COMPLETED SAFE AND WELL ON CHILDREN
09/05/2019	17:12	52644	SDR4	NOT SURE IF 136 BOULTON ROAD IS THE OFFENCE LOCATION
09/05/2019	17:12	52644	SDR4	Changed Incident Location From [REDACTED]
09/05/2019	17:12	52644	SDR4	[REDACTED]
09/05/2019	17:12	52644	SDR4	Amend Incident Location
09/05/2019	17:12	52644	SDR4	Incident Transferred by terminal SDR4 to BWRAD
09/05/2019	17:12	52644	SDR4	FOR FURTHER UPDATES FROM RCF1
09/05/2019	17:12	52644	SDR4	Incident Transfer
09/05/2019	17:12	9350	BWR2	Incident Transfer Accepted by terminal BWR2
09/05/2019	17:17	9350	BWR2	Resources Dealing with this Incident Enquiry
09/05/2019	17:17	9350	BWR2	NOTED - OFFICER THAT DEALT (PC5203) IS NOT SHOWING
09/05/2019	17:18	9350	BWR2	ON DUTY, BOOKED OFF AT 1600HRS AND NO FURTHER UPDATE
09/05/2019	17:18	9350	BWR2	ON LOG. WILL BE FOR UPDATE WHEN HE RETURNS TO DUTY
09/05/2019	17:18	9350	BWR2	AT 1700HRS (10/5/19).
09/05/2019	17:18	9350	BWR2	Incident Transferred by terminal BWR2 to BVSP1



Date	Time	User	Terminal	Text
09/05/2019	17:18	9350	BWR2	DEFER FOR PC5203 PLEASE
09/05/2019	17:18	9350	BWR2	Incident Transfer
09/05/2019	17:21	55259	BVSP1	Incident Transfer Accepted by terminal BVSP1
09/05/2019	17:22	55259	BVSP1	Defer to BVSP1 Date 10/05/19 Time 1700
09/05/2019	17:22	55259	BVSP1	AS LAST
10/05/2019	07:15	59584	BVRES3	Incident Transfer Accepted by terminal BVRES3
10/05/2019	15:17	59416	BVSP1	Incident Transfer Accepted by terminal BVSP1
10/05/2019	17:00	Syscon	SYSCON3	Defer Time Reached
10/05/2019	17:16	59416	BVSP1	Incident Deferral Accepted by terminal BVSP1
10/05/2019	17:17	59416	BVSP1	RCO35 Automatic STM notification generated
10/05/2019	17:17	59416	BVSP1	RCO35 Allocated to Incident
10/05/2019	17:17	59416	BVSP1	FOR 5203 UPDATE
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	[REDACTED]
10/05/2019	17:59	5203	WebOASIS	THIS INCIDENT LOG CAN BE CLOSED PENDING ACTION TAKEN
10/05/2019	17:59	5203	WebOASIS	BY NHT.
10/05/2019	18:00	59416	BVSP1	Incident Close/Result Failed
10/05/2019	18:00	59416	BVSP1	All Resources Leave Scene/Dispatch Cancelled etc
10/05/2019	18:00	59416	BVSP1	Incident Closed By Terminal BVSP1
10/05/2019	18:00	59416	BVSP1	Incident End (Result / Close)

## Incident Response THRIVE+ Assessments

Grade		Date	Time	Operator	Terminal
Original, Current	P3 PRIORITY INV Decision	07/05/2019	15:26	57073	WBCHD4
	THRIVE+ Assessment	07/05/2019	15:31	57073	WBCHD4
THREAT TO PUBLIC EXISTS, HIGH RISK OF HARM, VULN UNSUSPECTING VICTIMS. P3 PRESCRIPTION DRUGS BEING SOLD THROUGH SHOP					

## Log Resources

Rank	Name	Collar No	Dispatched	Arrived	Left	Cancelled	Informed	Informed Cancelled	Dealt With	Call Sign
INSP	HILL	3607					09/05/2019 09:48	09/05/2019 13:41		RCV19

Rank	Name	Collar No	Dispatched	Arrived	Left	Cancelled	Informed	Informed Cancelled	Dealt With	Call Sign
PC	ASBY	5203		09/05/2019 10:52	09/05/2019 13:41		09/05/2019 10:33			RCF1
PC	ASBY	5203	09/05/2019 14:19			09/05/2019 16:11	09/05/2019 13:44			RCF1
PC	DEMUTH	4424					10/05/2019 17:17	10/05/2019 18:00		RCO35
PC	ASBY	5203					10/05/2019 17:17	10/05/2019 18:00		RCO35

