



Representations On A Current Application For A Review Of A Premises Licence Or Club Premises Certificate Under The Licensing Act 2003

Section 1 – Licence Details

Applicant Name (If Known)	The Porky Pint Limited (review application by Cleveland Police)
Premises Name and Address	PLH Porky Pint Ltd DPS Mr Paul Henderson The Porky Pint Mill Lane Billingham

Section 2 - Responsible Authority

X Licensing

Section 3 – Representation Grounds

The representation is relevant to one or more of the following licensing objectives: Please tick relevant box(es)	X Prevention of Crime and Disorder
	X Public Safety

The grounds of the representation is based on the following: (Please continue on a separate sheet if necessary)		
I submitted a representation on 19 April 2021, on behalf of Stockton-on-Tees Borough Council's Licensing Service in support of the application made by Cleveland Police for a review of the premises licence held by The Porky Pint Limited.		
I attach a further statement and supporting evidence produced by Licensing Officer John Wynn, who will be in attendance at the hearing.		
Signed:	<i>L Maloney-Kelly</i>	Position: Licensing Team Leader
		Dated: 30.06.21

**STOCKTON-ON-TEES BOROUGH COUNCIL
STATEMENT OF WITNESS**

**(Criminal Procedure Rules, r 27.1 (1); Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, S5B)**

STATEMENT OF John Harley WYNN

AGE (If over 18 enter "over 18") **Over 18**

OCCUPATION: Licensing Officer

ADDRESS: SEE OVER

This statement (consisting of 2 pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Dated the 28 day of June 2021 Signed _____



_____ being unable to read the above statement, I

_____ of _____

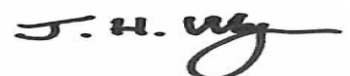
read it to him before he signed it.

Dated the _____ day of _____ **20** Signed _____

I make this statement in addition to my statements dated 04/04/2021 & 11th May 2021
On 22nd June 2021 I went to the licensed premises of The Porky Pint, 40 Mill Lane, Billingham. The reason for the visit was that I had received information from a Stockton Council Covid Marshall that he had witnessed staff and customers not wearing face coverings as they moved about the premise on Saturday 19th June 2021.

At 19:45 I went into the premise and immediately noted that customers were in the room to the right of me and in the main bar which was on my left. I walked into the main bar and observed that neither of the 2 staff were wearing face coverings as they served food and drink. I also noted Paul Henderson who I know to be the DPS and owner of The Porky Pint stood in front of the bar talking to another male who was also stood up. Neither Mr Henderson nor the male were wearing face coverings.

Mr Henderson approached me, and we exchanged greetings. I asked him why none of his staff were wearing face coverings and he replied that they did not have too. I said



Signed

Home Address:

.....

Home Tel. No: Business Tel. No.

Please circle dates when witness will not be available

Month of:							Month of:							Month of:						
1	2	3	4	5	6	7	1	2	3	4	5	6	7	1	2	3	4	5	6	7
8	9	10	11	12	13	14	8	9	10	11	12	13	14	8	9	10	11	12	13	14
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29	30	31					29	30	31					29	30	31				

Contact point, if different from above

Address

Tel. No.

**STOCKTON-ON-TEES BOROUGH COUNCIL
STATEMENT OF WITNESS**

**(Criminal Procedure Rules, r 27.1 (1); Criminal Justice Act 1967, S.9,
Magistrates' Courts Act 1980, S5B)**

Continuation Statement of: John Harley Wynn

to him that he should be following the governments guidance and he stated in reply that there is no legislation to enforce the guidance. Mr Henderson then attempted to engage in a conversation concerning infection rates, but I cut him short and said to him that's an argument for another day. I left the premise at 19:52.

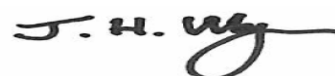
On 23rd June 2021, I e-mailed Mr Henderson and copied in his Solicitor Graeme Cushion a request for CCTV footage for times when the Covid Marshall had made his observations on Saturday 19th June 2021 and for the time on 22nd June 2021 when I attended the premise. I now produce in evidence a copy of this letter requesting the footage as **Exhibit JHW/8**.

The wearing of face coverings in the hospitality sector is covered by The Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020. Which states face coverings should be worn when entering a relevant premises and can be removed only when seated at a table consuming food and drink. There are certain exemptions but Mr Henderson did not inform me he or his staff were exempt from wearing a face covering.

