

# REVIEW OF PREMISES LICENCE REPORT

## Licensing Sub Committee

Date:	16 May 2023
Title of Report:	Review of Premises Licence
Lead Member:	Councillor Pat Patel (Cabinet Member for Customer Service, Leisure and Sport)
Lead Strategic Director:	Dr Ruth Harrell (Office of the Director of Public Health)
Author:	Bev Gregory (Licensing Officer)
Contact Email:	Licensing@plymouth.gov.uk
Your Reference:	Jesters
Key Decision:	No
Confidentiality:	Part I - Official

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### **Purpose of the report:**

An application has been received from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for the review of the premises licence in respect of Jesters, 39-43 Union Street, Plymouth.

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### **Recommendations and Reasons:**

That Members consider this report.

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### **Alternative options considered and rejected:**

None.

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### **Relevance to the Corporate Plan and/or the Plymouth Plan:**

#### **Our Plan – A City to be proud of.**

This report links to the delivery of the City and Council objectives and outcomes within the plan.

**A Growing City:** The Licensing Policy and system aims to provide a balance between the need to protect residents and to enable legitimate businesses to operate within a necessary and proportionate regulatory framework. This in turn makes a safer, more vibrant Plymouth to allow economic growth and opportunities for increased levels of employment.

**A Caring Council:** The Licensing Policy has put in place an appropriate framework to allow the effective control of alcohol supply and regulated entertainment to keep all members of society protected and feeling safe by focusing on prevention and early intervention. The licensing system minimise the burdens on business and to allow communities the opportunity to influence decisions.

See [Our Plan](#)

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### **Implications for Medium Term Financial Plan and Resource Implications:**

Not applicable

**Carbon Footprint (Environmental) Implications:**

None

**Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:**

\* When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.

Members should be aware that Section 17 of the Crime and Disorder Act 1998 puts a statutory duty on every Local Authority to exercise its various functions with due regard to the need to do all that it reasonably can do to prevent crime and disorder in its area.

**Published work / information:**

For more information please see the below links.

[Statement of Licensing Policy](#)

[Licensing Act 2003](#)

[Revised guidance issued under section 182 of the Licensing Act 2003 - April 2018](#)

**Appendices**

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable)						
		1	2	3	4	5	6	7
A	Briefing report (mandatory)							

**Background papers:**

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of background paper(s)	Exemption Paragraph Number (if applicable)						
	1	2	3	4	5	6	7
Application							

**Sign off:**

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Originating Senior Leadership Team member: N/A											
Please confirm the Strategic Director(s) has agreed the report? N/A Date agreed: N/A											
Cabinet Member signature of approval: N/A Date: N/A											

## 1.0 INTRODUCTION

1.0.1 On the 19<sup>th</sup> April 2023 the licensing department received an application from Devon and Cornwall Police under Section 53A of the Licensing Act 2003 for a summary licence review in respect of Jesters situated at 39-43 Union Street, Plymouth.

### 1.2 Review application.

Superintendent Brent Ireland submitted a certificate together with an application for the review of the premises licence to the licensing authority signed by him on 19 April 2023 stating that the premises (Jesters) were associated with serious crime.

Upon receipt of the application the Licensing Authority had to give consideration as to whether it was appropriate for any interim steps to be taken pending the outcome of the review hearing. This decision had to be made within 48 hours and could only be made by members of the Licensing Committee.

The interim steps that the licensing authority was able to consider were:

- Modification of the conditions of the premises licence.
- The exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence.
- Removal of the designated premises supervisor from the licence and
- Suspension of the licence.

In accordance with review proceedings at 12.30pm on 20 April 2023 a licensing officer from Plymouth City Council attended the premises and attached a two site notices to the street furniture immediately outside of the premises which was closed at the time.

The licensing Sub Committee met on 20 April 2023 to consider whether it was necessary to impose interim steps pending the review of the licence. The police and premises licence holder were present at the meeting.

Taking into account all the information available to the committee at that time, the committee decided that it was appropriate to take the following interim steps.

To modify the licence in that conditions were added.

Having considered interim steps the Licensing Authority must now review the licence and reach a decision within 28 days of receipt of the application. It is also required to review the interim steps and decide whether they should remain in place pending the decision made at the review hearing coming into effect or whether they should be modified or withdrawn.

## 2.0 LICENSABLE ACTIVITIES

These premises have the following licensable activities and timings.

