

**Report of: Service Director, Public Protection**

Meeting of	Date	Agenda Item	Ward
Licensing Sub-Committee	3 November 2011	B5	Tollington

Delete as appropriate		Non-exempt
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**Subject: PREMISES LICENCE REVIEW APPLICATION**  
**RE: Rohat's Fruit Basket, 93A Stroud Green Road, London N4 3PX**

**1. Synopsis**

- 1.1 This is an application by David Fordham of Islington Council's Trading Standards team for a Review of the Premises Licence under Section 51 of the Licensing Act 2003. A copy of the review application is attached as Appendix 1.
- 1.2 The grounds for review are related to the licensing objectives:
  - i) Crime and Disorder;

**2. Recommendations**

- 2.1 To determine the application to review the premises licence under Section 52 of the Licensing Act.
- 2.2 The Committee must have regard to the application and any relevant representations. The Committee must take such steps as necessary for the promotion of the four licensing objectives.

- 2.3 The steps stated in Sections 52(4) of the Act are as follows:
- a) to modify the conditions of the licence; and for this purpose the conditions of the licence are modified if any of them are altered, omitted or any new condition is added;
  - 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;
  - f) the Committee also have the option to leave the licence in its existing state;
  - g) the Committee also has the power in relation to steps a) and b) to provide that the modification and exclusion only has effect for a limited period not exceeding three months.

### 3. Background

- 3.1 The premises currently holds a 24 hour licence to sell alcohol for consumption off of the premises.
- 3.2 Mustafa Danisan has been the DPS at the premises since January 2007
- 3.3 The review application is supported by one representation from the police.
- 3.4 Papers are attached as follows:-
- Appendix 1: application form;
  - Appendix 2: current premises licence;
  - Appendix 3: police representations;
  - Appendix 4: suggested conditions and map of premise location.

### 4. Conclusion and reasons for recommendations

- 4.1 The Council is required to consider this application for review in the light of all relevant information from the applicant and the licence holder. It may attach such conditions necessary to promote the licensing objectives.

#### Background papers:

The Council's Statement of Licensing Policy

Licensing Act 2003

Secretary of States Guidance

Final Report Clearance

Signed by

  
Service Director – Public Protection

Date

8/7/11

Received by

Head of Scrutiny and Democratic Services

Date

Report author: Katie Tomashevski

Tel: 020-7527-3882

Fax: 020-7527-3057

E-mail: [Katie.tomashevski@islington.gov.uk](mailto:Katie.tomashevski@islington.gov.uk)

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.

If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I David Fordham, Service Manager Trading Standards

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described on Part 1 below (delete as applicable)**

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description:  <b>Rohat's Fruit Basket</b> <b>93a Stroud Green Road</b>	
Post town: <b>London</b>	Post code: <b>N4 3PX</b>

Name of premises licence holder or club holding club premises certificate: <b>Mr Mustafa Danisan</b>
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Number of premises licence or club premises certificate: <b>113239 / 2764</b>
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**Part 2 - Applicant details**

I am

**Please tick ✓ yes**

an interested party (please complete (A) or (B) below)

a person living in the vicinity of the premises

a body representing persons living in the vicinity of the premises

a person involved in business in the vicinity of the premises

a body representing persons involved in business in the vicinity of the premises

a responsible authority (please complete (C) below)

a member of the club to which this application relates (please complete (A) below)

**(A) DETAILS OF INDIVIDUAL APPLICANT** (fill in as applicable)

**Please tick**

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

**Please tick ✓ yes**

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address	<b>David Fordham Service Manager (Trading Standards) Public Protection Division 222 Upper Street London N1 1XR</b>
Telephone number:	<b>020 7527 3458</b>
E-mail:	<u><a href="mailto:david.fordham@islington.gov.uk">david.fordham@islington.gov.uk</a></u>

This application to review relates to the following licensing objective(s)

Please tick one or more boxes

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

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

This application to review relates to the objectives to prevent crime & disorder and Licensing Policy 39 and also the protection of children from harm and Licensing Policy 32. It particularly relates to the supply by the business of smuggled goods and the doubt this introduces about the standard of management evident at the premises.

