

## Statutory Licensing Sub-Committee

25<sup>th</sup> June 2020

### Application for the Review of a Premises Licence



### Ordinary Decision

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### Report of Alan Patrickson, Corporate Director of Neighbourhoods and Climate Change

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

#### Electoral division(s) affected:

Annfield Plain, Stanley

#### Purpose of the Report

- 1 The Sub-Committee is asked to consider and determine an application by Durham County Council's Licensing Authority to review the premises licence in respect of News & Booze, 1 Catherine Terrace, New Kyo, Stanley, County Durham DH9 7TP.
- 2 A plan showing the location of the premises is attached at Appendix 2.
- 3 A Sub-Committee hearing could not be scheduled within the required 20 working days due to the Covid 19 crisis. In accordance with Regulation 11 of the Licensing Act 2003 (Hearings) Regulations 2005, the Licensing Authority extended the time limit for hearing this application and served notice of this on all parties.

#### Executive summary

- 4 On 9<sup>th</sup> March 2020, the application was received from Mrs Nicola Anderson of the Council's Licensing Authority (Responsible Authority) asking for a review of the premises licence (ref. no. DWTSPR0153) for News & Booze, 1 Catherine Terrace, New Kyo, Stanley.
- 5 During the consultation period the Licensing Authority received one representation in support of the review application. This was from Durham County Council's Local Weights and Measures Authority (Responsible Authority).

- 6 Responses not amounting to a representation were received from Durham County Council’s Environmental Health Department and the Durham Safeguarding Children Partnership (Responsible Authorities).
- 7 The Fire Safety Authority 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 8;
  - (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 9.

**Background**

- 10 Background information

Applicant	<b>Durham County Council Licensing Authority</b>	
Type of Application: <b>Review of a Premises Licence</b>	Date received: <b>9<sup>th</sup> March 2020</b>	Consultation ended: <b>6<sup>th</sup> April 2020</b>
Current Premises Licence Holder	<b>Mr Ifzal Mehdi</b>	
Current Designated Premises Supervisor	<b>Mr Ifzal Mehdi</b>	

- 11 The premises licence in respect of News & Booze, 1 Catherine Terrace, New Kyo, Stanley currently permits the sale of alcohol as detailed in the table below:

<b>Licensable Activity</b>	<b>Days &amp; Hours</b>
Sale of Alcohol (for consumption off the premises)	Monday to Saturday: 08:00 – 23:00 hrs Sunday: 12:00 – 22:30 hrs
Opening Hours	Monday to Sunday: 06:00 – 23:00 hrs

12 A copy of the premises licence is attached at Appendix 3.

### **Details of the application**

13 The review application submitted by the Licensing Authority was received on 9<sup>th</sup> March 2020.

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 objectives:

- The Prevention of Crime and Disorder
- Public Safety
- The Protection of Children from Harm

16 A copy of the review application is attached at Appendix 4.

### **The Representations**

17 During the consultation period, the Licensing Authority received 1 representation in support of the review application from a Responsible Authority, the Durham County Council's Local Weights and Measures Authority.

A copy of the representation is attached at Appendix 5.

18 Responses not amounting to a representation were received from Durham County Council's Environmental Health Department and the Durham Safeguarding Children Partnership (Responsible Authorities).

Copies of these responses are attached at Appendix 6, for information only.

19 A response was received from the Fire Safety Authority, confirming that they had no comments to make in relation to the review application.

A copy of this response is attached at Appendix 7, for information only.

## **The Parties**

20 The Parties to the hearing will be:

- Mrs Nicola Anderson, Durham County Council's Licensing Authority (Applicant)
- Mr Ifzal Mehdi (Premises Licence holder)
- Durham County Council's Local Weights and Measures Authority (Responsible Authority)

## **Options**

21 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*

22 The Committee should be aware of several stated cases which have appeared before the Administrative Court and are binding on the Licensing Authority.

See Appendix 1.

### *Consultation*

23 The review application was subject to a 28 day consultation.

See Appendix 1

## **Conclusion**

- 24 The Sub-Committee is asked to determine the application for the review of the premises licence for News & Booze, 1 Catherine Terrace, New Kyo, Stanley.

