

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

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 Emyr Jones, Licensing Lead, Carmarthenshire County Council

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in 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 Santa Clara Public House, Bridge Street, St Clears	
Carmarthen	SA33 4EE

Name of premises licence holder or club holding club premises certificate (if known) Anwen Mai Reynolds and Alan David Reynolds, Santa View, Bridge Street, St Clears. Carmarthenshire, SA33 4EE

Number of premises licence or club premises certificate (if known) OONU-PRM-00326

Part 2 - Applicant details

I am

Please tick yes

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

a) a person living in the vicinity of the premises

b) a body representing persons living in the vicinity of the premises

- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)
- 3) 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
Licensing Section
Homes and Safer Communities
Carmarthenshire County Council
3 Spilman Street
Carmarthen
SA31 1

Telephone number (if any)
01267 228717

E-mail address (optional)
eorjones@carmarthenshire.gov.uk

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

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm



Please state the ground(s) for review (please read guidance note 1)

Background

Due to the Coronavirus outbreak, business premises, including Pubs, Bars and restaurants have been subject to regulations. From the 24th July 2020 to the 23rd October 2020 these were The Health Protection (Coronavirus Restrictions) (No. 2) (Wales) Regulations 2020, (referred to below as the COVID regulations).

Regulation 12 required such premises to take all reasonable measures to minimise the risk of exposure to coronavirus in premises open to the public. The regulations were accompanied by guidance published by Welsh Government which detailed what was expected to be put in place at such premises as reasonable measures. However, breach of Regulation 12 was not itself a criminal offence.

In addition, Regulation 12B imposed a requirement on persons to wear face masks inside licensed premises when not eating or drinking. Breach of Regulation 12B was a criminal offence

Furthermore Regulation 14 prohibited persons gathering indoors with anyone other than members of their household (or extended household) or carer, with a maximum of 6 persons able to gather together at anyone time. Breach of Regulation 14 was also a criminal offence.

Officers from Carmarthenshire County Council, supported by Officers from Dyfed Powys Police conducted joint visits to a wide range of open premises, including licensed premises to provide advice and assess compliance with the coronavirus

regulations.

On the 8th of October 2020, Annwen Davies a Trading Standards Officer accompanied by P.C Rhian James were undertaking visits to licensed premises in the Pendine, Laugharne and St Clears areas.

At approximately 20.45 they entered the Santa Clara Public House in St Clears where they witnessed :-

- **No SD in place at all – groups of 6 boys from more than 4 households on tables (Breach of Regulation 14)**
- **Two tables next to each other – no spacing at all between them**
- **Approx 15-20 people all in front of the bar area watching the football (Breach of Regulation 14)**
- **No mask worn by bar staff or any sort of shield on the bar (Breach of Regulation 12B)**
- **No masks worn by customers going to the toilet (Breach of Regulation 12B)**
- **No table service – customer went up to the bar for a drink during our visit**
- **DPS was sitting in with the customers and didn't have a mask on when talking to us during the inspection (Breach of Regulation 12B)**
- **Only names on T&T – when asked about numbers and times, DPS said “he knows all the boys”**
- **Premises did have “one in/one out” signs on the toilets but licensee said he cleans every few hours because it is hard to keep on top of it**
- **Had 2-3 hand sanitisers dotted through the premises but not obvious enough for customers**
- **DPS seemed to be intoxicated during the inspection and said “it's hard to control all the covid stuff when the football is on”**

As a result of the visit and the lack of reasonable measures witnessed by the officers, a Premises Closure Notice was issued to Mr Richard Pearce, the premises Designated Premise Supervisor under THE HEALTH PROTECTION (CORONAVIRUS RESTRICTIONS) (No.2) (WALES) REGULATIONS 2020; Schedule 5(2). The notice required the premises to remain closed from the 9th until the 23rd of October 2020.

