

## **Statutory Licensing Sub-Committee**

**31<sup>st</sup> July 2019**

### **Application for the Review of a Premises Licence**



### **Ordinary Decision**

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#### **Report of Ian Thompson, Corporate Director of Regeneration and Local Services**

#### **Councillor Brian Stephens, Cabinet Portfolio Holder for Neighbourhoods and Local Partnerships**

#### **Electoral division(s) affected:**

Delves Lane

#### **Purpose of the Report**

- 1 The Sub-Committee is asked to consider and determine an application by Durham Constabulary to review the premises licence in respect of Lux Bar, 28-30 Front Street, Consett DH8 5AQ.
- 2 A plan showing the location of the premises is attached at Appendix 2.

#### **Executive summary**

- 3 On 3<sup>rd</sup> July 2019, the Licensing Authority received an application and supporting certificate under Section 53A of the Licensing Act 2003 from Durham Constabulary where it was required to consider whether it is necessary to take interim steps pending determination of the full review of the premises licence within 48 hours of receipt of this application.
- 4 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises where there is the sale of alcohol and where it is considered the premises are associated with serious crime and / or serious disorder.
- 5 On 5<sup>th</sup> July 2019, the Licensing Statutory Sub-Committee met to consider the application and any necessary interim steps. Members decided to suspend the premises licence with immediate effect and remove the designated premises supervisor, Mr Peter Skotidakis pending the full review hearing. A copy of the notice of determination is attached as Appendix 3.

- 6 During the consultation period the Licensing Authority received one representation from a Responsible Authority in support of the review application, namely the Licensing Authority.
- 7 The Environmental Health Department, the Planning Department, Public Health and the Fire Safety Authority all responded to the consultation with no comments.

### **Recommendation(s)**

- 8 The Sub-Committee is asked to determine the review application with a view to promoting the licensing objectives.
- 9 The Sub-Committee is recommended to give appropriate weight to:
- (a) The steps that are appropriate to promote the licensing objectives;
  - (b) The representations (including supporting information) presented by all parties;
  - (c) Durham County Council's Statement of Licensing Policy. The relevant parts of the policy are attached at Appendix 7;
  - (d) The Guidance issued to local authorities under Section 182 of the Licensing Act 2003 (as amended April 2018). The relevant parts of the guidance are attached at Appendix 8.

### **Background**

- 10 Background information

Applicant	<b>Durham Constabulary</b>	
Type of Application: <b>Review of a Premises Licence</b>	Date received: <b>3<sup>rd</sup> July 2019</b>	Consultation ended: <b>17<sup>th</sup> July 2019</b>
Premises Licence Holder	<b>Bar Lux Limited</b>	
Designated Premises Supervisor (DPS)	<b>Mr Peter Skotidakis (removed under interim steps hearing)</b>	

	On 19 <sup>th</sup> July 2019, the Licensing Authority received an application to vary the DPS to Ms Jody Carol Armstrong
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- 11 The premises licence in respect of Lux Bar currently permits the sale of alcohol for consumption on and off the premises, regulated entertainment and late-night refreshment as detailed in the table below:

<b>Licensable Activity</b>	<b>Days &amp; Hours</b>
Sale of Alcohol (for consumption on and off the premises)	Monday to Sunday: 10:00 – 3:00 hrs From the end of permitted hours on New Year's Eve to start of permitted hours New Year's Day
Regulated entertainment (indoors)	Monday to Sunday: 10:00 – 3:30 hrs From the end of permitted hours on New Year's Eve to start of permitted hours New Year's Day
Late night refreshment (indoors)	Monday to Sunday: 23:00 – 3:30 hrs From the end of permitted hours on New Year's Eve to start of permitted hours New Year's Day
Opening Hours	Monday to Sunday: 10:00 – 3:30 hrs From the end of permitted hours on New Year's Eve to start of permitted hours New Year's Day

- 12 A copy of the current premises licence and layout plan is attached at Appendix 4.

**Details of the application**

- 13 The review application was received by the Licensing Authority on 3<sup>rd</sup> July 2019.
- 14 The application is deemed by the Licensing Authority to be relevant and the application was advertised in accordance with the regulations.
- 15 The application for review relates to the following licensing objective:
- The Prevention of Crime and Disorder

- 16 A copy of the application and supporting certificate is attached at Appendix 5.

### **The Representations**

- 17 During the consultation period, the Licensing Authority received one representation from a Responsible Authority in support of the review application, namely Durham County Council's Licensing Authority.

A copy of the representation is attached at Appendix 6.

- 18 Responses were received from the following Responsible Authorities, confirming that they had no comments to make in relation to the review application:

- Durham County Council Environmental Health Department
- Durham County Council Planning Department
- Durham County Council Public Health Department
- County Durham and Darlington Fire & Rescue Service

### **The Parties**

- 19 The Parties to the hearing will be:

- Durham Constabulary (Applicant)
- Rob Edge, Licence Leader Limited (on behalf of the premises licence holder)
- Mr Arif Toshi (husband of premises licence holder and day to day manager of the premises)
- Nicola Anderson, Licensing Enforcement Officer (Responsible Authority)

### **Options**

- 20 The options open to the Sub-Committee are:

- (a) To take no further action;
- (b) To modify or add conditions to the licence;
- (c) Exclude a licensable activity from the licence;
- (d) Remove the Designated Premises Supervisor;

- (e) Suspend the licence for a period (not exceeding three months);
- (f) Revoke the licence.

## **Main implications**

### *Legal Implications*

- 21 The Committee should be aware of a number of stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

### *Consultation*

- 22 The review application was subject to a 10 working day consultation.

See Appendix 1

## **Conclusion**

- 23 The Sub-Committee is asked to determine the application for the review of the premises licence for Lux Bar, 28-30 Front Street, Consett.

## **Background papers**

- Durham County Council's Statement of Licensing Policy
- Guidance issued under Section 182 of the Licensing Act 2003 (as amended April 2018)

## **Other useful documents**

- None

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**Contact:** Helen Johnson

Tel: 03000 265101

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## **Appendix 1: Implications**

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### **Legal Implications**

The case of Daniel Thwaites Plc v Wirral Borough Magistrates' Court (Case No: CO/5533/2006) at the High Court of Justice Queen's Bench Division Administrative Court on 6 May 2008, [2008] EWHC 838 (Admin), 2008 WL 1968943, Before the Honourable Mrs Justice Black.

In this case it was summed up that:

A licensing authority must have regard to guidance issued by the Secretary of State under section 182. Licensing authorities may depart from it if they have reason to do so but will need to give full reasons for their actions.

Furthermore the Thwaites case established that only conditions should be attached to a licence with a view to promoting the Licensing objectives and that 'real evidence' must be presented to support the reason for imposing these conditions.