## **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:** Yvonne Raine

Tel: 03000 265256

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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 28 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 28 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 28 day consultation period.

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## Appendix 2: Location Plan

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# Durham County Council - IntraMAP



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Ordnance Survey LA 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  
15/6/2020 at a scale of 1:1250



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## **Appendix 3: Premises Licence**

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## LICENSING ACT 2003 PREMISES LICENCE

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

<b>DWTSPR0153</b>
<b>06 January 2006</b>
<b>06 November 2019</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>NEWS &amp; BOOZE</b> 1 CATHERINE TERRACE NEW KYO STANLEY DH9 7TP	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> Sale by retail of alcohol
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<b>Opening Hours of the Premises</b>		
Mon	06:00-23:00	<b>Non-standard/seasonal timings</b> N/A
Tue	06:00-23:00	
Wed	06:00-23:00	
Thu	06:00-23:00	
Fri	06:00-23:00	
Sat	06:00-23:00	
Sun	06:00-23:00	

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

<b>Sale by retail of alcohol</b>	<b>Further details</b>														
<table style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 15%;">Mon</td><td style="width: 20%;">08:00-23:00</td></tr> <tr><td>Tue</td><td>08:00-23:00</td></tr> <tr><td>Wed</td><td>08:00-23:00</td></tr> <tr><td>Thu</td><td>08:00-23:00</td></tr> <tr><td>Fri</td><td>08:00-23:00</td></tr> <tr><td>Sat</td><td>08:00-23:00</td></tr> <tr><td>Sun</td><td>12:00-22:30</td></tr> </table>	Mon	08:00-23:00	Tue	08:00-23:00	Wed	08:00-23:00	Thu	08:00-23:00	Fri	08:00-23:00	Sat	08:00-23:00	Sun	12:00-22:30	<b>Non-standard/seasonal timings</b> N/A
Mon	08:00-23:00														
Tue	08:00-23:00														
Wed	08:00-23:00														
Thu	08:00-23:00														
Fri	08:00-23:00														
Sat	08:00-23:00														
Sun	12:00-22:30														

Part 2

<b>Name, (Registered) address, telephone number and email (where relevant) of holder of premises licence</b>	
MR IFZAL MEHDI	
<b>Registered number of holder, for example company number, charity number (where applicable)</b>	
Company no:	N/A
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 IFZAL MEHDI

<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 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.

### **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.

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

#### **General**

None

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

None

#### **Public Safety**

None

## **Prevention of Public Nuisance**

None

## **Protection of Children from Harm**

None

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

### **Peterlee Magistrates Court Consent Order 6<sup>th</sup> November 2019**

#### **Prevention of Crime and Disorder**

A digital Closed Circuit Television System (CCTV) will be installed and maintained in good working order and be correctly time and date stamped.

The system will incorporate sufficient built-in hard-drive capacity to suit the number of cameras installed.

CCTV will be capable of providing pictures of evidential quality in all lighting conditions, particularly facial recognition

Cameras will encompass all ingress and egress to the premises, the immediate area outside the frontage of the Premises and all areas where the sale/supply of alcohol occurs.

The system will record and retain CCTV footage for a minimum of 28 days

The system will record at all times.

The system will incorporate a means of transferring images from the hard-drive to a format that can be played back on any desktop computer.

The Digital recorder will be password protected to prevent unauthorised access, tampering, or deletion of images.

There will be at all times, when the premises is open, a member of staff on duty with access to the CCTV system who is trained in the use of the equipment.

Upon receipt of a request for a copy of CCTV footage from Durham Constabulary, Licensing Officers or any other Responsible Authority, the member of staff will produce the footage within 24 hours or less if urgently required for investigations of serious crime.

CCTV footage must be made available to be viewed by the Durham Constabulary, Licensing Officers or the Responsible Authorities on request during an inspection of or visit to the Premises

The CCTV system will incorporate a battery backup system to enable 24 hour continuous recording in case any power blackout / failure.