The current Government guidance suggests that one of the main ways to suppress the virus is to maintain the right behaviours, which includes but is not limited to employees and customers wearing face coverings while moving around inside buildings. A letter detailing the Covid Road map prior to the step 3 of reopening of hospitality was sent to all 'on' licensed premises including The Porky Pint on 11 May 2021. There is no record of Mr Henderson seeking clarification on the legal requirement of face coverings from the Licensing Service. I now produce in evidence a copy of this letter as **Exhibit JHW/9**.

On 29th June 2021 I received an e-mail from Paul Henderson. The content of the e-mail sets out his reasons for refusing my request for the CCTV footage. I now produce in evidence a copy of this e-mail as **Exhibit No JHW/10**

Signed





My Ref:
Your Ref:

Municipal Buildings
Church Road
Stockton-on-Tees
TS18 1LD

SAT NAV code: TS19 1UE
Tel: 01642 526568
Email: john.wynn@stockton.gov.uk
Date: 23/06/21

Dear Mr Henderson

Licensing Act 2003
Porky Pint 40 Mill Lane Billingham TS23 1HF
Premise Licence Holder: The Porky Pint Ltd
DPS: Mr Paul Henderson

This is a formal request for CCTV footage to be provided from the above premises from:

1. 15:30 – 16:10 on Saturday 19th June 2021 &
2. 19:40 – 20:10 on Tuesday 22nd June 2021.

The dates and times requested reflect when it was observed that the regulations concerning the wearing of face coverings were not being complied with by customers and staff.

The request for CCTV is relevant for proceedings under the Licensing Act 2003 and may be included as additional evidence in the review of the premises licence.

Once the data is handed over to be taken 'off site', the local authority become the data controller, please be assured all CCTV is stored in a locked cabinet within secure council offices, following proceedings we can either arrange for the CCTV to be returned to Mr Henderson or destroyed, whichever is preferable.

Yours sincerely

John Wynn
Licensing Officer

E-mailed
Paul@hwlegacy.group
g.cushion@popall.co.uk

Sarah Whaley

From: Paul T. Henderson <paul@hwlegacy.group>
Sent: 29 June 2021 11:55
To: John Wynn
Cc: 'Graeme Cushion'
Subject: RE: Porky Pint request for CCTV footage

Good morning John.

The request is refused for several of the reasons we gave previously in refusing the first request for CCTV, where those reasons remain relevant to this new request.

Further, CCTV should only be disclosed in the course of a criminal investigation.

As you stated on Tuesday evening of last week, the wearing of face coverings by the public – and indeed all other measures related to this public health matter - is guidance, not law. Therefore there is no lawful basis on which the request for CCTV for the days and times stated can be justified.

See below the link to specific guidance from the Information Commissioner's Office:

<https://ico.org.uk/media/1535/cctv-in-pubs.pdf>

Specifically, the last paragraph:

“When can a licensee disclose CCTV images to the police or other third party?”

The Data Protection Act 1998 allows for CCTV images which can be used to identify an individual to be handed over for the prevention or detection of crime, the prosecution or apprehension of offenders or where the disclosure is required by law, for example, where an officer of the licensing authority is checking that CCTV is being used in accordance with the conditions of a particular license. While many licensing conditions stipulate that licensees should provide CCTV images to the police “on request”, the requirements of the Data Protection Act 1998 are such that such disclosure should be necessary for investigating or preventing a crime or apprehending or prosecuting an offender. As such the police must be able to justify their requests for CCTV images to be disclosed to them.”

Can you specify which current criminal offence or offences are being investigated or prevented, or alternatively what criminal offence or offences the offender(s) that the Police must be pursuing to apprehend or prosecute have committed?

Thank you.

Paul T. Henderson
Principal
HW Legacy Group
m: +44 (0) 7510 082 431 s: paulthenderson

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From: John Wynn <John.Wynn@stockton.gov.uk>
Sent: 23 June 2021 15:49
To: Paul T. Henderson <paul@hwlegacy.group>
Cc: Graeme Cushion <G.Cushion@popall.co.uk>
Subject: Porky Pint request for CCTV footage

This document was classified as: OFFICIAL

Good Afternoon Gentlemen

Please find attached a formal request for a copy of CCTV coverage from The Porky Pint. The relevant times and dates are contained within the request.

Do not hesitate to contact me if you require any additional information.

Best Regards

John Wynn

Licensing Officer

Stockton-on-Tees Borough Council

Telephone: 01642 526568 | Email: john.wynn@stockton.gov.uk | Web: www.stockton.gov.uk

**

Any opinions or statements expressed in this e mail are those of the individual and not necessarily those of Stockton-on-Tees Borough Council.

This e mail and any files transmitted with it are confidential and solely for the use of the intended recipient. If you receive this in error, please do not disclose any information to anyone and notify the sender at the above address.