This judgement is further supported in the case of The Queen on the Application of Bristol Council v Bristol Magistrates' Court, CO/6920/2008 High Court of Justice Queen's Bench Division The Administrative Court, 24 February 2009, [2009] EWHC 625 (Admin) 2009 WL648859 in which it was said:

'Licensing authorities should only impose conditions which are necessary and proportionate for the promotion for licensing objectives'.

In addition to this, it was stated that any condition attached to the licence should be an enforceable condition.

### **Consultation**

The premises licence review application was subject to a 10 day consultation in accordance with the Licensing Act 2003 and its regulations.

The Responsible Authorities were consulted on the application.

The notice of application was displayed on the premises for a period of 10 working days.

Notice of the application was displayed at the Council's Head Office at County Hall, Durham.

In addition, details of the application were available to view on the Council's website throughout the 10 working day consultation period.

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## Appendix 2: Location Plan

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# Lux Bar, 28-30 Front Street, Consett



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 Ordnance Survey BA 100049055  
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Every care has been taken to ensure the information contained on this map is correct. DCC accepts no liability for error or misinterpretation of the information shown on this map.

Map produced by Durham County Council - IntraMAP on 22/7/2019 at a scale of 1:2500





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## **Appendix 3: Notice of determination – Interim Steps Hearing**

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**THE COUNTY COUNCIL OF DURHAM**

**Licensing Committee**

**NOTICE OF DETERMINATION**

**Licensing Act 2003 (the Act)**

Date of Hearing: 5 July 2019  
Date of Determination: 5 July 2019  
Committee Members: Councillor J. Blakey (Chair)  
Councillor D Bell  
Councillor D Brown

**1) Type of application or hearing**

Summary Licence Review

**2) Applicant**

Durham Constabulary

**3) Premises**

Lux Bar, 28-30 Front Street, Consett, DH8 5AQ

**4) Application**

For the summary review of a Premises Licence under Section 53A of the Licensing Act 2003

**5) Witnesses**

The Sub-Committee heard from the following:

- Helen Johnson, Licensing Team Leader;
- Sergeant Dean Haythornthwaite, Durham Constabulary, attending with Insp Siobhan Jones and Jason Morg;
- Rob Edge, representative of Licence Holder, attending with Arif Toshi and Vic Bell.

**6) Licensing Act 2003**

The Sub-Committee has taken into account the relevant provisions of the Act.

**7) Section 182 Guidance**

The Sub-Committee has considered and taken account of the most recent edition of the Secretary of State Section 182 Guidance. The Sub-Committee has also considered the Section 53A-C Summary Review Guidance.

**8) Licensing Policy**

The Sub-Committee has considered and taken account of the Council's licensing policy.

**9) Licensing Objectives**

The Sub-Committee took account of the information provided by the Applicant for the purposes of the review and with respect to the licensing objective regarding the prevention of crime and disorder.

**10) Evidence and Reasons**

**Representations of Helen Johnson, Licensing Team Leader**

10.1 An application and the supporting certificate, required by Section 53A of the Act, was received by the Licensing Authority on Wednesday 3 July 2019. Durham Constabulary consider that the premises is associated with serious crime and disorder.

10.2 The Licensing Authority is required to consider the matter within 48 hours of receipt of the application to decide if interim steps are required.

10.3 The Licensing Committee has power under section 53B to consider a number of interim steps namely:

- Modification of the conditions of the premises licence.
- Exclusion of the sale of alcohol by retail from the scope of the licence.

- Removal of the Designated Premises Supervisor from the licence.
- Suspension of the Licence.

10.4 It was confirmed that the licence for the premises includes the sale of alcohol on and off premises Monday to Sunday 10am to 3am each day.

10.5 There were no questions of Mrs Johnson.

#### Representations of Durham Constabulary

10.6 Sgt Haythornthwaite was invited to address the Sub-Committee. The evidence submitted by Durham Constabulary is that, on 1 July 2019 shortly after midnight, an incident occurred as outlined in their review application.

10.7 The injured party was attacked in the bar area by two males resulting in hospital treatment for a significant wound to his face and head as well as extensive injuries to his body. The incident is being investigated as a wounding with intent, the most serious level of assault under the Offences Against the Persons Act 1861. The injuries were significant and fall within the legislation as 'serious crime and disorder'.

10.8 One of the two male offenders (male 1) was known to the management and door staff at the premises as he had been involved in another assault at the premises on 27 May 2019. He had attacked a customer inside the Lux Bar leaving him unconscious.

10.9 Male 1 had been barred from the premises but despite this, had been allowed entry on 1 July 2019. The manager and door staff had discussed his presence and agreed to keep an eye on him and eject him if it got busy.

10.10 On 27 May 2019 male 1 and another male (male 2) had attacked a customer leaving him unconscious. At this time, Male 2 was already barred from local licensing premises under the Pubwatch scheme and the Lux bar manager and door staff were aware of this. After the attack there is CCTV footage of one of the attackers returning to the scene in the presence of door staff, unchallenged, just inches from the victim.

10.11 Since the premises began trading, in December 2018, there have been six reported assaults, and other crimes, associated

with the premises; three very serious assaults in the last nine weeks.

- 10.12 On 5 June 2019 a member of Durham Constabulary met with a representative of Lux Bar to express concerns about the incident on 27 May 2019 and to seek assurances that the licensing objectives would be promoted.
- 10.13 On 2 July 2019 representatives of Durham Constabulary met with representatives of Lux Bar and Durham Constabulary has serious concerns as a result of this meeting. It was established that the person with day to day control of the premises is Arif Toshi, the husband of the sole director of Lux Bar Ltd. Lux Bar Ltd is the premises licence holder. The DPS for the premises is Peter Skotidakis. Both Mr Toshi and Mr Skotidakis thought that Mr Skotidakis was the PLH. When asked what he did at the premises, he stated 'nothing really' and he just comes and has a look round sometimes and helps out behind the bar occasionally. Neither of them had knowledge of the licensing conditions attached to the premises and it was apparent that the conditions were being breached regularly. Durham Constabulary have serious concerns that the management of the business is not taking their obligations seriously or that they knew what their obligations were.
- 10.14 Durham Constabulary submitted that the management of the premises are failing to properly control the premises to such an extent that it has become associated with serious crime and disorder and is putting the public at risk of harm.
- 10.15 There were no questions of Sgt Haythornthwaite.

#### Representations of the Premises Licence Holder

- 10.16 Mr Edge was then invited to address the Sub-Committee. He stated that he appreciates that everything has to happen quickly in these proceedings. He has spoken to Mr Toshi and his wife and also to the police before the hearing. There have been failings at the premises and there have been two sets of door staff security companies sacked.
- 10.17 Mr Toshi owns two restaurants very successfully. A night club isn't his expertise. It is so different to a restaurant and he accepts that he was out of his depth.
- 10.18 They want to work with the Responsible Authorities and are happy to agree that the premises licence be suspended until the full review hearing. They are also happy to agree the immediate removal of the DPS. The DPS has control of the door staff

company and he hasn't in this case nor has he been promoting the licensing objectives. However they accept that he is only part of the problem.