An operational weekly log report must be maintained and endorsed by a signature, indicating the system as been checked and is compliant, in the event of any failings actions taken are to be recorded within the log report.

Alcohol must remain out of physical sight of customers at all times outside of the licensable hours.

An incident book must be kept at the Premises and maintained up to date (no later than 12 hours after the incident) at all times and will record the following:

Time date and details of all incidents/complaints of crime and disorder or anti-social behaviour.  
Any faults in the CCTV system.  
Any visit by a responsible authority or emergency service

The incident book must be made available to Durham Constabulary, Licensing Officers and all other Responsible Authorities on request or during an inspection

Training in relation to Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers, incident records and all other conditions on the Premises Licence must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.

Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the Designated Premises Supervisor, the Premises Licence Holder or external training providers.

Documented training records must be kept at the Premises and made available to the Durham Constabulary, Licensing Officers and all other Responsible Authorities on request or during an inspection.

The Premises Licence Holder or nominated representative shall keep and maintain all right to work documents for all staff members.

Right to work documents shall be kept at the premises and produced to authorised officers of Durham Constabulary and Durham County Council upon request.

### **Public Safety**

The premises shall undertake a fire risk assessment that will be reviewed annually which will be available for inspection to any officer of a responsible authority upon request. All Fire safety equipment must be checked annually, and this check must be recorded, and also be available for inspection.

The licence holder shall have a first aid kit available at all times licensable activities are being carried on from the premises.

### **Prevention of Public Nuisance**

Signs or posters shall be displayed that advise customers that they will not be served alcohol if they appear to staff to be under the influence of alcohol or drugs.

The premise will operate an electronic point of sale system (EPOS). This system will provide age prompts when age restricted products are scanned for sale.

S A will not be permitted to take part in the operation; management; running of the premises, which includes working at the premises.

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

Staff must require ID in the form of a current ten-year passport, photo card driving licence or PASS Hologram identity card from any customer who appears to be under the age of 25 and verify the customer is over the age of 18 before any sale of alcohol is made

Notices must be exhibited at all points of sale and at all entrances and exits informing customers and staff that the Premises is operating a Challenge 25 Policy.

A manual refusals register must be kept at the Premises and maintained up to date at all times recording the date time, type of product refused, reasons for every refusal to sell alcohol to a customer and the name and signature of member of staff refusing the sale.

The refusals record must be made available to Durham Constabulary, Licensing Officers and all other Responsible Authorities on request or during an inspection.

The Premises Licence Holder or the Designated Premises Supervisor must monitor the Refusals Register every month and must sign and date the Refusals Register when this has been completed.