Stockton-on-Tees Borough Council`s computer systems and communications may be monitored to ensure effective operation of the system and for other lawful purposes.

Although we have endeavoured to ensure that this e mail and any attachments are free from any virus we would advise you to take any necessary steps to ensure that they are actually virus free.

**

My Ref: LIC/MWA
Your Ref:

Municipal Buildings
Church Road
Stockton-on-Tees
TS18 1LD

Sat Nav Code: TS19 1UE

Tel: 01642 524802
Email: licensing.administration@stockton.gov.uk

11 May 2021

Dear Licensee

Step 3 Road Map to Reopening and Licensing Act Objectives
The Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020
The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021

You will by now be aware of the publication of the Government "Road Map" and the timings for potentially moving out of lockdown;

www.gov.uk/government/publications/covid-19-response-spring-2021

<https://www.gov.uk/government/publications/reopening-businesses-and-venues-in-england>

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

Free Webinars

The Institute of Licensing and Best Bar None are working together with other organisations to provide a series of FREE online webinars aimed at supporting industry and regulatory practitioners to prepare for the reopening of the leisure and hospitality sector. More information can be found at;
<https://www.instituteoflicensing.org/events/>

Indoor Hospitality

Step 3 will take place on 17 May 2021 and is the first step for the hospitality sector to use indoor areas for the consumption of food and drink on the premises. One of the main ways to suppress the virus is to maintain the right behaviours.

Continued overleaf...

The Licensee
The Porky Pint
40 Mill Lane
Billingham
TS23 1HF

Hands	Wash hands frequently for at least 20 seconds. Provide customers and staff with hygiene stations and sanitiser of above 70% alcohol.
Face	Ensure employees and customers wear face coverings while moving around inside of the building.
Space	Use social distance markers. Limit capacity, use a one-way system if possible and remind customers of the need to social distance.
Fresh Air	Provide good ventilation and ensure windows and doors are kept open where possible but do not obstruct any emergency exits by propping open fire doors.
Cleaning	Your risk assessment should detail how often you are cleaning high frequency touch areas such as door handles and toilets and identify the cleaning materials used. Be aware that some cleaning materials have contact times stated on the label for them to be effective. They should contain at least 70% alcohol.
Service	Provide cutlery and condiments only when food is being served and ideally serve single use condiments. Encourage contactless payments.
Limit face-to-face contact	Change the way employees work to limit their contact time with customers and each other. Create and stick to a break rota so staff are not mixing while not on duty.
Self-isolate	If required ensure employees follow self-isolation guidance as instructed by NHS Test and Trace.
Test employees	Carry out lateral flow testing of employees even if they have no symptoms, as one in three people don't show any signs of symptoms.

It is a legal requirement to comply with the following;

Size of bookings	Indoors	Maximum of 6; or Maximum of 2 households – this could be either less than 6 or greater if you had two large family groups. No person should join another group.
	Outdoors	Maximum of 30 persons, where the group is to be located outdoors. No person should join another group.
Distance between tables (take account spacing once patrons are seated measuring distances between customers not measured table edge to table edge)	2m or 1m only if:	There are barriers or screens between tables. The tables are arranged with back to back seating, or arranged to ensure that persons sitting at one table do not face any person sitting at another table at a distance of less than two meters; or Other measures are taken to limit the risk of transmission of the coronavirus between people sitting at different tables – your risk assessment should identify what measure you've taken.
Signage	Face Coverings	You must display a notice on the premises to remind customers that face coverings must be worn at all times while moving around the venue unless they are exempt. You should not prevent anyone from wearing a face covering while on the premises in indoor areas.

Collection of Contact Details	QR Code	You must display and make available a QR Code. The aim is to enable an individual who seeks to enter the premises and has a smartphone in their possession to scan the QR code with that smartphone as, or immediately after, they enter the premises. Details should be taken of all persons aged over 16 years – not just one person per party.
	Manual Record	A manual record can be maintained for customers without the ability to use the QR code. Details in that register should remain in the control of staff at all times and never left unattended. All manual records should be retained for 21 days. Anyone who refuses to give contact details should be refused entry.
	Staff	You should also ensure that you record any staff on duty and be sure to include the areas of the premises that they were responsible. This will enable you to identify any close contacts should staff or customers have a positive test for coronavirus after their visit. You should also ensure you record details of any volunteers or entertainment staff that you allow onto the premises.
Service of Food and Drink both indoor and outdoor	Table Service	You may sell food or drink for consumption on the premises only if the food or drink is ordered by and served to a customer who is seated on the premises. You must also take all reasonable steps to ensure that the customer remains seated whilst consuming the food or drink on the premises. You must also take payment for food or drink from the person at the table. There should be no customer approaching the bar areas to pay for food or drink ordered.