- 10.19 They will work with the police and if they cannot find a compromise that the police are happy to work with, Mr Toshi will convert the business into a bar and restaurant which is his field of expertise.
- 10.20 On questioning by the Sub-Committee it was confirmed by Mr Edge that the area isn't the best place to have a night club. It would appear that much of the problem can be mitigated by having door staff that aren't local. The door staff in the past appear to have been local people.
- 10.21 When asked why the males were let into the premises if they were barred, Mr Edge stated that not all DPSs attend Pubwatch meetings regularly and the DPS at this premises didn't attend regularly.
- 10.22 Sgt Haythornthwaite stated that the officers who attended the premises wore bodycams and the door staff are recorded as stating that they knew the male in the May incident shouldn't have been there.
- 10.23 Inspector Jones stated that the DPS is not what the police would look for at a well ran establishment. Mr Toshi is at the premises all the time and is the driving force at the premises.
- 10.24 When asked who would be the new DPS Mr Edge stated that they did not want to make quick decisions. Mr Toshi is a personal licence holder but did the course about 10 years ago. He has different clientele in his restaurants than at a vertical drinking establishment. Mr Toshi is going to attend another personal licence holder course. He will also be attending a SIA course in July 2019. The business is on their third set of door staff in the past 7 months.
- 10.25 Mr Edge advised that he will work with Mr Toshi and his wife and send a robust set of conditions to the police while the licence is suspended.
- 10.26 No parties had anything further to say.

### Reasons

- 10.27 Section 21 of The Violent Crime Reduction Act 2006 made amendments to the Licensing Act 2003 ("the Act") by introducing

the provision for a summary review. This added to the Act section 53A with supplementary sections 53B and 53C to deal with the subject.

- 10.28 Section 53A provides that the Chief Officer of Police may apply for an urgent review of a premises licence where the same covers serious crime or serious disorder associated with premises.
- 10.29 It is accepted by the Sub-Committee that this does amount to serious crime and serious disorder and the application made in this case is in order and falls to be dealt with under sections 53A, 53B and 53C of the Act.
- 10.30 The Sub-Committee had been informed of the most recent assaults that have taken place at the premises. Male 1 was involved in both incidents which took place only five weeks apart. Male 1 was barred from the premises but was still allowed entry on 1 July 2019 by the manager and door staff, which has enabled him to commit another serious assault. Male 2 was barred from licensed premises but was still allowed entry to the premises on 27 May 2019 and this enabled him to seriously assault a customer. After the assault on this date the staff at the premises allowed one of the attackers to re-enter the premises without challenge. The Sub-Committee considered that as a result of this information, there have been serious failings by the premises to promote the licensing objectives and to protect customers.
- 10.31 The Sub-Committee also heard that Durham Constabulary have serious concerns as to the management of the business. Both Mr Toshi and Mr Skotidakis did not have any knowledge of the premises' licence conditions and the Sub-Committee heard that the premises is breaching several of their licence conditions. Due to this, the Sub-Committee accepted that there were serious concerns with the management of the premises and noted the comments of Mr Skotidakis to the police. The Sub-Committee consider Mr Skotidakis is not taking his obligations as DPS seriously. The Sub-Committee considered that the licensing objectives have not been promoted by the premises.
- 10.32 The Sub-Committee were pleased to hear that the Licence Holder was willing to work with the police to try and reach an agreement and noted Mr Edge's agreement that the premises licence should be suspended and for the removal of the DPS pending the final review hearing.
- 10.33 The Sub-Committee considered that it was necessary to take interim steps in this case. Having considered the information provided and taken account of the serious nature of it, and the

clear implications that the premises are associated with serious crime and disorder, the Sub-Committee considered that it had no alternative other than to remove the DPS from the licence and to suspend the licence.

- 10.34 There is a significant risk that the licensing objectives, primarily that of the prevention of crime and disorder, would be undermined should a suspension not be imposed. This would give the licence holder an opportunity to take a step back, work with the Responsible Authorities and to offer significant improvements that could be made.

## **11) Decision**

The Sub-Committee has considered the evidence and has decided to remove the DPS from the licence and to suspend the premises licence with immediate effect.

Signed:

(Chair)

Dated: 5<sup>th</sup> July 2019

### **PLEASE NOTE:**

- Under section 53B of the Licensing Act 2003 this decision has immediate effect.
- The Licensing Authority is required to serve this decision on the holder of the premises licence and the Chief Officer of Police.
- The holder of the premises licence is entitled to make representations to the Licensing Authority with respect to this decision and the Authority is required to hold a further hearing to consider such within 48 hours of receiving the same.
- Whether or not representations with respect to this decision are made the Licensing Authority will continue to process and deal with the review of the premises licence occasioned by the application in accordance with the procedure for reviews set out or referred to in the Licensing Act 2003.



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## **Appendix 4: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

**Premises Licence Number**  
**Granted**  
**Issued**

<b>DWTSPR0240</b>
<b>08 August 2006</b>
<b>21 November 2018</b>

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	<b>Issuing Authority</b>
<b>TIME BAR</b> 28-30 FRONT STREET CONSETT DH8 5AQ	DURHAM COUNTY COUNCIL REGENERATION & LOCAL SERVICES LICENSING SERVICES PO BOX 617 DURHAM DH1 9HZ
<b>Telephone number:</b>	

<b>Where the licence is time limited the dates</b> N/A
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<b>Licensable activities authorised by this licence</b> Films Indoor Sporting Events Boxing or Wrestling Entertainment Live Music Recorded Music Performance of Dance Other Entertainment Similar to Live or Rec Music or Dance Performance Facilities for Making Music Facilities for Dancing Other Entertainment Facilities Similar to Making Music or Dancing Late Night Refreshment Sale by retail of alcohol
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<b>Opening Hours of the Premises</b>		
		<b>Non-standard/seasonal timings</b> New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.
Mon	10:00-03:30	
Tue	10:00-03:30	
Wed	10:00-03:30	
Thu	10:00-03:30	
Fri	10:00-03:30	
Sat	10:00-03:30	
Sun	10:00-03:30	

<b>Where the licence authorises the sale by retail of alcohol whether these are on and/or off sales:</b> ON AND OFF ALCOHOL SALES
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**The times the licence authorises the carrying out of licensable activities (all in 24hr format)**

