



Joint Operational Licensing Protocol

**The response to applications
under the Licensing Act 2003**

September 2014

Version Control

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Purpose

The purpose of this joint operational protocol is to outline the partnership arrangements for the administration, evaluation and appropriate management of responsibilities to examine all applications made under the Licensing Act 2003 to protect children and young people from harm.

What is the joint protocol?

This joint protocol is an agreement that establishes the roles and responsibilities of Durham Constabulary (a Statutory Safeguarding Partner in accordance with Working Together to Safeguard Children 2018) and the Darlington Safeguarding Partnership to achieve the specific objective of protecting children from harm arising from the conduct of licensed premises.

In addition, it details the practical joint working arrangements between Durham Constabulary and the Darlington Safeguarding Partnership and other agencies that can assist with the primary objective of safeguarding children.

Why have a joint protocol?

No single agency has sole responsibility for ensuring that appropriate arrangements are in place to safeguard children and young people. Durham Constabulary and the Darlington Safeguarding Partnership have statutory duties to protect this vulnerable client group.

Without clear agreement on the respective roles and responsibilities, there is the potential for ineffective information sharing and duplication of effort, which could place children and young people in vulnerable situations, arising from the conduct of the licensed premises.

What are the benefits to having a joint protocol?

This joint operational protocol will lead to:

- a clear understanding of the roles and responsibilities of Durham Constabulary, the partner agencies of the Darlington Safeguarding Partnership, as well as licensing applicants;
- a mechanism for collating all available, relevant information which may be considered to reduce the risk to children and young people, arising from the conduct of licensed premises;
- effective working relationships between agencies;
- the efficient and timely coordination of any representations by “responsible authorities” as required by the Licensing Act 2003.

Background

The Licensing Act 2003 is the primary legislation underpinning activity around the supply and sale of alcohol and the provision of both entertainment and late-night refreshment.

The primary purpose of the act is to provide a focus on the promotion of four statutory objectives:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

Statutory guidance raises specific concerns over the protection of children which centre on the access, use and management of premises, and conditions that may be appropriate to minimise and control such risks. It is recognised that issues concerning the protection of children will often inherently overlap with the prevention of crime and disorder.

In discharging its decision-making responsibility as to whether to grant licences and under what conditions, Licensing Authorities are obliged to consider representations from “responsible authorities” to ensure the promotion of the four statutory objectives.

The Licensing Act states that a “responsible authority” for the protection of children from harm should be “a body which represents those who are responsible for, or interested in, matters relating to the protection of children from harm and is recognised as being competent to advise on such matters.”

Darlington Safeguarding Partnership and the agencies represented on the Darlington Safeguarding Partnership have been identified as a “responsible authority” to advise on the protection of children from harm.

The Darlington Safeguarding Partnership routinely receives notifications of all licensing applications which are subsequently registered.

The Darlington Safeguarding Partnership’s business unit will be responsible for the administration of all licensing applications and will report to the Safeguarding Partnership Business Manager in ensuring that these arrangements are discharged effectively.

Process for notifications

The Licensing Authority has the remit to attach conditions to a licence and to make representations on any application for a new premises licence or a variation of a licence. On a practical level, the following factors should be considered for every licensing application, or subsequent review, regarding the protection of children:

- Suitability of applicants.
- Access hours in relation to children, where obtaining alcohol is the exclusive purpose of the subject premises.

- Where there is entertainment or services of an adult or sexual nature.
- Where there have been convictions of staff, for example serving alcohol to minors or the premises have a reputation for underage drinking.
- Where there is a known association with drug taking or dealing.
- Where there is a strong element of gambling on the premises.
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

The Police will undertake intelligence checks with the Police National Computer, and the Red Sigma/Sleuth intelligence and vulnerability applications for all relevant licensing applications.

For the purposes of this protocol, relevant applications are: new premises licence applications and variation applications, or where a new Designated Premises Supervisor is to be appointed.

The intelligence checks will be the responsibility of the Constabulary Licensing Unit staff who will, if necessary, consult with colleagues from the relevant Area Command Safeguarding Unit, who have operational responsibility for the protection of children.

In connection with their routine operational practices, the Police will target specific premises they identify as being concerned in the underage sale and consumption of alcohol.

Should concerns around safeguarding issues for children and young people arise, either as a result of licensing applications or the Police targeting of licensed premises, the Constabulary Licensing Units will, in the first instance, seek to make contact with the applicant or licensee, directly, to attempt to resolve those concerns.

Safeguarding concerns about children may originate from a number of licensing application sources such as;

- All premises licence applications (new, variations and reviews).
- The change of a designated premises supervisor or on premises licence variations.
- New personal licence applications and renewals where relevant unspent convictions require a notification to be made to the police by the Licensing Authority.
- Applications for temporary events, where there are concerns over the event or the premises user.