General Observations and Advice

- Limit capacity – the rules are new to yourself, your staff and customers. You should ensure that the capacity at the premises is manageable for your staff to ensure full table service, including the taking of payments, and be able to control the behaviour of customers on the premises. Opening up with reduced numbers will allow you and your staff time to adjust to the new pressures.
- Make sure you have enough trained staff to manage your customers safely and in accordance with the regulations and guidance. Allocate staff specific areas to work so mixing with colleagues and customers is reduced to a minimum therefore lowering the risk of transmission between parties should the staff member test positive.
- Identify a 'meet and greet' point as people enter the premises. This can help you set out the rules to every customer as they enter the venue. It will also ensure you are able to identify any customer who is not able to use the QR code so you can manually record their details before any service is provided.
- Where possible try and create a one-way system around the venue. Identify any pinch points and look to limit numbers of people in these areas. Controlling customers as they queue to enter, to leave or use the toilet must be considered and controlled. Floor markings, one-way systems and good signage should be in place and staff briefed in advance.
- Limit numbers visiting the toilet together at any one time and reinforce this message through signage and staff reminding customers of the rules.
- Review your Covid safe measures and risk assessment, including refresher training for staff, signage, and queue management. There are interactive tools available to support you from the Health & Safety Executive (HSE) at www.hse.gov.uk/simple-health-safety/risk/index.htm
- Make sure your customers understand your rules and maximum capacity, where possible, let customers know about your rules and seating capacity before you open, using Social Media is a good way to get the message out and manage customer expectations.

Gaming Machines/Darts/Pool

The above activities can still be played providing they are only used by one qualifying group at the same time so only by members who are at the same table. Anyone wanting to eat or drink while playing these activities must do so sitting down.

Gaming machines should be cleaned down after every use. Pool cues should be kept behind the bar and sanitised with an alcohol sanitiser of above 70% after each use. The pool table itself will need to be sanitised. It's encouraged that anyone wanting to use dart boards should provide their own equipment to use during play.

The External Area

You should remember that any place designated as a smoking area is still your responsibility and social distancing should still take place while outdoors. You should ensure that you take all reasonable steps to ensure that customers comply with this requirement.

If you do have any outdoor seating areas, these can be used by mixed households with a maximum of 30 people per group but there should be no mixing between groups. Social distancing should still be maintained between different households and appropriate distance should be maintained between tables (see table above). Patrons are still required to provide contact details for track and trace and a full table service is also a requirement.

Gazebos / Temporary Structures

Gazebos and temporary structures can continue to be used in outside areas, as long as they remain only 50% enclosed e.g. 1 larger and 1 smaller side removed these structures remain classed as outdoor and the 30 people per group applies. Anything more than 50% enclosed the structure is classed as indoor and the rule of 6 or 2 households rule applies.

Entertainment

For any entertainment you should follow the Covid secure guidance, take reasonable steps to limit transmission by reducing capacity, complete a risk assessment and adhere to all legal requirements ensuring those attending do not mix beyond what is legally permitted (detailed in the table above).

If you are providing entertainment in the form of a live act, then you should ensure that you follow the guidance from the Department for Digital, Culture, Media and Sport and performing arts

www.gov.uk/government/publications/coronavirus-covid-19-organised-events-guidance-for-local-authorities/coronavirus-covid-19-organised-events-guidance-for-local-authorities

www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/performing-arts

You should also be able to manage customers not mingling together and if you feel you won't be able to do this, then you should not proceed with the performance.

The performing arts guidance advises organisers to take proactive steps to encourage audiences to support the safety of the event and discourage activities that create aerosol transmission such as shouting, chanting and singing along. Limiting capacity can help reduce the risk of transmission.

Functions

Indoor private dining such as a gala dinner, award ceremonies or charity events can take place providing they are organised by a business or charity. Events for social purposes are only permitted within the social contact rules i.e. max 6 people or two households indoors or 30 people outdoors. There is still a legal requirement to track and trace and operate a full table service.

Door Supervisors

Consider whether you need to employ security staff when you first open or during events in order to provide further support to you and your staff. Details of any door supervisors on duty should also be kept with the staff register for tack and trace purposes as well as being detailed in your incident register.

Spectators at Sports Events

Spectators should adhere to the legal gathering limits. If spectators do not follow the legal requirements you can ask them to leave or not to attend again. People should still adhere to the social contact limits. Spectators should also minimise shouting or raising their voices.