<p><b>Films Indoors</b></p> <p>Mon 10:00-03:30          Tue 10:00-03:30          Wed 10:00-03:30          Thu 10:00-03:30          Fri 10:00-03:30          Sat 10:00-03:30          Sun 10:00-03:30</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day</p>
<p><b>Indoor Sporting Events</b></p> <p>Mon 10:00-03:30          Tue 10:00-03:30          Wed 10:00-03:30          Thu 10:00-03:30          Fri 10:00-03:30          Sat 10:00-03:30          Sun 10:00-03:30</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Boxing or Wrestling Entertainment Indoors</b></p> <p>Mon 10:00-03:30          Tue 10:00-03:30          Wed 10:00-03:30          Thu 10:00-03:30          Fri 10:00-03:30          Sat 10:00-03:30          Sun 10:00-03:30</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Live Music Indoors</b></p> <p>Mon 10:00-03:30          Tue 10:00-03:30          Wed 10:00-03:30          Thu 10:00-03:30          Fri 10:00-03:30          Sat 10:00-03:30          Sun 10:00-03:30</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Recorded Music Indoors</b></p> <p>Mon 10:00-03:30          Tue 10:00-03:30          Wed 10:00-03:30          Thu 10:00-03:30          Fri 10:00-03:30          Sat 10:00-03:30          Sun 10:00-03:30</p>	<p><b>Further details</b>          N/A  <b>Non-standard/seasonal timings</b>          New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>

<p><b>Performance of Dance Indoors</b></p> <p>Mon 10:00-03:30  Tue 10:00-03:30  Wed 10:00-03:30  Thu 10:00-03:30  Fri 10:00-03:30  Sat 10:00-03:30  Sun 10:00-03:30</p>	<p><b>Further details</b>  N/A  <b>Non-standard/seasonal timings</b>  New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Other Entertainment Similar to Live or Rec Music or Dance Performance Indoors</b></p> <p>Mon 10:00-03:30  Tue 10:00-03:30  Wed 10:00-03:30  Thu 10:00-03:30  Fri 10:00-03:30  Sat 10:00-03:30  Sun 10:00-03:30</p>	<p><b>Further details</b>  N/A  <b>Non-standard/seasonal timings</b>  New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Facilities for Making Music Indoors</b></p> <p>Mon 10:00-03:30  Tue 10:00-03:30  Wed 10:00-03:30  Thu 10:00-03:30  Fri 10:00-03:30  Sat 10:00-03:30  Sun 10:00-03:30</p>	<p><b>Further details</b>  N/A  <b>Non-standard/seasonal timings</b>  New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Facilities for Dancing Indoors</b></p> <p>Mon 10:00-03:30  Tue 10:00-03:30  Wed 10:00-03:30  Thu 10:00-03:30  Fri 10:00-03:30  Sat 10:00-03:30  Sun 10:00-03:30</p>	<p><b>Further details</b>  N/A  <b>Non-standard/seasonal timings</b>  New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>
<p><b>Other Entertainment Facilities Similar to Making Music or Dancing Indoors</b></p> <p>Mon 10:00-03:30  Tue 10:00-03:30  Wed 10:00-03:30  Thu 10:00-03:30  Fri 10:00-03:30  Sat 10:00-03:30  Sun 10:00-03:30</p>	<p><b>Further details</b>  N/A  <b>Non-standard/seasonal timings</b>  New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.</p>

<b>Late Night Refreshment Indoors</b>  Mon 23:00-03:30 Tue 23:00-03:30 Wed 23:00-03:30 Thu 23:00-03:30 Fri 23:00-03:30 Sat 23:00-03:30 Sun 23:00-03:30	<b>Further details</b> N/A <b>Non-standard/seasonal timings</b> New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.
<b>Sale by retail of alcohol</b>  Mon 10:00-03:00 Tue 10:00-03:00 Wed 10:00-03:00 Thu 10:00-03:00 Fri 10:00-03:00 Sat 10:00-03:00 Sun 10:00-03:00	<b>Further details</b> <b>Non-standard/seasonal timings</b> New Years Eve permitted hours are extended from the end of permitted hours on New Years Eve to the start of permitted hours the following day.

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
BAR LUX LTD 28-30 FRONT STREET CONSETT DH8 5AQ 01207 502919	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	
Charity no:	N/A

<b>Name, address and telephone number of designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>  MR PETER SKOTIDAKIS
--

<b>Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises the sale by retail of alcohol</b>
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## **Annex 1 – Mandatory conditions**

No supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or his or her licence has been suspended. Every supply of alcohol under this premises licence must be made or authorised by a person who holds a personal licence.

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.

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).

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

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 -

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.

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.

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.

#### **Minimum Price of Alcohol:**

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 the 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 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 premises in respect of which there is in force a premises licence –

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force 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 (2) 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.

#### **Mandatory condition: 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.

#### **Mandatory condition: exhibition of films**

1. Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.
2. Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.
3. Where-
  - (a) the film classification body is not specified in the licence, or
  - (b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question,admission of children must be restricted in accordance with any recommendation made by that licensing authority.
4. In this section-
  - "children" means persons aged under 18; and
  - "film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

#### **Annex 2 – Conditions consistent with the premises Operating Schedule**

##### **General**

At all times when the premises are open to the public for any licensable activity there are sufficient competent staff on duty for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.

The premises will ensure there are sufficient competent staff on duty for the purpose of fulfilling the terms and conditions.

##### **Prevention of Crime & Disorder**

CCTV images to be kept for 28 days and made available to Police on request. CCTV system to be installed within 3 months.

##### **Public Safety**

The premises display notices detailing actions to be taken in the event of a fire.

Notices detailing actions to be taken in the event of fire including how to summon the Fire Brigade are prominently displayed.

Fire fighting equipment is provided in the premises in accordance with the reasonable requirements of the Fire Authority.

Fire escape routes are identified by adequate signage.

All polycarbonate glasses.

Door Supervisors are provided at the ratio of 1 to 100.



### **Prevention of Public Nuisance**

Clear and legible notice are displayed at exits requesting patrons to leave the premises having regard to the needs of local residents.

The only entrance and exit to the premises will be located on the front street, directly away from residential properties.

Air conditioning vents are provided with acoustic filters to reduce the possibility of noise escaping from the premises.

### **Protection of Children from Harm**

All staff have been informed to ensure that any persons they believe are under the age of 18 should produce identification.

The management of the premises have informed bar staff that any person whom they believe to be under age attempting to purchase alcohol should be asked to provide identification to prove their age. This shall consist of either passport or photo card driving licence.

The premises may provide a maximum of 2 AWP machines.