Where the safeguarding concerns of the Police cannot be adequately resolved within 28 working days following receipt of a Premises Licence application, 14 days for a variation of designated premises supervisor, 14 days for a relevant Personal Licence application and 48hrs in respect of a Temporary Event Notice then the matter will be brought initially to the attention of the Safeguarding Darlington Safeguarding Partnership's Business Unit.

The Police, via their dedicated Licensing Units, will then e-mail the Darlington Safeguarding Partnership's Business Unit a copy of their "summary of concerns" which will identify the safeguarding issues, raised by the police, in respect of the protection of children and young people.

Consultation within the Darlington Safeguarding Partnership

There will be many occasions where the Police safeguarding concerns relate to their proactive targeting of licensed premises selling alcohol to children under age, and the Police are pursuing a criminal prosecution and/or reviewing the existing licence.

Whilst selling alcohol to underage children is acknowledged to be a safeguarding concern for the Darlington Safeguarding Partnership, licensing concerns such as these may not necessarily result in wider consultation with the partner agencies, representing the Darlington Safeguarding Partnership. In this regard, the Statutory Safeguarding partners/Independent Scrutineer of Darlington Safeguarding Partnership, or the person with delegated authority, will write to the Police making comment around their support, or otherwise, for the Police concerns and for their actions in reviewing the premises licence.

However, there will be occasions where the Police “summary of concerns” raises issues where the Business Manager for the Local Safeguarding Partnership may seek to extend the consultation across all the agencies representing the safeguarding partnership. This requirement for wider consultation may occur where the Police “summary of concerns” raises the potential for significant safeguarding issues, either for children as individuals, or for the wider community, where children reside or frequent.

There could be a number of instances where the “summary of concerns” meets the threshold for significant safeguarding issues, for example increases in arrests of children for drunkenness linked to a particular premises, hospital admissions of children for alcohol related matters arising from the conduct of a premises or children accessing licensed premises involving entertainment of an adult or sexual nature.

Where wider consultation is necessary, the Business Manager will contact appropriate Darlington Safeguarding Partnership partners by e-mail within seven days of the Police notification, inform them of the concerns raised and seek from those Darlington Safeguarding Partnership partners whether they have information available, which would be of relevance in either supporting or opposing the objection or concern of the Police. During this consultation the Darlington Safeguarding Partnership will be asked to identify whether:

- the partner has information available relating to the conduct of the subject licensed premises.
- the partner has knowledge about child protection concerns linked to the subject licensed premises.
- the partner has any observations to make regarding the safeguarding issues which the Police have raised in their “summary of concerns.”

The Business Manager will collate any responses and reply to the Police within 10 days of the commencement of the consultation phase with Darlington Safeguarding Partnership partners.

The Business Manager will respond to the Police in writing and this will include reference to any concerns raised by the partner agencies. At this stage, the response will identify both the Darlington Safeguarding Partnership and the representative who prepared the response and will summarise the observations made. In addition, the response will consider the Police

concerns and will oppose or support the objection or concerns raised by the Police. At this stage of the process, the intention for securing consultation across the Darlington Safeguarding Partnership is to identify whether there is relevant information available, which may be of relevance in subsequent proceedings and for this information to be considered by solicitors representing Durham Constabulary. In this regard, the format of how this information is prepared is not relevant.

Any relevant information submitted by Darlington Safeguarding Partnership will subsequently be considered by the solicitors representing Durham Constabulary, in licensing proceedings, who may then approach the Darlington Safeguarding Partnership representative, discuss their observations further and the solicitors would assess whether there would be any benefit in that representative attending any subsequent hearing.

Consideration may also be given to the need for an on-site visit by a nominated person of the Darlington Safeguarding Partnership in order to validate any concerns.

All information on the administration arrangements for these licensing applications will to be retained on a licensing database at Darlington Safeguarding Partnership level.

Information Sharing

All agencies will comply with the requirements of the Human Rights Act 1998, Data Protection Act 2018 and the Children Act 1989. Durham Constabulary is a Statutory Safeguarding Partner in accordance with Working Together to Safeguard Children 2018 and must abide by agreed child protection procedures. The Safeguarding Partnership members are authorised to share information in order to protect children and prevent crime.

Disclosure of personal data must be relevant, and the minimum required for the purpose. No secondary use or other use of the data may be made unless the consent of the disclosing party to that secondary or other use is sought and granted.

Review

This protocol will be subject to an initial review after two years and thereafter at such intervals as is agreed by the partners' subject of this protocol.