On 15<sup>th</sup> June 2011, 137.4 litres of spirits and 565 bottles of wine were seized by HMRC officers during a joint HMRC / Trading Standards visit to these premises, as it was believed that the goods were smuggled. The business was given 30 days to provide proof of legitimate purchase to HMRC and a reminder letter was sent by Trading Standards on 4<sup>th</sup> July, but no proof was provided.

The spirits seized were:

Glens vodka – 46.8 litres (16 x 1l; 10 x 70cl; 68 x 35cl): 1l bottles have no duty stamp; 70cl bottles have separate duty stamps, which do not fluoresce, starting with an 'A', instead of a 'V' for vodka; 35cl bottles had crooked, self-adhesive labels with duty stamps that do not fluoresce.

Bells whisky – 17.15 litres (14 x 70cl; 21 x 35cl): 70cl bottles have either obliterated duty stamps or overlabelled duty stamps, which do not fluoresce: 35cl bottles have overlabelled back labels.

High Commissioner whisky – 10.85 litres (14 x 70cl; 3 x 35cl): On 70cl bottles, there is either no duty stamp or a separate duty stamp, which does not fluoresce, starting with an 'A', instead of a 'W' for whisky; the 35cl bottles have overlabelled duty stamps, which do not fluoresce.

Smirnoff vodka – 8 litres (8 x 1l): No duty stamp.

Wyborow vodka – 7.7 litres (11 x 70cl): Separate duty stamps starting with an 'A', instead of a 'V' for vodka, which do not fluoresce, bearing the legend "Enjoy with Absolut responsibility".

Absolut vodka – 7.5 litres (4 x 1l; 5 x 70cl): No duty stamp on 1l bottles; on 70cl bottles, duty stamps do not fluoresce.

Kirov vodka – 7.0 litres (10 x 70cl): Duty stamps do not fluoresce.

Teachers whisky – 4.9 litres (7 x 70cl): Separate duty stamps, which do not fluoresce, starting with an 'V', instead of a 'W' for whisky.

Stolichnaya vodka – 4.2 litres (6 x 70cl): Separate duty stamps starting with an 'A', instead of a 'V' for vodka, which do not fluoresce, bearing the legend "Enjoy with Absolut responsibility".

Soplica vodka – 3.5 litres (5 x 70cl): Separate duty stamps starting with an 'A', instead of a 'V' for vodka, which do not fluoresce, bearing the legend "Enjoy with Absolut responsibility".

Bols vodka – 3.5 litres (5 x 70cl): Separate duty stamps starting with an 'A', instead of a 'V' for vodka, which do not fluoresce.

Tovarish vodka – 3.5 litres (5 x 70cl): No duty stamps.

Vladivar vodka – 2.8 litres (4 x 70cl): Either overlabelled duty stamps, which do not fluoresce, or duty stamps as part of back label that do not fluoresce.

Finlandia vodka – 2.8 litres (4 x 70cl): Separate duty stamps starting with an 'A', instead of a 'V' for vodka, which do not fluoresce, bearing the legend "Enjoy with Absolut responsibility".

Johnnie Walker Red Label whisky - 2.1 litres (3 x 70cl): No duty stamps.

Iceberg vodka – 2.1 litres (3 x 70cl): No duty stamps.

Bacardi vodka – 1.0 litre (1 x 1l): Stamp does not fluoresce.

Famous Grouse whisky – 1.0 litre (1 x 1l): No duty stamp.

Villa Lobos vodka – 1.0 litres (2 x 50cl): No duty stamps.

The wine was recognised by HMRC officers as brands that have regularly been smuggled and supplied in the region without duty being paid.

The total duty that would have been evaded had the illicit goods been sold is approximately £2,384. This is largest seizure that Trading Standards have so far been involved with.

Trading Standards are concerned at the possession for supply of illicit alcohol for the following reasons:

- Counterfeit spirits, particularly vodka, may be unsafe to consume.
- Illicit spirits are smuggled into the country and / or produced by organised crime. It is believed that the profits are frequently used to fund other types of serious crime.
- Smuggling causes huge losses to the UK's tax revenues.

Section 13(4) of Licensing Act 2003 and Regulation 7 of The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 makes a local weights and measures authority a responsible authority for the purposes of the legislation. Islington Council is a local weights and measures authority and that function is carried out by the trading standards team.