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

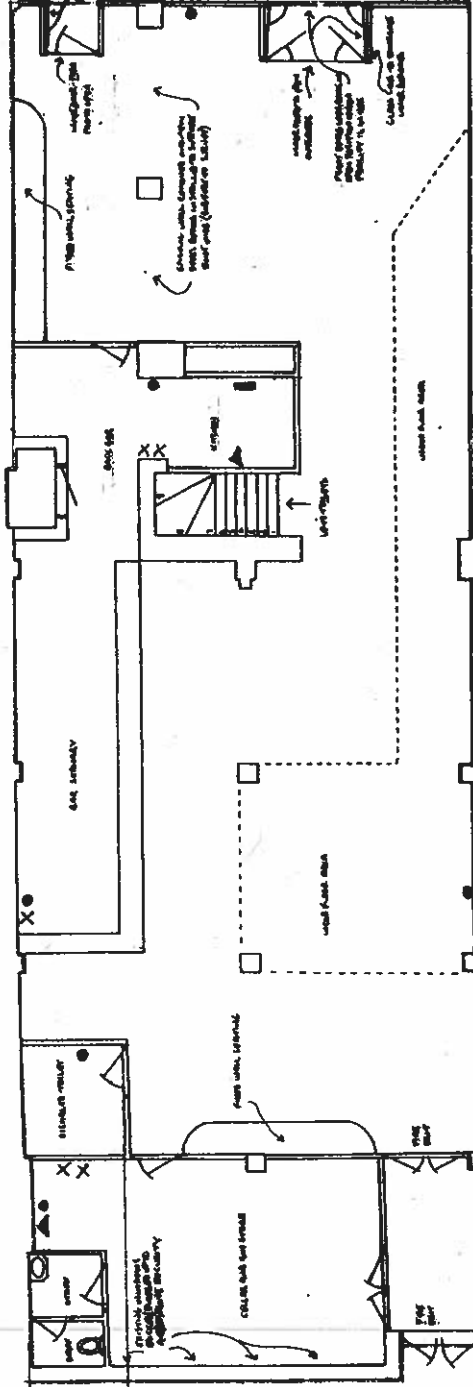
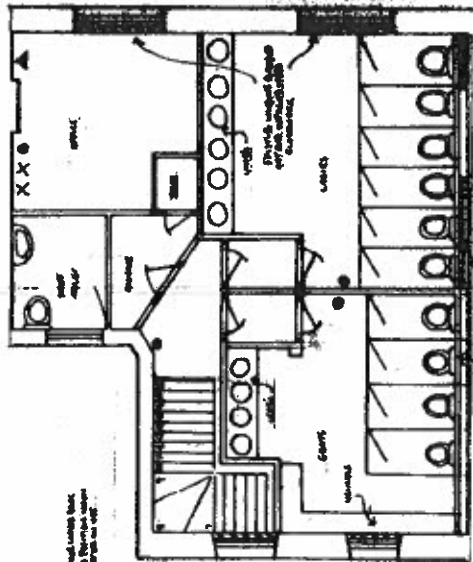
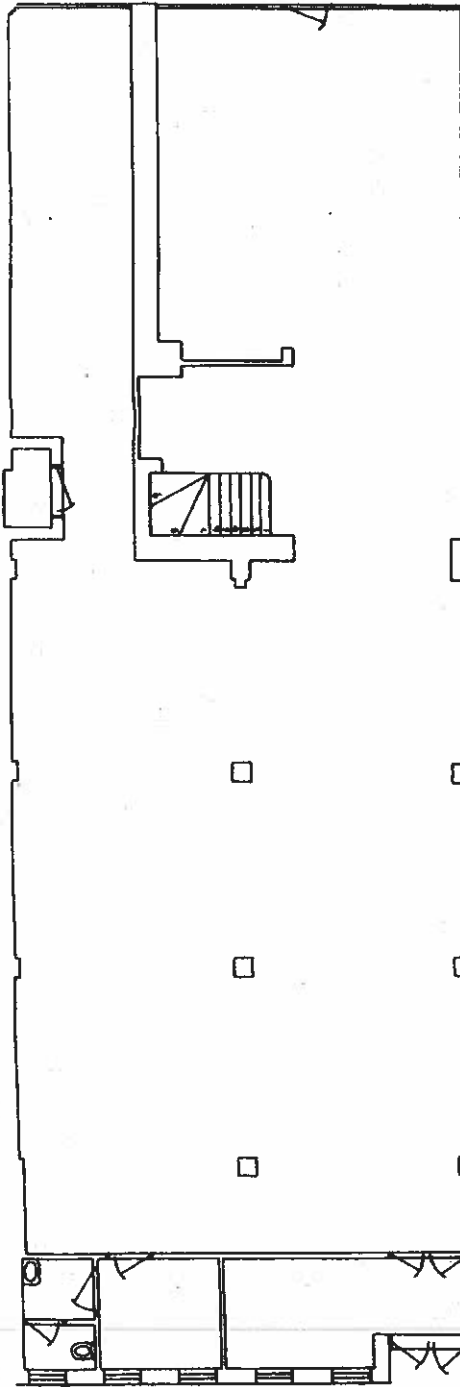
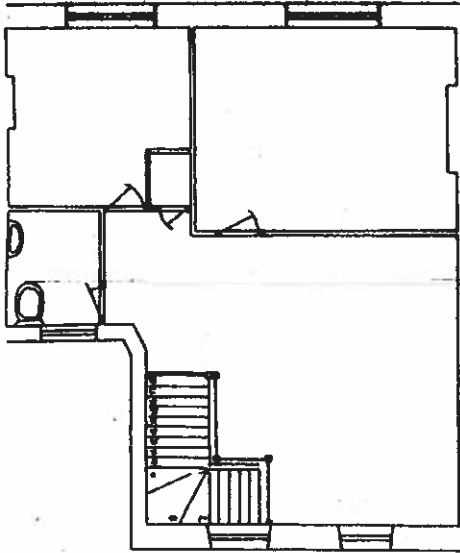
#### **Statutory Licensing Sub-Committee 24 May 2011**

1. CCTV images to be kept for 28 days and made available to Police on request. CCTV system to be installed within 3 months.
2. Age verification policy to be adopted - Challenge 25.
3. Staff training to be undertaken every six months in all aspects of the 4 licensing objectives.
4. High visibility jackets to be worn for the emptying out period in the premises when last orders have been called.