In the case of both Regulation 12B and Regulation 14 offences were committed by the individuals who were failing to comply with those Regulations. However, on that occasion the Designated Premises Supervisor, Mr Pearce was present and failed to take steps to ensure that those individuals complied with the law. Mr Pearce had a legal obligation by virtue of Regulation 12 to take reasonable steps to ensure individuals at the premises complied. Furthermore, Mr Pearce as DPS was in a position to control the actions of those individuals at the premises and failed to do so. Accordingly, he aided and abetted the commission of those offences and by virtue of section 44 Magistrates Courts Act 1980 committed those offences himself.

In addition, on the 18th of August 2020, the premises licence for the Santa Clara had been reviewed by the Council's Licensing Sub Committee . The review was submitted by the Dyfed Powys Police as a result of two visits to the premises by Police officers on the 29th of March 2020 when all licensed premises were required to be closed in accordance with the coronavirus regulations in force at that time. The Police officers found 4 persons at the premises consuming alcohol on the first visit and then 8 persons at the premises consuming alcohol during the second visit some 40 minutes later. On both occasions Mr Richard Pearce was spoken to regarding the regulations and on the second occasion he was issued with a fixed penalty notice.

The review hearing on the 18th of August was attended by Mr and Mrs Reynolds the

premises licence holders as well as Mr Richard Pearce the DPS. After hearing the submissions from all parties, the subcommittee resolved to attach a number of additional conditions to the Premises Licence. One of the additional conditions required :-

17. The Designated Premises Supervisor must hold a Level 2 Personal Licence Holders Qualification Certificate, and a copy of the certificate must be provided to the Licensing Authority. This Certificate to be produced within 1 month of the Review Hearing i.e. by 18th September 2020.

At the time of the visit to the premises on the 8th October Mr Pearce had not completed the training course and therefore the premises were not operating in accordance with its licence conditions which is an offence under s136 of the Licensing Act 2003. Subsequent enquiries with the Premises Licence Holders confirmed that Mr Pearce had still not completed the course on the 22nd of October 2020.

On the 24th of August 2020, a complaint was received by the licensing section alleging that an illegal lottery was being promoted by the operator of the Santa Clara, St Clears. As a result, Mr Pearce was interviewed under caution by Justin Power, Senior Licensing Officer on the 26th of August 2020 for facilitating an unlicensed lottery contrary to the Gambling Act 2005.

Following the interview Mr Pearce cancelled the lottery and arranged for all participants in the lottery to have their participation fees refunded.

In addition to the specific criminal offences highlighted, these facts demonstrate a lack of appropriate management and control at the premises which undermines all the licensing objectives. In particular;