Here is a summary of events supporting this application

23/03/11	TS advice	TS sent the business guidance on smuggled alcohol as part of a mailshot to all independent off licences.
15/06/11	HMRC seizure	137.4 litres of vodka and 565 bottles of wine seized by HMRC as suspected to be smuggled.

Recommendations:

It is clear that the business has disregarded the advice about appropriate precautions that should be taken to avoid the supply of smuggled goods that was sent to Mr Danisan in March 2011. If the simple precautions detailed in the guidance had been followed, all the illicit spirits found at the premises would have been very easy to spot.

The supply of illicit alcohol puts public health at risk. Counterfeit vodka often contains methanol – a type of alcohol that is not suitable for human consumption - and is responsible for many deaths worldwide each year. It would not be possible for a retailer to tell the difference between smuggled and counterfeit vodka or to assess how dangerous counterfeit vodka is.

Fortunately, the illicit spirits in this case are believed to be genuine, but smuggled.

There is no evidence of the business selling alcohol to underage consumers, but it is a concern that a willingness to break one law indicates that the standard of management at the premises is not satisfactory. This increases the possibility that the approach to all consumer laws may be less rigorous than is desirable.

It is for the Committee to consider the appropriate remedy for these facts. Should the licence continue, Trading Standards wish to recommend the following conditions are added to the licence:

1. No alcoholic goods will ever be purchased or taken from persons calling to the shop.
2. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol.
3. Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from the council, police or HMRC upon request.
4. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
5. An ultra-violet light will be available at the premises for the purpose of checking the UK Duty Stamp on spirits as soon as practical after they have been purchased.
6. If any spirits bought by the business have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to Islington Trading Standards and HMRC as soon as possible.
7. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licences.
8. The licensee shall ensure that staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The licensee shall keep records of training and instruction given to staff.
9. The licensee shall put arrangements in place to ensure that before serving alcohol to young persons, staff ask to see accredited proof of age cards for example proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the bearer.

10. The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection by the licensing team, police or trading standards.

No conditions have previously been attached by the Licensing Authority. Should the proposed conditions be added to the licence, it is recommended that the Sub-Committee remove conditions 7, 8, 9 & 19 in Annex 2, to avoid contradiction or duplication.

Please tick ✓ yes

Have you made an application for review relating to this premises before

If yes please state the date of that application

Day

Month

Year

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If you have made representations before relating to this premises please state what they were and when you made them

N/A

Please tick ✓ yes

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate

I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date

*2nd August 2011*

Capacity

**Service Manager (Trading Standards)**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

## PREMISES LICENCE LICENSING ACT 2003

<b>Premises licence number</b>	113239/2764		
<b>Postal address of premises, or if none, ordnance survey map reference or description</b>			
<b>ROHAT'S FRUIT BASKET 93A STROUD GREEN ROAD</b>			
<b>Post town</b>	London	<b>Post code</b>	N4 3PX
<b>Telephone number</b>	020 7281 3170		

**Where the licence is time limited the dates**

**Licensable activities authorised by the licence**

**For the ground floor**

- The sale by retail of alcohol

**The times the licence authorises the carrying out of licensable activities**

- The sale by retail of alcohol:

Monday	00.00	to	24.00	the following day
Tuesday	00.00	to	24.00	the following day
Wednesday	00.00	to	24.00	the following day
Thursday	00.00	to	24.00	the following day
Friday	00.00	to	24.00	the following day
Saturday	00.00	to	24.00	the following day
Sunday	00.00	to	24.00	the following day

**The opening hours of the premises:**

Monday	00.00	to	24.00	the following day
Tuesday	00.00	to	24.00	the following day
Wednesday	00.00	to	24.00	the following day
Thursday	00.00	to	24.00	the following day
Friday	00.00	to	24.00	the following day
Saturday	00.00	to	24.00	the following day
Sunday	00.00	to	24.00	the following day

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

Off supplies



**Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence**

Mustafa Danisan  
9 Newham Green  
Highfield Close  
London N22 5TN

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

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

Mustafa Danisan  
9 Newham Green  
Highfield Close  
London N22 5TN

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

LN/00002912 London Borough of Haringey

Islington Council  
Public Protection Division  
159 Upper Street  
London  
N1 1RE  
Tel: 020 7527 3031/3803  
Email: licensing@islington.gov.uk