### **Annex 4 – Plans attached**

Attached

**Signature of Authorised Officer**  
**Head of Environment, Health and Consumer Protection**



1ST FLOOR
2ND FLOOR
3RD FLOOR
4TH FLOOR
5TH FLOOR
6TH FLOOR
7TH FLOOR
8TH FLOOR
9TH FLOOR
10TH FLOOR
11TH FLOOR
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14TH FLOOR
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16TH FLOOR
17TH FLOOR
18TH FLOOR
19TH FLOOR
20TH FLOOR

- Fire Ball
  - × Fire Damages
  - ! Fire Exit
  - ▲ Point Alarm
- Site of Accident  
 Low Night Rehabilitation  
 Regulated Entertainment

TIME

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**Appendix 5: Review application and supporting documents from  
Durham County Council Local Weights and  
Measures Authority**

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## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Durham County Council, Licensing Services  
St Johns Road North, Meadowfield,  
DH7 8RS

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

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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 the 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.**

I Supt Richard Allen [on behalf of] the chief officer of police for the Durham Constabulary police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Lux Bar  
28-30 Front Street  
Consett**

Post town: Consett

Post code (if known): **DH8 5AQ**

**2. Premises licence details:**

Name of premises licence holder (if known): **BAR LUX LTD**

Number of premises licence holder (if known):

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read**

guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

**Shortly after midnight on 1st July 2019 a male was assaulted inside Lux Bar, Front Street, Consett. The victim in this assault was attacked by two males by means of being struck to the face, and hit over the head with a bottle causing the bottle to smash. Once the victim fell to the ground he was further subjected to a sustained attack by both males. The male has been left in need of hospital treatment for a significant wound to his head and face, as well as extensive injuries to his body. This incident is being investigated as a Wounding with intent, which is the most serious level of assault under the Offences Against the Persons Act 1861. This was a vicious and sustained attack which is caught on CCTV.**

**One of the two offenders above was known to the management and door staff premises as they had been involved in another serious assault just a few weeks before, 27th May 2019, I shall refer to him as Male 1 from here. On 27/05/19 Male 1 and another offender attacked a customer inside the premises, leaving him unconscious.**

**Male 1 was barred from the premises.**

**On 1st July 2019, in spite of the fact that Male 1 was barred from the premises, he had been allowed entry. The manager of the premises and the door staff had a discussion about his presence and according to the manager, they agreed to "keep an eye on him" and eject if it got busy. It is our submission that this fundamental failing by the management to properly control who has access to the premises has resulted in a very serious assault taking place.**

**Turning to the incident on 27th May 2019, on this occasion Male 1 above and another (I'll refer to him as Male 2) attacked a male inside Lux Bar, leaving him unconscious. There are a number of failings by the premises on this occasion too. On this occasion, Male 2 was already banned from local licensed premises under the Pubwatch scheme, a fact of which the manager and door staff were aware. Following the attack on this male the offending males go to leave the premises as door staff go to the assistance of the victim. One of the two offending males then return to the scene, inches from the now very vulnerable victim, unchallenged and collect his bottled drink before leaving the premises. It is Durham Constabulary's submission that on this occasion male 2 should have not been allowed entry in to the premises in the first place and because of this failing he went on to commit this serious assault. Furthermore having carried out this attack, one of the attackers can be clearly seen on CCTV to return to the scene in the presence of door staff, unchallenged. He could easily have carried out a further attack if he had been so minded.**

**The current owners and operators of Lux Bar obtained their licence in November 2018 and began trading in December 2018. Since that time there**

**have been 6 reported assaults associated with the premises. In the last 9 weeks there have been three very serious assaults.**

**On 5th June 2019 a member of Durham Constabulary met with a representative of Lux Bar, to express significant concerns about the most recent incident (27/05/2019) and to seek assurances that the licensing objectives would be actively promoted. It is of concern to Durham Constabulary that following that meeting the latest assault occurred, where once again a male known to be violent, in that very premises was allowed entry.**

**On 2nd July 2019 Durham Constabulary representatives met with representatives of Lux Bar, DPS, PLH and manager. The content of this meeting caused very serious concerns for Durham Constabulary in relation to the management of this premises and the lack of control in place. During this meeting it was established the person in day to day control of the premises is Arif Toshi, he is the husband of the only director of Lux Bar Ltd, Lux Bar Ltd are the PLH. Mr Peter SKOTIDAKIS is DPS. Both Arif and Peter thought that Peter was PLH, he is not. When asked what he does at the premises Peter, the DPS, replied "nothing really" he stated he just comes and has a look around sometimes and helps out behind the bar occasionally, if it's busy. Neither Peter nor Arif had any knowledge of the conditions attached to their premises licence and it became apparent that they are breaching several of them regularly. There were several other failings highlighted during this meeting which demonstrated to Durham Constabulary that the operators of this bar are not taking their obligations seriously, indeed they didn't even know what their obligations were.**

**It is Durham Constabulary's submission that the management of this premises are failing to properly control the premises to such an extent that it has become associated with serious crime and disorder and is putting the public at risk of harm. Durham Constabulary are seeking the revocation of the premises licence for this premises.**

**Signature of applicant:  
Date: 3<sup>rd</sup> July 2019  
Capacity: Superintendent**

**Contact details for matters concerning this application:  
Address:**

**DH78RS**

**Telephone number(s):**

**Email:**

**Notes for guidance:**

**1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.**

**Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:**

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or**
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.**

**Serious disorder is not defined in legislation, and so bears its ordinary English meaning.**

**2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.**

Durham Constabulary  
Force HQ  
Aykley Heads  
DH1 5TT

**CERTIFICATE UNDER SECTION 53(a)(B) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion of the premise described below are associated with serious crime/serious disorder/both serious crime and serous disorder.

Premises:  
LUX BAR (Time Bar)  
28-30 Front Street  
Consett  
DH8 5AQ

Premise licence no:

Name of Premises licence holder: Bar Lux LTD

I am a Superintendent in Durham Constabulary.

I am giving this certificate because I am of the opinion that the other procedures under the Licencing Act are inappropriate in this case, and that it is proportionate in the circumstance because:

There have been a number of serious assaults at the premises whereby the victims have received significant injuries.

On 27<sup>th</sup> May 2019 there was an assault at the premises whereby the suspect was on Pubwatch and barred from licenced premises within Consett. Following this incident, on 5<sup>th</sup> June 2019 a meeting was held with the designated premises supervisor Peter SKOTIDAKIS and Arif TOSHI who is the manager of the premises and represents the premise licence holder Bar Lux Ltd, to address the police concerns around the management and running of the premises, in particular the allowing of barred persons into the premises.

It is apparent however following the most recent incident on 1<sup>st</sup> July 2019 that these concerns have not been addressed, as we now have yet another member of the public who has suffered significant injuries whilst on the premises. The suspect for this assault was also barred from the premises but had been allowed in.

The circumstances around the two most recent assaults bring into serious question the management and running of this premises. This requires immediate action via an expedited review to prevent any further serious incidents taking place at the premises. The expedited process would enable the police and licencing authority to seek the removal of the designated premises supervisor and the suspension of the premises licence whilst the criminal investigations are ongoing and to fully determine the suitability of persons involved in the ongoing running of this premise.

This is the only proportionate action available at the time to prevent any further crime and disorder at the premises.