With the Euro finals upon us, you should ensure that if you are choosing to show the football on TV that you also comply with the limits of size of bookings and prevent mixing between groups. You should also reduce capacity of the venue in order to ensure you can comply with social contact rules. Further information can be found in the guidance from DCMS

www.gov.uk/government/publications/coronavirus-covid-19-organised-events-guidance-for-local-authorities/coronavirus-covid-19-organised-events-guidance-for-local-authorities

Where customers are attending in order to spectate in a sporting event being held at the premises such as a cricket, football or rugby match, you should ensure that all customers are seated during the event. Capacity should be reduced to either 1000 or 50% indoors or 4000 or 50% outdoors. Where customers are consuming food and drink, this should also be provided as full table service.

Environmental Health Considerations

- If you provide food, ensure your kitchen staff review your food supplies for durability dates, condition and labelling.
- Check for any pest activity.
- Make sure your staff have the necessary food, safety and Covid awareness training, refresher courses are recommended for all.
- Carry out a deep clean of your Kitchen ready for trading.
- Review your menu and allergens controls. It's recommended to keep your menu simple.
- If your business has been closed and you can now reopen, you must ensure that the water systems have not allowed legionella bacteria to grow and thrive. The guidance from the Chartered Institute of Environmental Health can be found here;
<https://www.cieh.org/media/4208/legionella-guidance-covid-19.pdf>

A Precautionary Warning

The Council is here to help with advice and support where we can. Please call or e-mail your enquiries or concerns to licensing.administration@stockton.gov.uk Please remember that we do not have all the answers! We expect the Government will issue further guidance on how businesses can reopen in line with the roadmap, and it is your responsibility to keep up to date with the latest version of this guidance.

While we appreciate that the new rules may be a significant change to the way that you usually operate, your co-operation and compliance is essential to minimise the spread of coronavirus across Stockton and ensure that businesses are allowed to remain open.

Visits by local authority officers will be carried out while the local coronavirus restrictions remain in force and you should be aware that failure to comply with the requirements may result in enforcement action being taken against you. Enforcement action could be in the form of an improvement notice, immediate restriction notice, a fixed penalty notice, prohibition notice or ultimately prosecution.

Please keep in mind that the dates mentioned in the roadmap are **provisional dates**. This means the Government will monitor the number of new Covid cases and if the numbers start to rise again, the dates may be delayed, or local restrictions may be imposed.

We are all hopeful that by the 21 June, most restrictions will have been lifted. But there is **no guarantee** this will be the case. Therefore, we advise all businesses to be cautious before committing to future events, particularly if this includes ticketed events or where there is a financial commitment.

Licensing Act 2003

We sincerely welcome the reopening of the hospitality sector and the Licensing Service will support the trade as much as possible, but inevitably there will be a handful of premises which on reopening will cause problems, either on the premises or for residents. To avoid this please remind yourself of your operating times and the conditions attached to your licence, these remain in place and continuous breaches of licence conditions or complaints could result in a review of the premise licence.

Remember the four Licensing Objectives:

- Prevention of Crime and Disorder
- Prevention of Public Nuisance (which includes inside and outside premises)
- Protection of Children from Harm
- Public Safety (which includes Covid safe guidance)

A copy of your premise licence must be on site at all times, if you require a copy please call or email using the contact above. We are in support of and can offer guidance to the trade if needed, currently the best way to communicate with us to send an email request for a call back to the email above with brief details of your enquiry and a mobile number.

COVID Support

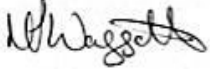
We know that businesses in the Borough are taking their legal duties seriously. Once again, we want to remind everyone of the importance of following COVID-19 secure working practices. Covid-19 secure working should be implemented consistently, and staff adhere to guidance at all times. However, if you do

find you have cases of COVID please contact www.digital.stockton.gov.uk/covid19-contactus or call 01642 528474 to report cases and for Public Health advice and support.

Get tested! Around one in three people with COVID-19 do not have any symptoms but can still spread the virus. Stockton has local testing centres for anyone without symptoms who is living or working in Stockton. Tests are free, take only a few minutes and can be taken up to twice weekly. Please book online <https://www.stockton.gov.uk/our-people/coronavirus-covid-19/covid-19-testing/>
If staff do have symptoms they should be directed to 119 or <https://www.gov.uk/get-coronavirus-test>

We wish you success with your reopening plans.

Yours sincerely



Margaret Waggott
Assistant Director
(Administration, Democratic & Electoral Services)