**PNC Results**

No PNC checks have been made against this incident

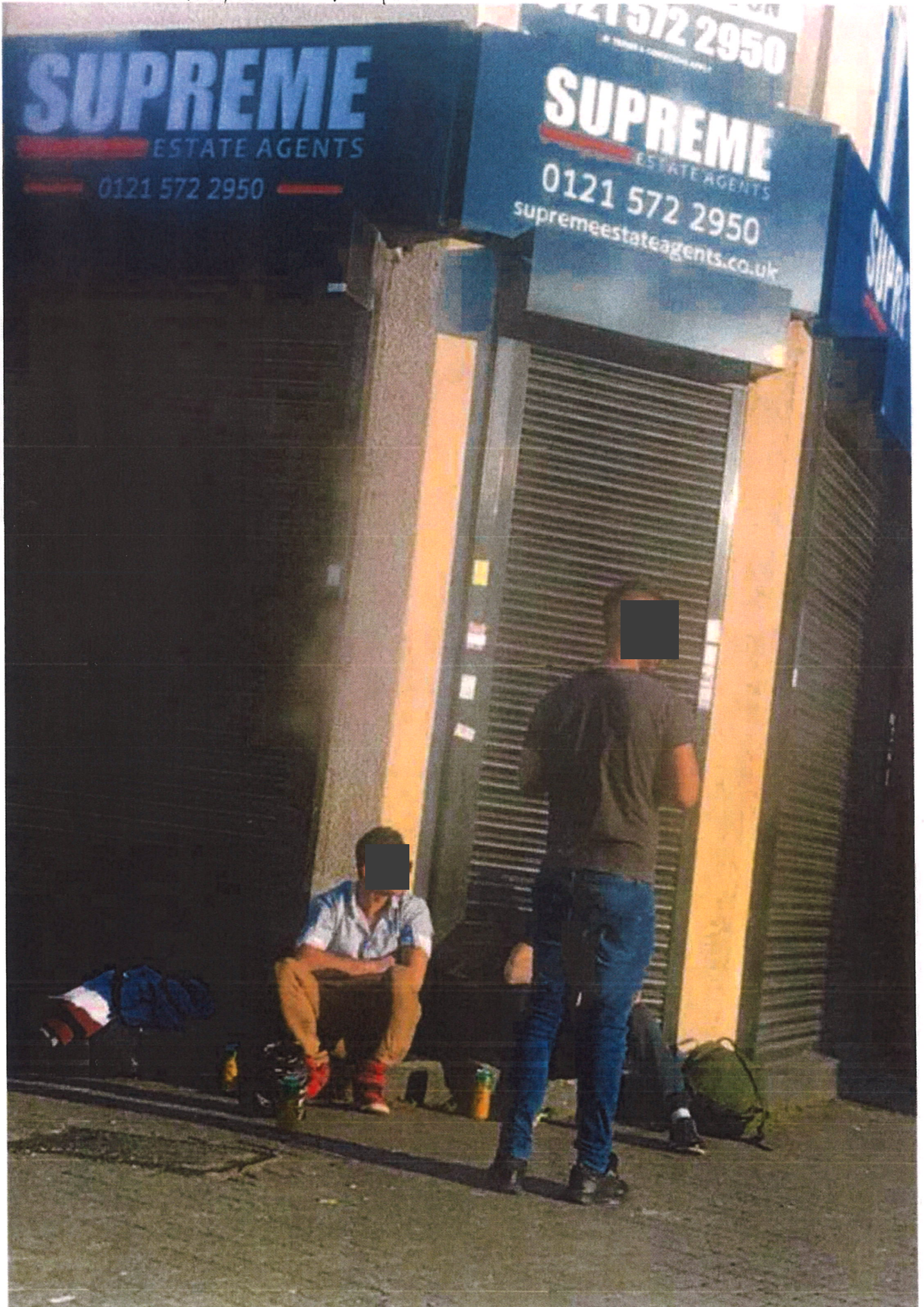
**Vehicle Recovery System**

No Elvis records are associated with this incident

Incorrect use of this facility may be an offence under the Computer Misuse Act 1990 and the data displayed is subject to the provisions of the Data Protection Act 1998.  
Version: 3.0.1.0