Signed

Dated 3/7/2109



Print Name R. Allen,

Title Superintendent

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## **Appendix 6: Representation from Licensing Authority**

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## **Helen Johnson - Licensing Team Leader (N'hoods)**

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**From:** AHS Licensing  
**Sent:** 17 July 2019 16:34  
**To:** Helen Johnson - Licensing Team Leader (N'hoods)  
**Cc:** Karen Robson  
**Subject:** FW: Lux  
**Attachments:** 190715 Support representation (002).docx

**Importance:** High

Hi Helen

Please see e-mail below and attached representation in support of the review application for Lux, Consett

Thanks

Yvonne

**Yvonne Raine**  
**Senior Licensing Officer**  
Environment, Health & Consumer Protection  
Regeneration and Local Services  
Durham County Council  
Annand House  
Meadowfield  
Durham  
DH7 8RS

### **Privacy Notices and Data Protection**

We have recently updated our privacy information.

To find out how we collect, use, share and retain your personal data, visit:

[www.durham.gov.uk/dataprivacy](http://www.durham.gov.uk/dataprivacy)

Web: [www.durham.gov.uk](http://www.durham.gov.uk)

Follow us on Twitter @durhamcouncil

Like us at [facebook.com/durhamcouncil](https://www.facebook.com/durhamcouncil)

Follow us on [linkedin.com/company/durham-county-council](https://www.linkedin.com/company/durham-county-council)

Follow us on Instagram @durham\_county\_council

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**From:** Nicola Anderson  
**Sent:** 17 July 2019 14:51  
**To:** AHS Licensing <[Licensing@durham.gov.uk](mailto:Licensing@durham.gov.uk)>  
**Subject:** Re: Lux

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Please find attached our support representation in regard to Lux Bar, Consett.

Durham County Council's Licensing Enforcement (representing Licensing as a responsible Authority under the Licensing Act 2003) wish to make representations in relation to this application in connection with the following licensing objectives: The prevention of crime and disorder and public safety

Licensing Enforcement were made aware of the incidents referred to in the review application on the 1<sup>st</sup> of July and attended the meeting on the 2<sup>nd</sup> of July with Durham Constabulary and Arif Toshi (the manager), his wife who is the director of company named as the Licence Holder and Peter Skotidakis who his named as the DPS on the licence. During the meeting Mr Toshi said he was away when the first nasty assault took place but confirmed that they had let one of the people involved in the first incident back into the club and he had then been involved in the second nasty assault. When asked why they had let him back in Mr Toshi said he wasn't on Pubwatch and although he had asked the doorstaff to put him out the doorstaff had said they would do it later when it started to get busy.

It became apparent that both Mr Toshi and Mr Skotidakis were not aware of many of the conditions on their licence and the following conditions on the licence were not being complied with:

- 1) All Polycarbonate glasses
- 2) Staff training to be undertaken every 6 months in all aspects of the 4 licensing objectives.

They were asked if they had given any training to their staff. They said that they only employ 2 or 3 staff but they are all new staff who have previous experience of working in bars. They stated that they haven't trained them as they know. Mr Toshi said that he will tell the staff to stop serving someone if he believes they've had too much to drink. There were no training records.

Licensing Enforcement share Durham Constabulary's concerns regarding the Management at the Premises and lack of compliance with licence conditions and so support the review.

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## **Appendix 7: Statement of Licensing Policy**

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## **DURHAM COUNTY COUNCIL STATEMENT OF LICENSING POLICY**

### **7.0 The Prevention of Crime and Disorder**

7.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment may sometimes, if not properly managed, become a source of public nuisance, generating crime and disorder problems.

7.2 As a matter of policy, the Licensing Authority will require every holder of a premises licence, club premises certificate or temporary event notice to be responsible for minimising the impact of crime, disorder and anti-social behaviour by their patrons both on and within the immediate vicinity of their premises, including for example on the pavement, in a beer garden or in a smoking shelter.

7.3 The Licensing Authority recommends that all applicants demonstrate in their Operating Schedules that suitable and sufficient measures, ranging from the design and layout of the premises through to the daily operation of the business have been identified and will be implemented and maintained with the intention of preventing crime and disorder. Procedures to deal with drunken customers, violence and anti social behaviour in and outside premises and the provision of closed circuit 14 television in certain premises should be considered by applicants, licensees and event organisers when addressing this issue.

7.4 The Licensing Authority encourages Personal Licence holders to actively participate in established "Pubwatch" schemes, where issues relating to crime and disorder can be addressed. The Licensing Authority support involvement in "Best Bar None" initiative which enables premises to demonstrate good safe operating procedures. Such schemes have been very successful in reducing the negative impact of alcohol across a range of circumstances.

7.5 The Licensing Authority recognises and promotes effective and responsible management of all licensed and authorised premises through competent and efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as 'Challenge 25'. These are considered to be among the most important control measures for the achievement of all Licensing Objectives. The Licensing Authority will take a positive view of anyone who invests in appropriate training, and in particular nationally accredited qualifications tailored to the Licensing sector. Training records should be kept available for inspection by all enforcement agencies.

7.6 The application for premises licence must identify a Designated Premises Supervisor (DPS) who must also hold a Personal Licence. The DPS does not have to be present on the premises at all times when alcohol is being sold. However, the DPS and Premises Licence Holder remain responsible for the premises at all times. It is important that there is an accountable, responsible person present when alcohol is being sold or supplied to ensure, for example, that alcohol is not sold to persons who have had too much to drink, or to those under the age of 18 years.

7.7 Someone should always be present on premises or at an event during times when licensable activities are taking place who can discuss any problems or issues

arising from the licensable activities offered on the premises with officers from Licensing Authority and Police. The Licensing Authority considers it to be good practice if the DPS or Premises Licence Holder is present in the licensed area of the premises:

- Between 22:00 hours and closing time, when the premises is one that regularly opens after midnight for both regulated entertainment and the sale or supply of alcohol for consumption on the premises.
- At all times when the premises is a "vertical drinking establishment" where little or no seating is provided.
- At times where there is a substantial increase in customers i.e. for televised major sporting events etc.

7.8 The Licensing Authority will only impose a maximum number of people that can attend premises or an event where there is a clear and justifiable need in respect of that particular premises or event. Any such decision will be based on the nature and style of the operation. The Licensing Authority will consider information provided by the applicant and any other body, in particular the Council's Building Control Section, Environmental Health Section and the Durham and Darlington Fire and Rescue Service before setting a maximum number. Applicants will be expected to detail the arrangements that would be put in place e.g. provision of door staff to ensure that the permitted number of people attending the premises or event will not be exceeded.

7.9 Whenever security operatives/door supervisors are employed at licensed premises to carry out security functions they must be licensed by the Security Industry Authority (SIA). If a licensee directly employs security operatives they will need to be licensed by the SIA as a supervisor/manager.

7.10 The numbers of licensed door supervisors, both male and female, required at any premises will be dependent upon the nature of the activities licensed and the characteristics and capacity of the establishment and hours of trading.