J. J. Gibbons  
Assistant Director - Public Protection

6th Feb 2007  
Date of Issue

## **Annex 1 - Mandatory conditions**

1. No supply of alcohol may be made under the 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.

## **Annex 2 - Conditions consistent with the Operating Schedule**

1. The manager shall actively participate in and support the local Pubwatch scheme.
2. Any instances of crime and disorder at the premises shall be reported to the Police immediately, record of these incidents shall be kept in a general incident *log-book* in which are recorded details of each day's events. This log shall be made available to an authorised officer or a police officer with 24 hours of any request.
3. No less than two members of staff will be on the shop floor of the premises between the hours of 23.00 and 07.00.
4. The fire safety equipment shall be maintained to the satisfaction of the London Fire and Emergency Planning Authority.
5. Notices will be prominently displayed at exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.
6. Any refuge generated by the premises will be dealt with appropriately and efficiently.
7. The premises shall enforce a proof of age scheme, which is approved by the authorised officer of the Council and by the Local Police.
8. Clear and legible notices will be prominently displayed showing a message such as "If you appear to be under the age of 21 will be required to prove you are over 18"
9. A refused sales register to be kept on the premises. This shall include the time, date and details of the refusal. This register shall be made available to an authorised officer or a police officer with 24 hours of any request.
10. The premises shall not be used under this licence until the requirements specified in the schedule dated 24 November 2006 have been completed and approved in writing by the responsible authority for health and safety.
11. The licensee, upon receipt of any complaint from the Council or nearby residents with regard to noise or any other disturbance will take immediate action to prevent any reoccurrence of the cause for complaint.
11. No amplified music to be played on the premises via the sound system.
13. Signs will be displayed clearly advising customers to leave quietly.
14. No deliveries to be made to the store after 11pm or before 07.00.

15. CCTV system shall be installed and maintained inside and outside the premises, including a CCTV unit, which monitors the immediate vicinity of the premises. All cameras shall continually record whilst the premises are open to the public and the video recordings shall be kept available for a minimum of 31 days with time and date stamping. Tape recordings shall be made available to an authorised officer or a police officer with 24 hours of any request.
16. Adopt challenge 21 BII National Standards Proof of Age Scheme.

**Annex 3 - Conditions attached after a hearing by the licensing authority**

**Annex 4 – Plans**

Reference Number: 1629-1 Dated: 10 October 2002

**RESTRICTED (when complete)**

MG 11 (T)

### WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of **Robin Clark** ..... URN: 

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Age if under 18 **Over 18** ..... (if over 18 insert 'over 18') Occupation: **Police Officer 181475**.....

This statement (consisting of: ... **1** ..... 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 anything in it which I know to be false, or do not believe to be true.

Signature: ..... Date: **05.08.2011**

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

My name is Robin Clark and I am a Police Sergeant with the Metropolitan Police Service. I currently work as a Licensing officer at Islington Police Station. I have been given this specific responsibility by the Borough Commander who is acting under the written delegated authority of the Commissioner of Police for the Metropolis. A copy of this authority has been lodged with Islington Council Legal Department.

This statement is submitted in response to the review application made by the Mr David Fordham of Islington Council Trading Standards Service regarding the premises Rohat's Fruit Basket, 93a Stroud green Road, N4 3PX.

I have read the information provided by the Council officials in this matter and note the large quantity and varied brands seized. Also the fact that much of it was obviously not duty paid due to the labelling. The sale of counterfeit and smuggled goods is in my view a very serious matter and having assisted the council officials in seizing such goods it is apparent that it is becoming more widespread. If there was no market for the goods the trade would not flourish and as such the licensed trade does not need operators who are willing to break the law as readily as in this case buying goods from an illegal supplier. It is well documented that there is a strong link between organised crime groups and the trade in counterfeit and smuggled goods and therefore this type of crime is also supporting other types of crime such as the drug trade, people trafficking and even terrorism. As such I would support revocation of the licence or at least a long suspension and addition of the conditions proposed by the officers of Islington Trading Standards Office. I would also point out that the Home office guidance on this offence is revocation of the licence on the first offence and that the Licensing Authorities should seek to support business 's that operate within the law by removing those that trade illegally.