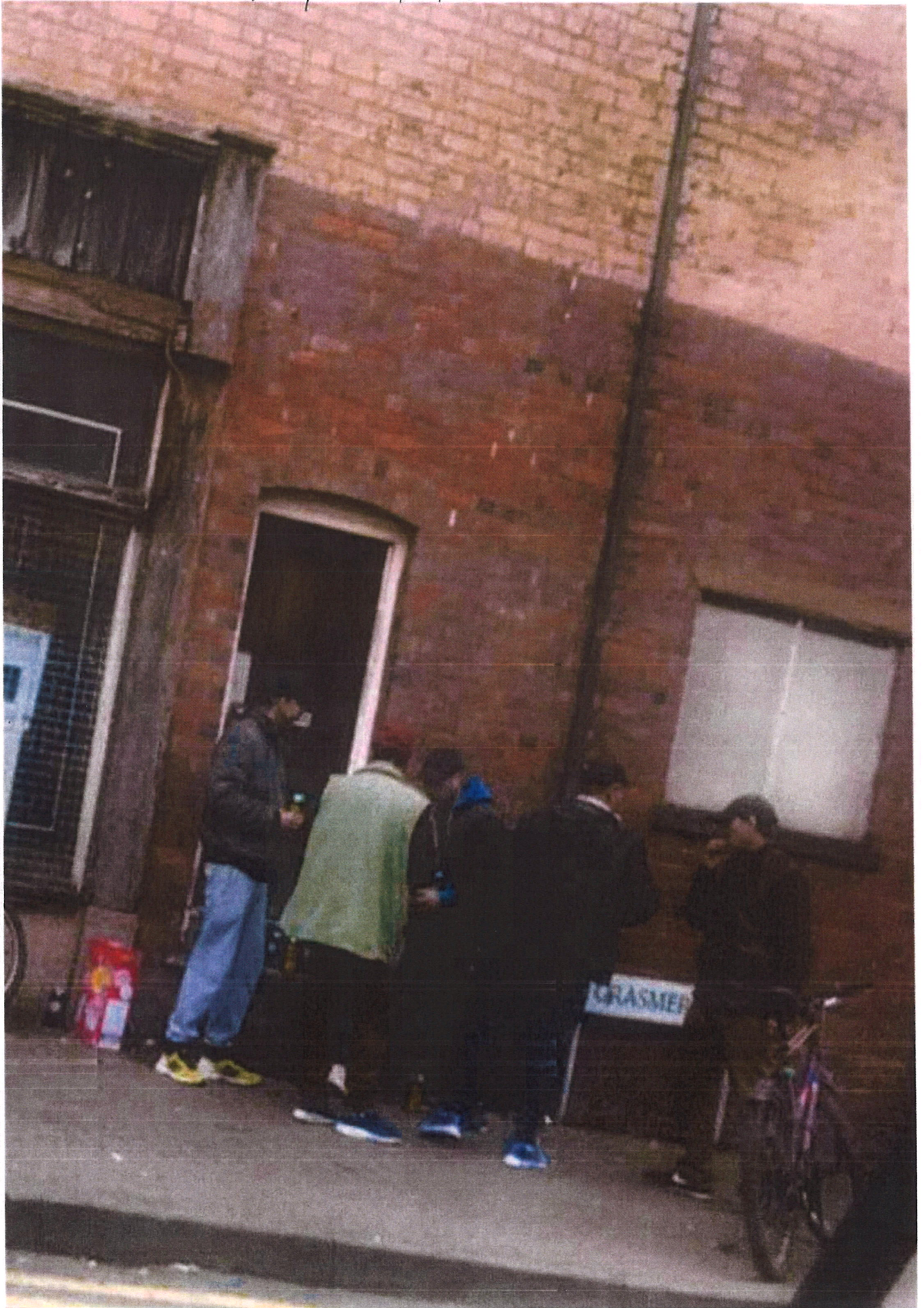


AW/3-17/07/19





AW/S - 17/07/19





AW/4- 17/07/19







**BIRMINGHAM CITY COUNCIL**

**LICENSING SUB COMMITTEE B**

**TUESDAY 12 MARCH 2019**

**Clearance Zone & Post Office, 206 Soho Road, Handsworth,  
Birmingham, B21 9LR**

---

That the application by Joga Singh for a premises licence in respect of Clearance Zone & Post Office, 206 Soho Road, Handsworth, Birmingham, B21 9LR **be refused**

In reaching this decision, the Sub-Committee was mindful of the promotion of the Licensing Objectives in the Act, particularly the prevention of crime and disorder and the prevention of public nuisance.