7.11 In addition to the requirement of the Licensing Authority to promote the Licensing Objectives, the Council also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can do to prevent crime and disorder in its area and to consider crime and disorder in its decision making process.

7.12 Toughened/Safety Glass Policy: Licensed venues that provide the sale or supply of alcohol for consumption on the premises should consider the introduction of toughened/safety glass. This policy expectation applies to those premises that would be considered as carrying a higher risk for potential crime and disorder. In particular it is expected in premises considered to be high volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues (but not premises in those areas that are viewed as low risk in this context).

7.13 Drugs/Knives/Weapons: The Licensing Authority will expect licensees to take all reasonable steps to prevent the presence of drugs on licensed premises and to take appropriate steps to prevent drugs changing hands within the premises in order to

prevent tragedies as a result of drug misuse. The Licensing Authority will expect licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The Licensing Authority also expects that licence holders will also take steps to prevent the presence of knives and other weapons on their premises and that a log be kept of all drug, knife and weapon incidents. Licence holders should also consider arranging training for their staff on drugs, knives and weapons and to have policies for dealing with the possession of drugs, knives and weapons and the supply of drugs.

## **22.0 Reviews**

22.1 The Licensing Act provides a mechanism for reviewing premises licences and Club Premises Certificates where problems associated with premises undermine the licensing objectives following grant or variation.

22.2 At any stage during the life of a premises licence or a club premises certificate, an application for a review can be made to the Licensing Authority by any responsible authority, elected Member or any other person. However, where an application for a review is considered to be frivolous vexatious or repetitious or where an application for a review is considered not relevant to the licensing objectives the Licensing Authority will reject it.

22.3 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community. Unless an application is withdrawn, deemed to be frivolous, vexatious or repetitious or does not relate to the licensing objectives, the Licensing Authority will hold a hearing and take any necessary steps to promote the licensing objectives, such as modification of conditions, exclusion of licensable activities, removal of the designated premises supervisor, suspension of the licence/certificate for up to 3 months or the revocation of the licence/certificate.

22.4 Local residents can request that their licensing authority review a premises licence where activities at licensed premises are undermining one or more of the licensing objectives.

22.5 It is always worth considering other options before requesting a review of a licence, including:

- Talking to those who manage the premises to let them know about the problem and give them the opportunity to address the issues,
- Asking the licensing department at your council to talk to those who manage the premises on your behalf, or
- Talking to the relevant "responsible authority" (e.g. local authority exercising environmental health functions in relation to noise nuisance, or the police in relation to crime and disorder) about the problem.

22.6 If a request for a review of the premises licence is made by e.g. a local resident, they are required to notify the holder of the premises licence or club premises certificate and the "responsible authorities", by sending them a copy of the request, together with any accompanying documents, on the same day as the request is given to the licensing authority. The licensing authority will advertise the



review to enable others (responsible authorities or other persons) to comment on it. Responsible authorities have the option, if they wish, to comment on any application for a review.

22.7 A licensing authority must act on requests for review unless they consider the request to be irrelevant, repetitive, frivolous or vexatious. Frivolous representations would concern minor issues which the licensing authority could not reasonably be required to take any action to remedy. Representations may be considered vexatious if they appear to be intended to cause aggravation or annoyance without reasonable cause.

22.8 The licensing authority will advertise the fact that a request for review of the licence has been received, and allow a period of 28 days for other persons to make representations to it (such representations can be for or against the activities at the premises in question).

22.9 After the period for making representations has expired, the licensing authority will hold a hearing to consider the request unless the request for review has been withdrawn. The request will in most cases be considered by the licensing sub-committee who will hear representations from all parties involved.

22.10 The licensing authority will invite you to attend the hearing and give the applicant for the review the opportunity to address the licensing sub-committee in support of the request for review. They must then give the authority at least 5 working days' notice (prior to the start of the hearing), advising:

- If they will attend the hearing in person,
- Whether they will be represented by someone else (e.g. councillor / MP / lawyer / residents' association representative / friend),
- If they think that a hearing is unnecessary (if, for example, the parties have come to an agreement before the formal hearing), or
- They may also request permission for another person to attend the hearing, and must advise the licensing authority how that person may be able to assist the authority in relation to the request for review

22.11 Once the sub-committee has listened to and considered all views and evidence, it must decide what (if any) action is appropriate to promote the licensing objectives. Actions can include:

- No action,
- Modifying the conditions of the licence (change, add or remove conditions – Including operating hours),
- Excluding a licensable activity from the licence,
- Removing the designated premises supervisor,
- Suspend the licence for a period (not exceeding 3 months), and
- Revoke the licence.

22.12 The Licensing Authority will not expect a premises licence to be reviewed more than once within any 12 month period on similar grounds, except in exceptional circumstances or where it arises following a Closure Order.

22.13 Appeals against the decisions of the Licensing Authority - There is a right of appeal for all parties concerned with the request for review (i.e. the applicant for the

review, the premises licence holder or any other person who made relevant representations in relation to the application). This means that they can appeal to the magistrates' court if they are not happy with the decision of the licensing authority.

22.14 If there is an appeal against a licensing authority's decision, and you are unsuccessful, the magistrates' court can award costs against the appellant if it sees fit. This would mean that they would have to pay other parties' legal costs as well as your own. However, the Magistrates' Association and the Justices' Clerks Society has advised that awarding costs for a licensing appeal should be an **exception** and not a rule, and any resident with reasonable grounds for appeal should not be penalised.

22.15 If the licence holder appeals against the licensing authority's decision, the appeal will be heard by the magistrates' court. The licensing authority will be the respondent to the appeal and may call the person who brought the review (and any other person or responsible authority) as a witness in support of its case. The decision of the licensing authority in relation to the review will be suspended until the appeal is determined.

22.16 An application to appeal the decision must be made within 21 days of the notice of decision.

22.17 In hearing an appeal against the Licensing Authority's decision, the court will have regard to this policy and the guidance issued under Section 182 of the Licensing Act 2003. However, the court would be entitled to depart from both of these documents if it considers it justified so to do.

22.18 In respect of personal licences, appeals must be made to the Magistrates' Court in the area where the licence was issued. Appeals in relation to all other authorisations must be made to the Magistrates' Court where the premises or event is situated.

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## **Appendix 8: Section 182 Guidance**

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## Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

## Section 182 Guidance - The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be

positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more

than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

## **Powers of a licensing authority on the determination of a review**

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
  - exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
  - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the



representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient to revoke the licence.

## **Reviews arising in connection with crime**

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for employing a person who is disqualified from that work by reason of their immigration status in the UK;
  - for unlawful gambling; and
  - for the sale or storage of smuggled tobacco and alcohol.
- 11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **Review of a premises licence following closure order or illegal working compliance order**

- 11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:
- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

## **Review of a premises licence following persistent sales of alcohol to children**

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.