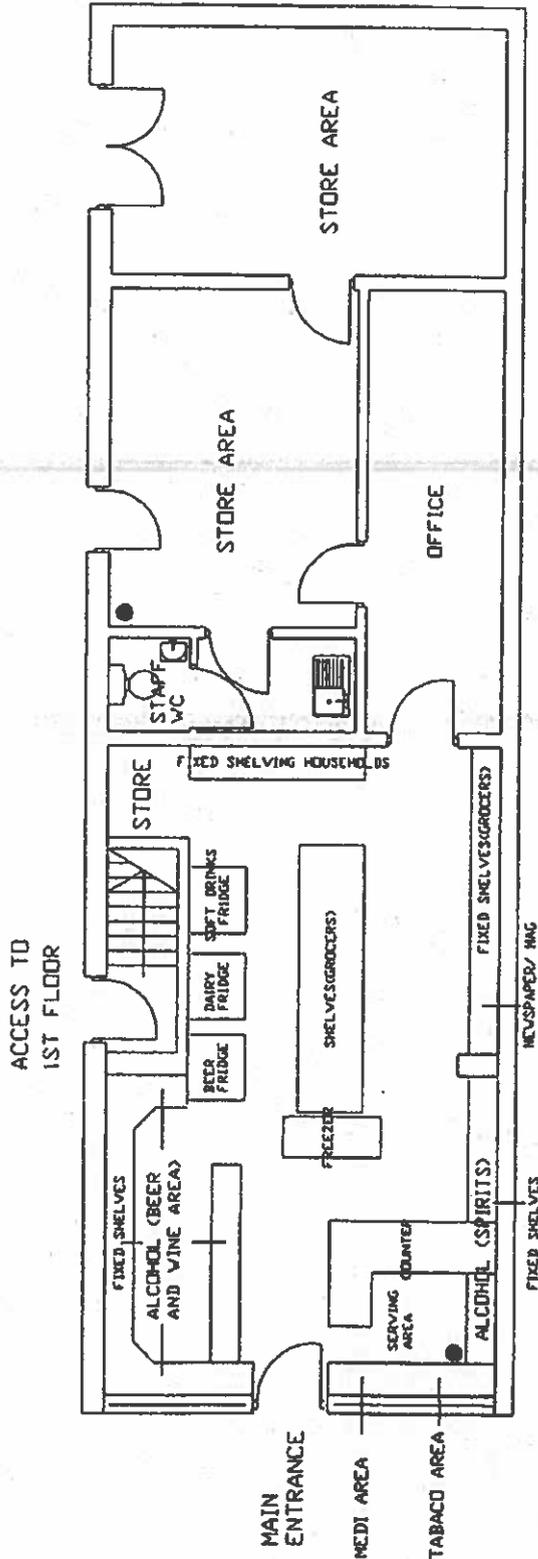
#### **Annex 4 – Plans attached**

Attached

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

NOTE: PLAN TO BE USED FOR THE  
PURPOSE OF LICENSING ONLY

CATHERINE TERRACE



ADJACENT PROPERTY

- FIRE EQUIPMENT
- 1 X CO2
- 1 X BC FIRE

Job Title NEWS 'N' BOOZE 1 CATHERINE TERRACE NEW KYO CO. DURHAM DH9 7TP	Drawing Title EXISTING FLOOR PLAN	Scale 1/100	Date 24/7/05	Drawn	Checked
					100

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## **Appendix 4: Review application from the Licensing Authority**

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Durham County Council PO Box 617 Durham DH1 9HZ

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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

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

**I Nicola Anderson, on behalf of the Licensing Authority**

*(Insert name of applicant)*

**Apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below**

**Part 1 – Premises or club premises details**

**Postal address of premises or, if none, ordnance survey map reference or description**

1 Catherine Terrace  
New Kyo

**Post town** Durham

**Post code (if known)** DH9 7TP

**Name of premises licence holder or club holding club premises certificate (if known)**

Ifzal Mehdi

**Number of premises licence or club premises certificate (if known)**

DWTSPR0153

**Part 2 - Applicant details**

I am:

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

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

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

Please tick ✓ yes

Mr  Mrs  Miss  Ms  Other title  
(for example, Rev)

**Surname**

**First names**

**I am 18 years old or over**

Please tick ✓ yes  
✓

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address

Telephone number (if any)

E-mail address (optional)

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

Name and address Nicola Anderson, Licensing Enforcement Officer Environment, Health and Consumer Protection Licensing Services (Enforcement) Annand House Meadowfield Durham DH7 8RS
Telephone number (if any)
E-mail address (optional)

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

- Please tick one or more boxes
- 1) the prevention of crime and disorder
  - 2) public safety
  - 3) the prevention of public nuisance
  - 4) the protection of children from harm

**Please state the ground(s) for review** (please read guidance note 2)

Durham County Council's Licensing Enforcement section (representing Licensing as a Responsible Authority under the Licensing Act 2003) wish to review this premises licence with a view to seeking the revocation of the premises licence.

The licence for News & Booze was reviewed in January 2019 following a joint visit to the premises from Immigration and Licensing Enforcement. At the time S A was the Licence Holder and N A was the DPS.

A number of matters brought about the previous review, one of the most important being that the Immigration officers found a person living above the shop. This person had claimed to have been working in the shop but did not have a right to work in the UK. Also, there were several conditions on the licence that were not being adhered to and the DPS (N A) had not been involved with premises for some time. In addition, Health & Safety officers had visited the shop and had identified certain hazards in the shop, placing the public at risk.