The Sub-Committee's reasons for refusing this application for a premises licence are due to concerns expressed by other persons and the local Inspector from the West Midlands Police, for the Handsworth Ward covering Soho Road, regarding the impact of the proposed operation of a Post Office with an off licence.

The Sub Committee considered the local knowledge of the area highlighted by the Soho Road Bid Manager, and personal experiences of the HCAG Streetwatch representative around the issues affecting residents and businesses in the locality of Soho Road, such as; the availability of alcohol in influencing negative drinking behaviours and associated alcohol-related problems, as an important feature of the licensing regime that could not be ignored.

Members noted the other person's concerns focused on the increase in the availability of alcohol from yet another off-licensed premises not just to the catchment of Post Office customers but to those with alcohol dependencies, irrespective of the alcoholic strength by volume sold which would escalate current alcohol related issues that the area suffers from.

The Sub Committee thought it was significant that Soho Road, on which the premises is located, is the second highest crime and anti-social behaviour hot spot outside Broad Street as per Inspector Ahmed's witness statement. Member's considered this evidence to be relevant and important as it derived from the expert on crime and disorder who identified street drinking and prostitution particularly as an on-going problem on the stretch of road where the premises is situated.

Members did give due consideration to the applicant's submissions made during the hearing and felt there was not much of an awareness to the ongoing problems despite operating this business together with another one in the Handsworth ward.

The Sub Committee recognised the prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest. A proposal to reduce licensable hours and proffer new additional conditions did not surmount the concerns of the Responsible Authority nor the other persons. Members could foresee another off-licence would lead to increased consumption and increased harm through the availability of another alcohol outlet and deemed a refusal was appropriate in the public interest.

The Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued under Section 182 of the Licensing Act 2003 by the Secretary of State, the information contained in the application, the written representations received and the submissions made at the hearing by the applicant, their legal adviser, and those making representations.

All parties are reminded that under the provisions contained within Schedule 5 to the Licensing Act 2003, there is the right of appeal against the decision of the Licensing Authority to the Magistrates' Court, such an appeal to be made within twenty-one days of the date of notification of the decision.



1. Home (<https://www.gov.uk/>)
2. Alcohol licensing: using case law (<https://www.gov.uk/government/publications/alcohol-licensing-using-case-law>)

1. Public Health  
England (<https://www.gov.uk/government/organisations/public-health-england>)

Guidance

# Alcohol licensing: using case law

Published 13 March 2017

## Contents

1. Case law and the Licensing Act
2. The British Beer and Pub Association v Canterbury City Council
3. Hope and Glory Public House v City of Westminster Magistrates' Court and Others
4. Daniel Thwaites plc v Wirral Magistrates' Court and Others
5. Murco Petroleum Ltd v Bristol City Council
6. East Lindsey District Council v Abu Hanif
7. General principles proven in case law
8. An example of using case law in a representation



© Crown copyright 2017

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3) (<https://www.nationalarchives.gov.uk/doc/open-government-licence/version/3>) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

This publication is available at <https://www.gov.uk/government/publications/alcohol-licensing-using-case-law/alcohol-licensing-using-case-law>



## 1. Case law and the Licensing Act

The Licensing Act 2003 is the Act of Parliament that establishes the statutory framework for regulating licensable activities in England and Wales. When cases are brought before the courts, the decisions can help us to interpret the Act.

When a case is decided by the courts the decision can provide an example of the interpretation of the Act. This can then be used to guide other committees and courts when they are making decisions on cases with similar facts.

It can be helpful for public health teams contributing to a new case to look at previous decisions and to understand the judgments that have been passed down. This can help you to make a more convincing case.

As a rule, the higher the court, the more weight a judgment carries. For example, a decision in a magistrates' court may be persuasive but a decision in the Court of Appeal will be binding. This means that another committee or court can consider the judgment from the magistrates' court and decide differently, but they must follow the decision of the Court of Appeal.

When you are relying on the decision in a particular case it is important to refer to the judgment itself rather than commentary, because commentators can interpret the judgment in different ways – it is always best to quote what the judge actually said.