### **(b) Films (Indoors)**

Monday to Sunday 8.00pm to 4.00am

### **(e) Live Music (Indoors)**

Sunday to Thursday 8.00pm to 04.00am

Friday and Saturday 8.00pm to 06.00am

Non Standard Timings. New Year's Eve 24 Hours

<p><b><u>(f) Recorded Music (Indoors)</u></b></p> <p>Sunday to Thursday 8.00pm to 04.00am  Friday and Saturday 8.00pm to 06.00am  Non Standard Timings. New Year's Eve 24 Hours</p>
<p><b><u>(g) Performance of Dance (Indoors)</u></b></p> <p>Sunday to Thursday 8.00pm to 04.00am  Friday and Saturday 8.00pm to 06.00am  Non Standard Timings. New Year's Eve 24 Hours</p>
<p><b><u>(i) Late Night Refreshment (Indoors and Outdoors)</u></b></p> <p>Monday to Thursday 11.00pm to 04.00am  Friday and Saturday 11.00pm to 05.00am  Non Standard Timings. New Year's Eve 11.00pm to 05.00am Hours</p>
<p><b><u>(j) Supply of Alcohol for consumption ON and OFF the premises.</u></b></p> <p>Sunday to Thursday 8.00pm to 04.00am  Friday and Saturday 8.00pm to 06.0am  Non Standard Timings. New Year's Eve 24 Hours</p>
<p><b><u>(l) Hours Premises are Open to the Public</u></b></p> <p>Sunday to Thursday 8.00pm to 04.30am  Friday and Saturday 8.00pm to 06.30am  Non Standard Timings. New Year's Eve 24 Hours</p>

2.1 Conditions attached to the licence (Appendix 1)

### 3.0 RESPONSIBLE AUTHORITIES

No representations.

### 4.0 OTHER PARTIES

One representation has been received from a member of the public, Appendix 2

### 5.0 CONSIDERATIONS

5.1 In making its decision the Committee is also obliged to have regard to the application and any relevant representations, take any such steps if any as it considers appropriate for the promotion of the licensing objectives, which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance;
- the protection of children from harm.

In making its decision the Committee is also obliged to have regards to:

The guidance issued under section 182 of the Licensing Act 2003 with the following paragraph's relevant to this application: 2.1, - 2.5, 10.8 - 10.10, 10.26 - 10.28, 10.46 - 10.50, 10.61 - 10.66, 12.1,

- 12.34.

The Council's own Licensing Policy with the following headed paragraphs being relevant to this application: Drug use and Safer Nightlife, Door Supervisors, Dispersal policy Licensing Hours (Page 12), Designated Premises Supervisor (Page 15), Licensing Conditions (page 22), Review of premises licence (Page 24-25)

Also the representations (including supporting information) presented by all the parties.

5.2 The steps are :

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

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.

Where the committee takes a step in 5.2 (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

The committee must secure that, from the coming into effect of the decision made on the determination of the review the interim steps having effect pending that determination cease to have effect (except if they become steps to be taken under 5.2 above).

## **6.0 RIGHT OF APPEAL**

- 6.1 An appeal may be made to the Magistrates Court within 21 days of the licence holder being notified of the licensing authority's decision. An appeal may be made by the premises licence holder, the chief officer of police and / or any other person who made relevant representations.
- 6.2 The decision of the licensing authority following the hearing will not have effect until the end of the period allowed for appeal or until the appeal is disposed of.

## Appendix I

**ANNEX I - MANDATORY CONDITIONS (PREMISES LICENCE - ON & OFF SALES)****All supplies of alcohol**

1. No supply of alcohol may be made under this Premises Licence-

- (a) at a time when there is no Designated Premises Supervisor in respect of the Premises Licence, or
- (b) at a time when the Designated Premises Supervisor does not hold a Personal Licence or his Personal Licence is suspended.

2. Every supply of alcohol under the Premises Licence must be made or authorised by a Person who holds a Personal Licence.

**Irresponsible drinks promotions**

1. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

2. In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

- (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to -
  - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
  - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
- (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
- (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

3. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

### Age verification policy

1. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
2. The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
3. The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

### Alcoholic drink measures

1. The responsible person must ensure that-
  - (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### Permitted price

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of this condition -
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula  $P = D + (D \times V)$  where:
    - (i) P is the permitted price
    - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
    - (iii) V is the rate of Value Added Tax chargeable in relation to the alcohol as if the Value Added Tax were charged on the date of the sale or supply of the alcohol;
  - (c) “relevant person” means, in relation to a premises licence -



- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any)
- (iii) the personal licence holder who makes or authorises a supply of alcohol;

(d) “relevant person” means, in relation to a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) “Value Added Tax” means Value Added Tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (b) below applies where the permitted price given by Paragraph (b) of paragraph (2) on a day (—the first day) would be different from the permitted price on the next day (—the second day) as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **Door supervision**

(1) Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, the licence must include a condition that each such individual must be licensed by the Security Industry Authority.