The licence was revoked by the Council's Licensing Committee in April 2019 but on appeal in November 2019 a consent order was signed which meant that the premises would close voluntarily for a period of 6 weeks. The licence would be transferred to Ifzal Mehdi (a relative who already has his own shop in County Durham). He would also be the DPS and further conditions would be added. The closure would allow the premises to put everything in place so that when they re-opened, they could be compliant with the new licence.

During the period of appeal, information was received by Licensing Enforcement that News & Booze was selling alcohol outside of their licensing hours. The CCTV was seized and both S A (Licence Holder and DPS) and his wife A S b were seen selling alcohol on a Sunday morning before 12:00 which is outside of their licensing hours. Legal action is being taken about these matters.

On 31<sup>st</sup> January 2020 a licensing inspection was carried out. A S b was phoned by staff in the shop to come to the shop to assist with the inspection.

The inspection identified the following matters and issues of non-compliance:

- 1. The previous summary licence was on display along with authorisations by the former licence holder and DPS. The full licence was not on the premises.**

When it was identified that the new licence was not on the premises, A went home to get it. She said she had 'chased' her solicitors (M) to send the licence out and it had just arrived that day. However, the licence holder and DPS is not A S b – it is unclear why the solicitors had sent the licence to her at home and not to the licence holder/DPS or the shop address.

*Section 57 of the Licensing Act 2003 states:*

*(3) The holder of a premises licence must secure that -  
(a) the summary of the licence or a certificate copy of that summary are prominently displayed at the premises.*

*(5) A constable or an authorised person may require the person who, by virtue of arrangements made of the purposes of sub-section (2) is required to have the premises licence (or a certified copy of it) in his custody or under control to produce*

*the licence (or such a copy) for examination.*

**2. There are concerns as to whether the Licence Holder/DPS has any control over the premises on a day to day basis.**

*The mandatory conditions of a premises licence state:*

*“No supply of alcohol may be made at any time when no designated premises supervisor has been specified in the licence or at any 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.”*

Staff phoned A S b to attend the premises when we went to inspect. When asked who they were phoning they said, “the boss”.

The licence was sent out to A 's home address by her solicitors.

**3. The CCTV could not be checked for the date and time.**

*The licence condition states that:*

*A digital CCTV system will be installed and maintained in good working order and correctly time and date stamped.*

**4. The operational weekly log for the CCTV was a refusals register**

*The licence condition states that:*

*An operational weekly log must be maintained and endorsed by a signature indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded within the log report.*

A did not understand what the CCTV log was supposed to check and record. There were 2 refusals logged in the book. The system had not been checked on a weekly basis as required by the condition.

**5. The incident book was not completed**

*The licence condition states that:*

*An incident book must be kept at the Premises and maintained up to date (no later than 12 hours after the incident) at all times and will record the following:*

*Time, date and details of the incident  
Any faults in the CCTV system  
Any visit by responsible authority or emergency service*

A S b had mentioned during the inspection that she had kept some training records at home because there had been a break in at the premises in January. This was not recorded in the incident log. A said it had slipped her mind.

## **6. Training records were incomplete**

*The licence condition states that:*

*Training in relation to Challenge 25, under age sales, sales to adults on behalf of minor (proxy sales), sales to intoxicated persons, refusals registers, incident records and all other conditions on the Premises Licence must be provided and undertaken by all members of staff (whether paid or unpaid) before he / she makes a sale or supply of alcohol and at least every six months thereafter.*

*Documented training records must be completed in respect of every member of staff and must include the name of the member of staff trained, date, time and content of the training. The record must be signed by the member of staff who has received the training, the DPS, licence holder and the external provider.*

No record of any training on Proxy Sales or intoxicated people.

The training certificate dated 10<sup>th</sup> April 2019 for A S b was not signed by her. Other training records are not signed by DPS/Licence holder.

## **7. Right to work documentation was incomplete**

*The licence condition states that:*

*The PLH or nominated representative shall keep and maintain all right to work documents for all staff members.*

*Right to work documents shall be kept at the premises and are produced to authorised officers of Durham Constabulary and Durham County Council upon request.*

There were no copy documents for L W , merely typed sheet with her name and national insurance number on. When questioned A stated that L didn't have her NI card or passport.