Case names will be set out as 'the name of the party that brought the claim' versus 'the name of the party that the claim was against', followed by the year, then the court it was brought to and the case number. This is known as a 'neutral citation', and will help you find the judgment.

For example, R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 31 indicates that in 2011 Hope and Glory Public House Ltd brought a claim against Westminster Magistrates' Court which was heard in the Civil Division of the Court of Appeal of England and Wales, and was the 31st case of the year.

There have been many cases decided by the courts since the Act came into force, but those described below are most frequently relied on.

## 2. The British Beer and Pub Association v Canterbury City Council

The British Beer and Pub Association, The Association of Licensed Multiple Retailers, The British Institute of Innkeeping v Canterbury City Council [2005] EWHC 1318 (Admin)

This is an important case looking at what Licensing Authorities can and should include in their Statements of Licensing Policy. This case would be most relevant when you are involved in updating your local policy.

Mr Justice Richards said:

A policy ... not only guides the decision-maker but also serves to inform an applicant about what he should consider in preparing his application... An application that takes account of the matters set out in the policy, for example by including what is referred to in the policy or by giving a reasoned justification for not doing so, is less likely to give rise to relevant representations and more likely to be granted without additional conditions.

And:

The council is entitled to indicate in the policy its own expectations with regard to the promotion of the licensing objectives; and I do not think that an applicant can legitimately complain if a failure to take account of those expectations gives rise to representations...An applicant who does not tailor his application to the policy therefore faces an uphill struggle.

Responsible Authorities should be encouraged by this case to take an active role in the preparation and drafting of Statements of Licensing Policy, because these policies are an important tool in shaping the activities that take place in each vicinity. A well drafted policy gives a strong and clear basis for representations on individual matters and helps licensing committees make robust decisions.

The full judgment is available on the Licensing Resource  
(<http://www.licensingresource.co.uk/sites/all/files/la2003/bbp.pdf>).

### 3. Hope and Glory Public House v City of Westminster Magistrates' Court and Others

R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312

This case, referred to as 'Hope and Glory', is essential reading for Responsible Authorities and licensing committees. It is relevant to most hearings.

The decision is important because it:

- illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation
- confirms that this can include the impact that licensable activities have on a range of factors such as crime, the quality of life for residents and visitors to the area, and demand for licensed premises
- sets out the approach that should be taken when making licensing decisions

Lord Justice Toulson said:

Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance.

Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact.

Responsible Authorities should be encouraged by this decision to make representations so that their information can be taken into account, and appropriate measures put in place for the licensing objectives to be promoted.

The full judgment is available from the British and Irish Legal Information Institute  
(<http://www.bailii.org/ew/cases/EWCA/Civ/2011/31.html>).

### 4. Daniel Thwaites plc v Wirral Magistrates' Court and Others

R (on application of Daniel Thwaites plc) v Wirral Magistrates' Court and Others (2008) EWHC 838 (Admin)

<https://www.gov.uk/government/publications/alcohol-licensing-using-case-law/alcohol-licensing-using-case-law>

This case, referred to as 'the Thwaites case', is important because it emphasises the important role that Responsible Authorities have in providing information to decision makers to contextualise the issue before them.

This case is sometimes misconstrued as requiring decisions to be based on 'real evidence', and that conditions cannot be imposed until problems have actually occurred. This is wrong. The purpose of the Act is to prevent problems from happening. Decisions can and should be based on well-informed common sense. The case recognises that Responsible Authorities are experts in their fields, and that weight should be attached to their representations. It is most relevant when opposing grant applications.

The Honourable Mrs Justice Black said:

[D]rawing on local knowledge, at least the local knowledge of local licensing authorities, is an important feature of the Act's approach. There can be little doubt that local magistrates are also entitled to take into account their own knowledge but, in my judgment, they must measure their own views against the evidence presented to them. In some cases, the evidence presented will require them to adjust their own impression. This is particularly likely to be so where it is given by a Responsible Authority such as the police.

The approved judgment is available from Guildford Council ([https://www.guildford.gov.uk/media/10669/Item-27%E2%80%9420Thwaites-Casepdf/pdf/pdf210\\_1.pdf](https://www.guildford.gov.uk/media/10669/Item-27%E2%80%9420Thwaites-Casepdf/pdf/pdf210_1.pdf)).