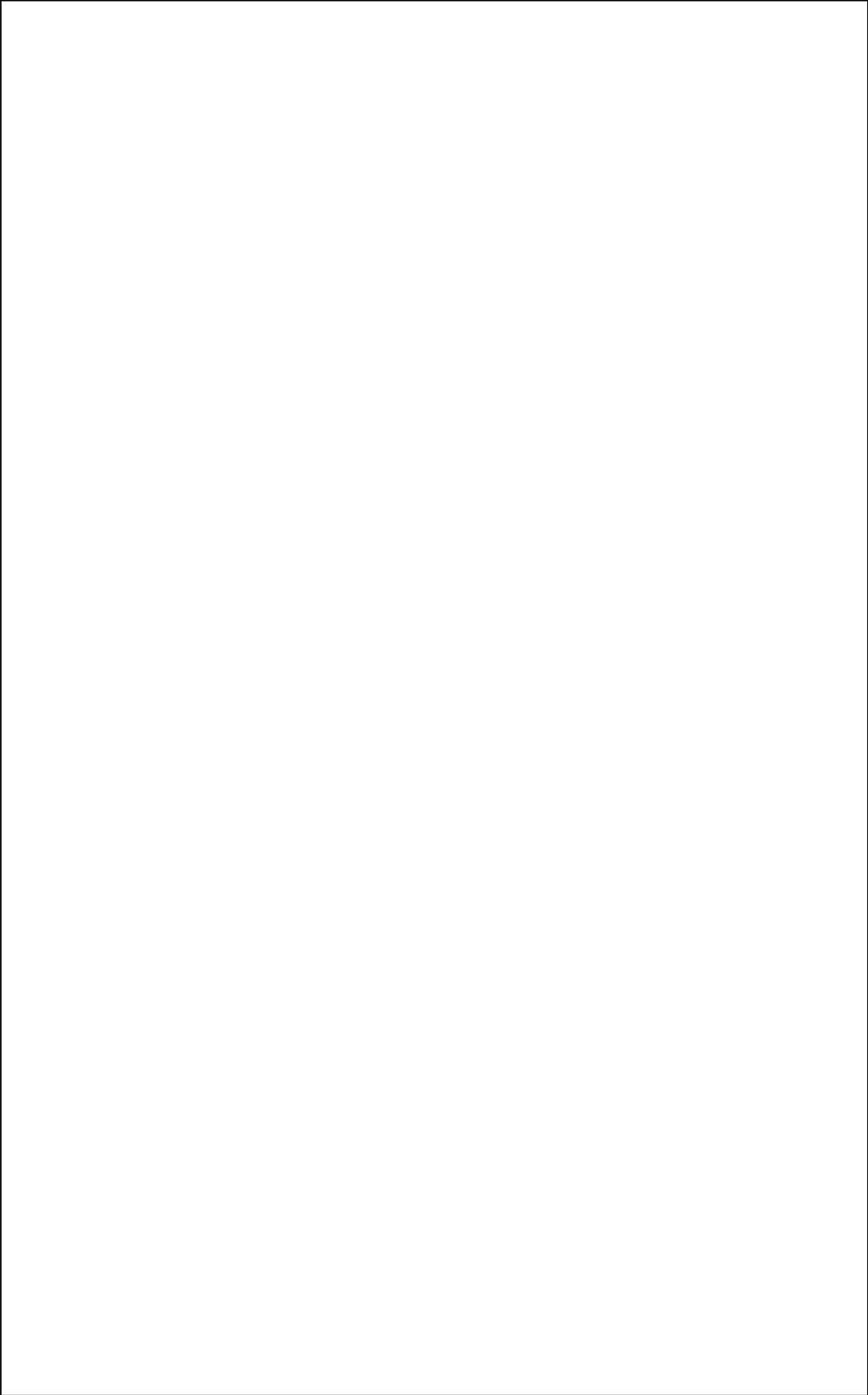
1. Mr Pearce shows complete disregard for his obligations as DPS and for the law in general
2. Mr Pearce seems incapable of exercising effective and appropriate control over the premises and its patrons.
3. The premises licence holders, Mr and Mrs Reynolds appear incapable of exercising effective and appropriate control over the premises and/or the actions of Mr Pearce. That they have allowed Mr Pearce to run the premises in return for paying them rent does not excuse them of responsibility for how the premises are run.

Please provide as much information as possible to support the application
(please read guidance note 2)

This is the second licence review application to be made in relation to these premises for serious management failures during the last 6 months. The first review application submitted by Dyfed Powys Police focused on the need to improve standards of management by Mr Richard Pearce, the tenant and Designated Premises Supervisor as well as the need to improve supervision of the premises by the licence holders.

The failings noted during the visit on the 8th of October as well as the breach of the additional licence condition demonstrate that the premises are still not being adequately managed by either the DPS or licence holders to promote the licensing objectives. The failings also demonstrate that neither the premises licence holders nor the DPS take their responsibilities seriously and as such measures such as additional licence conditions or removing the DPS are unlikely to have any effect.

As a consequence, the licensing authority believes that it is appropriate to revoke the premises licence and that this is a proportionate response to the lack of proper management and control at the premises.



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

Representations were made by the Licensing Authority in response to the review application submitted by the Police on the 22nd of June 2020.
The letter of representation dated 20th of July 2020 provided the sub committee with the licensing background of the premises, the recent contact with the Designated Premises Supervisor as well as supporting the Police request for additional licence conditions.

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 guidance note 4). **If signing on behalf of the applicant please state in what capacity.**



Signature

Date 16/12/2020

Capacity Licensing Lead

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

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)

Notes for Guidance

1. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.