There was no right to work documentation for A S b.

## **8. There was no fire risk assessment**

*The licence condition states that:*

*The premises shall undertake a fire risk assessment that will be reviewed annually and will be available for inspection.*

## **9. There were no signs or posters displayed.**

*The licence condition states that:*

*Signs or posters shall be displayed that advise customers that they will not be served alcohol if they appear to staff to be under the influence of alcohol or drugs.*

**10. The EPOS (electronic point of sale system) did not always provide prompts when age restricted products were scanned for sale. It provided prompts for some bottles of alcohol but not all. No prompts at all for cigarettes/e-cigs or lottery tickets**

*The licence condition states that:*

*The premises will operate an electronic point of sale system (EPOS). This system will provide age prompts when age restricted products are scanned for sale.*

**11. The manual refusals register was not signed by members of staff or signed off by DPS/Licence holder on a monthly basis.**

The presence of these defects at the premises undermines the public safety, protection of children from harm and prevention of crime and disorder licensing objectives.

*The licence condition states that:*

*The Premises Licence Holder or the Designated Premises Supervisor must monitor the Refusals Register every month and must sign and date the Refusals Register when this has been completed.*

Going through the conditions with A during the inspection, A appeared to have no real understanding of the requirements of the conditions on the licence and what should be in place. A asked that she be given 'another week, and everything would be sorted.'

Following the visit on 31<sup>st</sup> January 2020 a letter was sent the same day to Ifzal Mehdi being the named Licence Holder and DPS, a copy was also sent to their solicitors M (named as the correspondence address on the application) detailing the findings of the inspection. The letter gave them 7 days to rectify the issues and to contact Licensing. No contact was made.

A revisit to the premises took place on 17<sup>th</sup> February 2020. A was phoned by staff to advise that we were there however she said she was with her child at the hospital and so she couldn't attend.

1. The licence was still being displayed incorrectly. A had been told on the last visit which parts needed to be displayed and which part just had to be held at the premises.
2. The CCTV was displaying the wrong time. The time was reading 16:20 at 16:03.
3. The CCTV log had been signed on 5<sup>th</sup> February and 10<sup>th</sup> February. No mention was made that the time was incorrect.
4. The incident book was produced – there were no entries, however a form was found in another file logging an incident. Staff appear unaware of the incident logging procedure.
5. Training had been undertaken on 5<sup>th</sup> February 2020 by staff, but no training

record could be found for L W who did attend the training.

6. Right to work documentation had not been updated.
7. The fire risk assessment had been carried out and was in the training file.
8. There was a poster at the back of the till saying that alcohol would not be sold if somebody appeared drunk, however there was no mention of drugs.
9. The EPOS system was still not working for all alcohol products and not for all age-related products.
10. The refusals register is being used more frequently but it is not signed off monthly by the DPS/Licence holder but by A S b.
11. Asking members of staff on 17<sup>th</sup> February 2020 how often Ifzal (Licence Holder and DPS) came to the shop the staff members asked who Ifzal was? A had said on 31<sup>st</sup> January 2020 that he comes to the shop on a Saturday and Sunday and sometimes a Tuesday or Wednesday although A had said he was due to call that day (Friday).

There are concerns that Ifzal is named on the licence as DPS and has nothing to do with the day to day management of the shop.

12. Trading Standards carried out a test purchase on Thursday 27<sup>th</sup> February 2020. This refusal has not been logged in the refusals register.

**Please provide as much information as possible to support the application**  
(please read guidance note 3)

On 31<sup>st</sup> January 2020 officers from Licensing Enforcement and Trading Standards attended the premises. A S b came to the shop after staff rang to advise her of the inspection. A is primarily in charge of the day to day running of the shop. A by her own admission said that she carries out the training for the staff in connection with the license conditions.

The alcohol had been moved within the shop following the closure and the shop is now only open during licensable hours removing any requirement for alcohol to be covered over.