## 5. Murco Petroleum Ltd v Bristol City Council

R (on application of Murco Petroleum Ltd) v Bristol City Council [2010] EWHC 1992 (Admin)

This case is important because it confirms that licensing committees and courts can require applicants to provide any information that they believe will help them make a decision about the promotion of the licensing objectives. It is relevant to most hearings.

Responsible Authorities should be encouraged by this case to ask applicants to provide further information they believe will help them understand the application more fully. If that information is not provided by the applicant, Responsible Authorities can make representations to committees who have the power to require the request is met.

Mr Justice Cranston said:

The sub-committee [has the power] to ask a question of a party, where the question is calculated to elicit an answer which will facilitate the function of considering and adjudicating upon the relevant question

The full judgment is available from the British and Irish Legal Information Institute (<http://www.bailii.org/ew/cases/EWHC/Admin/2010/1992.html>).

## 6. East Lindsey District Council v Abu Hanif

East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) 2016

In this case, the High Court upheld the Licensing Committee's decision to revoke a premises licence where the licensee had employed an illegal worker.

The significance of the case is that it reaffirms the principle that Responsible Authorities need not wait for the licensing objectives to actually be undermined before objecting to a licence being granted. This case would be most relevant when opposing a grant application.

Commenting on the way committees and courts should approach the promotion of the licensing objectives, Mr Justice Jay said:

[T]he prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

The full Judgement is only available from subscription services such as Westlaw (<http://login.westlaw.co.uk/maf/wluk/app/authentication/formLogin>) or Lawtel (<https://www.lawtel.com/Login?ReturnUrl=%2f>).

## 7. General principles proven in case law

There are also cases that do not directly relate to the Licensing Act but provide general principles that are relevant.

### 7.1 R (on application of Westminster City Council) v Middlesex Crown Court and Chorion plc (2002) EWHC 1104 (Admin)

This case is important because it sets out the approach that courts on appeal should take where a council has a policy. Responsible Authorities should be encouraged by this case to help shape their council's licensing policy so that it sets out a strategic approach to promoting the licensing objectives in their particular area. A clear policy will provide a strong basis to impose conditions, refuse licences and so on, which should then be upheld by the court on appeal because the reasons for the conditions or refusals will be well-founded and readily understood. It would be most relevant when updating Statements of Licensing Policy.

Mr Justice Scott Baker said:

It must accept the policy and apply it as if it were standing in the shoes of the Council considering the application.

The full judgment is available from the British and Irish Legal Information Institute (<http://www.bailii.org/ew/cases/EWHC/Admin/2002/1104.html>).

### 7.2 Stepney Borough Council v Joffe [1949] 1KB 5997

This case, alongside Sagnata Investments Ltd v Norwich Corporation [1971] 2 QB 614, is important because it has long established the principle that the court on appeal should only overturn a decision where it is wrong. This would be most relevant in appeal hearings.

[On appeal the Court ought] to pay great attention to the fact that the duly constituted and elected local authority have come to an opinion on the matter and ought not lightly, of course, to reverse their opinion. It is constantly said (although I am not sure that it is always sufficiently remembered) that the function of a court of appeal is to exercise its powers when it is satisfied that the judgment below is wrong, not merely because it is not satisfied that the judgment is right.

This means that although appeals are re-hearings, the onus is on the appellant to persuade the court that the decision being appealed is wrong – not for the council to persuade the court that the decision is right. Responsible Authorities should provide the council with any information they believe is relevant to place before the court on appeal, so that the court can make a fully informed decision.

## 8. An example of using case law in a representation

This is an illustrative example of how you may wish to refer to the case law above in your representations to licensing committees:



The premises are not yet trading so the Licensing Objectives have not yet been undermined; but I believe that it is likely they will be undermined if the licence is granted.

In the case of *East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant)* (2016) Mr Justice Jay said:

[T]he prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.

I believe that the fact the premises are proposing to sell alcohol and play music 24 hours a day in a residential area means it is likely that there will be nuisance caused to residents through late night noise and anti-social behaviour. Having regard to the existing levels of alcohol-related crime and anti-social behaviour, I believe that this will be worsened if this application is granted.

This guidance has been produced by Lawyers in Local Government and Public Health England, and is intended to give a brief overview of the case law most relevant to the Licensing Act. It does not constitute legal advice, and should be used as a guide for more detailed consideration of the cases depending on the individual facts in question.