Having received the guidance from the council officials it appears that the management have at best ignored it and chosen to leave goods on the shelf that were previously purchased in which case they were still taking a risk with other peoples health as they could not know for certain what the bottles contained. The other conclusion is that they have ignored the advice and stocked their shop from an illegal supplier and have thus acted with guilty knowledge. I feel that either course of action makes them unsuitable to run a licensed premises and as such the licence should be revoked.

Signature: ..... Signature witnessed by: .....

2006/07(1): MG 11(T)

**RESTRICTED (when complete)**



**Witness contact details**

Home address: .....  
..... Postcode: .....

Home telephone number ..... Work telephone number .....

Mobile/pager number ..... Email address: .....

Preferred means of contact: .....

**Male / Female** (delete as applicable) Date and place of birth: .....

Former name: ..... Ethnicity Code (16+1): ..... Religion/belief: .....

**Dates of witness non-availability** .....

**Witness care**

- a) Is the witness willing and likely to attend court? **No.** If 'No', include reason(s) on **MG6.**
- b) What can be done to ensure attendance?
- c) Does the witness require a Special Measures Assessment as a vulnerable or intimidated witness?  
**No.** If 'Yes' submit **MG2** with file.
- d) Does the witness have any specific care needs? **No.** If 'Yes' what are they? (Disability, healthcare, childcare, transport, , language difficulties, visually impaired, restricted mobility or other concerns?)

**Witness Consent (for witness completion)**

- a) The criminal justice process and Victim Personal Statement scheme (victims only) has been explained to me Yes  No
- b) I have been given the Victim Personal Statement leaflet Yes  No
- c) I have been given the leaflet 'Giving a witness statement to police — what happens next?' Yes  No
- d) I consent to police having access to my medical record(s) in relation to this matter: (obtained in accordance with local practice) Yes  No  N/A
- e) I consent to my medical record in relation to this matter being disclosed to the defence: Yes  No  N/A
- f) I consent to the statement being disclosed for the purposes of civil proceedings e.g. child care proceedings, CICA Yes  No
- g) The information recorded above will be disclosed to the Witness Service so they can offer help and support, unless you ask them not to. Tick this box to decline their services:

Signature of witness: ..... Print name: .....

Signature of parent/guardian/appropriate adult: ..... Print name: .....

Address and telephone number if different from above: .....

Statement taken by (print name): **PS45NI 181475 Robin CLARK**..... Station: **Islington** .....

Time and place statement taken: .....

**Suggested conditions**

As per current licence

**Suggested conditions of approval recommended by Trading Standards**

1. No alcoholic goods will ever be purchased from sellers calling to the shop.
2. The licensee will immediately report to Trading Standards any instance of a caller to the shop attempting to sell alcohol
3. Invoices (or copies) for all alcoholic goods on the premises will be kept at the shop and made available to officers from the council, police or HMRC upon request.
4. A stock control system will be introduced, so that the licensee can quickly identify where and when alcoholic goods have been purchased.
5. An ultra-violet light will be available at the premises for the purpose of checking the UK Duty Stamp on spirits as soon as practical after they have been purchased.
6. If any spirits bought by the company have UK Duty Stamps that do not fluoresce under ultra-violet light, or are otherwise suspicious, the licensee shall identify the supplier to Islington Trading Standards and HMRC as soon as possible.
7. The licensee shall adopt the Challenge 25, the Retail of Alcohol Standards Group's advice for off-licenses.
8. The licensee shall ensure staff are trained about age restricted products and ensure that they sign to confirm that they have understood the training. The licensee shall keep records of training and instruction given to staff.
9. The licensee shall put arrangement in place to ensure that before serving alcohol to young persons, staff ask to see accredited proof of age cards for example proof of age cards carrying the 'PASS' logo (and no others), a Passport, or UK Driving License bearing the photograph and date of birth of the bearer.
10. The licensee shall require staff to note any refusals to sell to young people in a refusals log. The refusals log shall be checked and signed monthly by the designated premises supervisor. The refusals log shall be made available for inspection by the licensing team, police or trading standards.