**Prevention of Crime and Disorder**

- The absence of an accountable DPS with involvement in the business
- CCTV not recording the correct time
- Right to work documentation not being completed correctly
- Training records incomplete

**Prevention of Public Nuisance**

- The absence of an accountable DPS with involvement in the business
- EPOS system not fully functional

**Protection of Children from Harm**

- The absence of an accountable DPS with involvement in the business
- EPOS system not fully functional
- Training records incomplete

**Public Safety**

- The absence of an accountable DPS with involvement in the business



Please tick ✓ yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.**

**Part 3 – Signatures** (please read guidance note 4)

**Signature of applicant or applicant’s solicitor or other duly authorised agent** (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date            **19<sup>th</sup> February 2020**

.....

Capacity      **Responsible Authority**

.....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 6)

**Post town**

**Post Code**

**Telephone number (if any)**

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

## **Notes for Guidance**

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

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## **Appendix 5: Representation from the Local Weights and Measures Authority**

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Contact: Graham Blount  
Direct Tel: [REDACTED]  
email: [REDACTED]  
Your ref: DWTSPR0153  
Our ref:



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

11<sup>th</sup> March 2020

Dear Madam

**Licensing Act, 2003 News & Booze, West Kyo**

Further to the application made for a review of the premises licence of the above premises, I would support this application.

I have been involved in the previous review of the premises and have made three follow up visits to the premises, twice with Nicola Anderson and once on my own.

During the visits with Mrs Anderson, I noted that the till system did not have prompts for a lot of the Age Related products in the shop, which was required as a basis of the new licence. I also noticed that the Refusals register was not being signed by the Premises Licence Holder or the Designated premises Supervisor, again required by the new licence.

On Thursday 27<sup>th</sup> February, 2020 A test purchase was carried out on the premises and an underage volunteer attempted to buy alcohol. The volunteer was refused the sale. I made a follow up visit on Thursday 5<sup>th</sup> March and inspected the refusals register, There was no entry relating to the refusal.

Based on these findings and those of Mrs Anderson I have grave concerns as to the lack of effective management of the premises and the total disregard to the licencing conditions.

Yours sincerely

[REDACTED]  
Graham Blount  
Senior Trading Standards Officer  
**Regeneration and Local Services**  
Durham County Council, PO Box 617, Durham, DH1 9HZ  
Main Telephone 03000 26 1016

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## **Appendix 6: Comments from Responsible Authorities**

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# MEMO



To: Ms Yvonne Raine  
Licensing Services

From: Regeneration and Local Services

Date: 11/03/2020

Re: **Licensing Application Review of premises licence  
News & Booze, 1 Catherine Terrace New Kyo Stanley DH9 7TP**

With reference to the above licensing application received on 10 March 2020.

I have assessed the application with reference to the public nuisance licensing objective and would confirm I am in support of the application to review the premises licence.

John Scott Hayes MCIEH MCMI  
Principal Public Protection Officer  
Community Protection Service

**From:** DSCP Secure

**Sent:** 18 March 2020 16:58

**To:** Yvonne Raine

**Subject:** RE: Licensing Act 2003 - Review application rec'd - News & Booze, 1 Catherine Terrace, New Kyo, Stanley. DH9 7TP

I do not have any representations in regard to this application, and support it.

Regards

Stephen Winship

Policy & Strategy Officer  
Durham Safeguarding Children Partnership

Tel :  
County Hall, Durham  
DH1 5UJ

**PLEASE NOTE:** to assist the DSCP Business Team in managing communications at this time we ask that you please email members of the team directly and not to phone.



**Durham Safeguarding Children Partnership (DSCP)**

Keeping Children Safe

[dscpsecure@durham.gov.uk](mailto:dscpsecure@durham.gov.uk)

[www.durham-scp.org.uk](http://www.durham-scp.org.uk)



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## **Appendix 7: Response from Fire Safety Authority**

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Chief Fire Officer: Stuart Errington

Fire and Rescue Service Headquarters,  
Belmont Business Park, Durham, DH1 1TW

Date: 19 March 2020  
This matter is being dealt with by: Julie Knox

Our Ref: 2E11670001  
Your Ref: 460181

Direct Dial Telephone:  
E-mail:

Dear Yvonne,

**Licensing Act 2003**  
**Regulatory Reform (Fire Safety) Order 2005**  
**Ahmeds News & Booze, 1 Catherine Terrace, Annfield Plain, Stanley, DH9 7TP**

I acknowledge your application dated 9 March 2020 regarding a Premises Licence under The Licensing Act 2003 in respect of the above named premises.