(2) But nothing in subsection (1) requires such a condition to be imposed-

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c.12) (premises with premises licences authorising plays or films), or

(b) in respect of premises in relation to-

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

(3) For the purposes of this section-

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

### **General**

- I. All staff shall be fully trained to perform their role. They will also be trained in the contents of the premises licence including times of operation, licensable activities and all conditions

2. Training shall be recorded in documentary form that will be available for inspection at the request at all reasonable times by an authorised officer from a relevant responsible authority. The records will be retained for at least 12 months
  3. Any person managing or supervising staff in the sale of alcohol or other licensable activity in the absence of the DPS shall be the holder of a personal licence.
  4. All staff shall be trained in the requirements of the Challenge 25 policy
  5. An incident book shall be maintained to record any activity of a violent, criminal or anti-social nature. The record will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.
  6. An incident book shall be available for inspection at all reasonable times by an authorised officer of relevant responsible authority. The records will be retained for at least 12 months
- The upstairs bar will stop serving alcohol at 04.00hrs and the area will be vacated by 04.30hrs

The rear cocktail bar will stop serving alcohol at 03.00hrs and will serve non-alcoholic drinks and beverages.

Maximum occupancy. The maximum occupancy figures for inside the premises will be 900. (Such number to be inclusive of any staff, performers and competitors on the premises).

Ground Floor - 700 persons

First Floor - 200 persons

the number of people entering and leaving the premises will be counted to ensure that, once the maximum occupancy is reached, no further persons are admitted.

- There will be door staff at the entrance and exit to the premises on the ground floor and also on the stairway leading to the first floor who will count the occupants by the use of mechanical clickers.
- Where maximum occupancy is attained this will be recorded in the incident book.
- No customers carrying open or sealed bottles or glasses will be admitted to the premises at any time.
- No customers will be permitted to take open containers of alcoholic or soft drinks from the premises and all bottles and glasses will be removed from public areas as soon as they are finished with or empty.
- The premises licence holder and DPS will have in place a policy for the management of large groups of customers for example hen and stag parties.
- This policy will nominate one person from management and one person from the group who will be identifiable and contactable in the event of any issues.

### **Prevention of Crime and Disorder**

- The Premises Licence Holder will ensure that a CCTV system is fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document ([www.informationcommissioner.gov.uk](http://www.informationcommissioner.gov.uk)) regarding installation of CCTV is provided at the premises
- The CCTV equipment shall be maintained in good working order and continually record when licensable activity takes place and for a period of two hours afterwards
- The CCTV system shall cover all areas of the premises to which the public have access including any outside areas.
- Images shall be retained for a minimum of 31 days
- The CCTV system shall be capable of downloading images to a recognisable viewable format.
- The CCTV system shall be capable of obtaining clear facial recognition images and a clear head and shoulders image of every person entering or leaving the premises
- If the CCTV equipment (Including any mobile units in use at the premises) breaks down the Premises Licence Holder shall ensure the Designated Premises Supervisor, or in his/her absence other responsible person, verbally informs the Licensing Authority and the Police as soon as is reasonably practicable. This information shall be contemporaneously recorded in the incident report register and shall include the time, date and means this was done and to whom the information was reported. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay. The Licensing Authority and the Police shall be informed when faults are rectified
- Door supervisors will be employed at all times the premises are open and conducting licensable activity.
- The number of door supervisors employed shall be in accordance with the following ratio: A minimum of two door supervisors will be employed for the first 100 customers and one door supervisor for every 100 thereafter.
- All door supervisors will wear clothing identifying them as such and display their SIA badge in an approved method (i.e. arm display badge holder) at all times.
- The Premises Licence Holder and/or Designated Premises Supervisor shall ensure door supervisors are properly briefed and trained to manage queues in a safe and efficient manner.
- All door staff shall be trained in the requirements of the Challenge 25 policies, the identification and recognition of drunks and the correct procedures to be followed when refusing entry.
- The Premises Licence Holder and/or Designated Premises Supervisor shall ensure that the following details for each door supervisor are contemporaneously entered into a bound register kept for that purpose:
  - (i) Full name,
  - (ii) SIA Certificate number and or badge number, or registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration or accreditation),
  - (iii) The time they began their duty
  - (iv) The time they completed their duty.
  - (v) The full details of any agency through which they have been allocated to work at the premises if appropriate
- The register shall be available at all reasonable times to an authorised officer of the Licensing Authority or a police constable.
- This register is to be kept at the premises at all times and shall be so maintained as to enable an authorised officer to establish the particulars of all door staff engaged at the premises during the period of not less than 12 months prior to the request.

- The Premises Licence Holder and/or Designated Premises Supervisor shall arrange adequate supervision by SIA registered staff of any queue, which may form to gain entry to the premises.
- Door supervisors will be responsible for controlling the safe, quiet and orderly dispersal of customers from the premises and the immediate vicinity of the premises.
- The Premises Licence Holder and/or Designated Premises Supervisor shall not allow any drinking vessel, glass or bottle to be taken from the premises.
- All incidents of violence within the premises will be reported to the Police at the earliest opportunity

### **The Prevention of Public Nuisance.**

- Noise - the patrons / audience will not be exposed to an event leq 107db(a) and the peak sound pressure level should not exceed 140 db. where the event leq is likely to exceed 96 db(a).
- Noise or vibration will not emanate from the premises such as to cause persons in the neighbourhood to be unreasonably disturbed.
- All external doors and windows will be kept shut, other than for access and egress, in all rooms when events involving amplified music or speech or other entertainment likely to give rise to noise are taking place.
- Sufficient ventilation will be provided so that doors and windows can be kept closed.
- Suitable signage at all relevant exits requesting that patrons make as little noise as possible when leaving the premises shall be displayed.
- Patrons will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity quickly and quietly.
- An announcement will be made prior to closing requesting patrons co-operation in leaving the premises and vicinity as quietly and quickly as possible.
- Staff will check prior to entertainment, and periodically during the entertainment, that all windows and doors are shut.
- A senior member of staff (manager) will assess the impact of any noisy activities on neighbouring residential premises at the start of the activity/entertainment and periodically throughout the activity/ entertainment.
- The volume of amplified sound used in connection with the entertainment shall at all times be under the control of the management.
- The delivery of goods is restricted to the following times between 8 am and 5 pm
- The handling of beer kegs, bottles and other similar items will not take place in the late evening, at night and during the early morning, when the noise generated could cause a nuisance particularly outside buildings.

**Conditions that have been agreed with The Environmental Health Authority**

- Suitable signage requesting patrons to make as little noise as possible while using this area shall be placed at the entrances and exits to the external smoking area
- Doors providing access to external smoking areas shall be fitted with self-closures, and shall be maintained in good working order.

**After 23.00hrs**

- Noise emanating from the premises will not be clearly audible at the nearest residential property.
- From midnight until close, at least one member of door staff will be located on the roof/smoking area to request patrons keep the noise down, and will ensure that doors giving access to the smoking area are kept shut
- If patrons are to be allowed to use the area for smoking then the following conditions must apply:
  - the area must be permanently monitored by door staff and CCTV to ensure that patrons do not cause a nuisance or engage in any anti social or criminal behaviour.

**The Protection of Children from Harm**

- The Premises Licence Holder or Designated Premises Supervisor shall ensure that all bar staff, supervisors and managers are trained in the legality and procedure of alcohol sales, using the SWERCOTS on-line training pack or equivalent, prior to undertaking the sale of alcohol and then at least every six months.
- Training shall be signed and documented and training records will be kept on the premises and be made available to an enforcement officer on request. The documentation relating to training should extend back to a period of three years and should specify the time, date and details of the persons both providing the training and receiving the training
- The Premises Licence Holder or Designated Premises Supervisor shall ensure a sales refusal register is maintained to include details of all alcohol sales refused and the reason for refusal. The refusals register should be made available to an authorized enforcement officer on request.
- Unaccompanied children (under 18) will not be allowed upon the premises.
- The Premises Licence Holder or Designated Premises Supervisor shall have a written age verification policy in relation to the sale or supply of alcohol. This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18s and will specify a **Challenge 25** proof of age requirement before sales of alcohol are made.
- The Licence Holder or Designated Premises Supervisor shall ensure that new bar staff, supervisors and managers receive induction in the legality and procedure of alcohol sales, prior

to undertaking the sale of alcohol. Training shall be signed and documented and training records be made available to an enforcement officer on request.

### Appendix 2: Table of Representations

Item Number	Date rec'd	Representation from:	Licensing Objective(s) detailed in representation	Representation details
1	25/04/23	Plymouth resident (requested their name and address withheld for fear of reprisals)	The prevention of crime and disorder	<p>The representation alleges that:</p> <p>There is constant fights, people using knives, family members have been assaulted in the club and when CCTV was requested it was unable to show anything. Drugs are being sold by staff and taken by staff whilst working. This club needs to be shut down. The new door staff are violent and I also believe the police have evidence on the new door supervisor company manager performing sexual acts in a public toilet.</p>