No representations will be made to the Licensing Authority subject to the responsible person for the above premises ensuring compliance with the requirements of the Regulatory Reform (Fire Safety) Order 2005.

For further guidance please refer to <https://www.gov.uk/workplace-fire-safety-your-responsibilities/fire-safety-advice-documents> which provides information about the Regulatory Reform (Fire Safety) Order 2005.

Should you require any further information please do not hesitate to contact me on the telephone number or e-mail address shown above or visit our website [www.ddfire.gov.uk](http://www.ddfire.gov.uk) and follow the link to Fire safety at work.

Yours faithfully

Julie Knox  
Fire Safety Section



[www.ddfire.gov.uk](http://www.ddfire.gov.uk)



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## **Appendix 8: Statement of Licensing Policy**

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**3.10 Review of a premises licence or club premises certificate** - At any stage during the life of an authorisation, any premises that has a premises licence or club premises certificate may have that licence reviewed by any of the named responsible authorities or by a person defined in the Act as 'any other person' e.g. residents, councilors, MPs etc. At any time following the grant of a licence or Club Premises Certificate, any person or responsible authority may apply for a review of it.

The Police may also submit a summary review if there is a premises associated with serious crime and disorder. When the council instigates a review, it will ensure that there is a clear separation of functions between the officer acting as the licensing authority and the officer acting as a responsible authority.

Applications for review must relate to one or more of the licensing objectives and must not (where the review is submitted by any person who is not a responsible authority) be considered as frivolous, vexatious or repetitious by the licensing authority. Where an application for a review is frivolous vexatious or repetitious, or where an application for a review is considered not relevant to the licensing objectives, the council will reject it.

The council expects responsible authorities and other parties to give early notice to licence holders of any concerns about issues identified at premises and of the need for improvement. It is expected that requests for a review of any licence will be sought only if such notice has failed to resolve the matter or problem. 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 DCC Licensing Services to talk to those who manage the premises on your behalf; or
- Talking to the relevant "responsible authority" e.g. environmental health in relation to noise nuisance, or the police in relation to crime and disorder, about the problem.

A review application is also subject to a similar consultation period to that of a new licence or variation, during which relevant representations may be submitted. The Act provides strict guidelines, timescales and procedures for review applications and hearings and the council will deal with every review application in accordance with these rules. Further details on review applications can be found in Appendix IV of this policy.

At a review, the council may take the following steps (if any) where such steps are considered appropriate for the promotion of the licensing objectives:

- a) Modify the conditions of the licence
- b) Exclude a licensable activity from the scope of the licence
- c) Remove the designated premises supervisor
- d) Suspend the licence for a period not exceeding three months
- e) Revoke the licence.

In cases where there is evidence that the crime prevention objective is being undermined, revocation of the licence will be seriously considered by the authority, even in the first instance.

There is a right of appeal to the Magistrates' Court against the decision of the licensing sub-committee, and if an appeal is lodged by the licence-holder, the original decision of the licensing authority will not take effect until the appeal is determined or withdrawn. There is an exception to this in the case of a summary review brought only by the police.

**7.1 The Prevention of Crime and Disorder** - Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment can, if not properly managed, become a source of public nuisance, generating crime and disorder problems. **The council expects** all licensed premises to be properly managed at all times to prevent this from happening and will focus attention on standards of management practice at licensed premises when carrying out its administrative and enforcement functions.

**The council encourages, and will look positively on,** the provision by licensees of comprehensive and documented staff training. Documented staff training conducted in respect of:

- Preventing underage sales
- Minimising drunkenness
- Managing and resolving conflict
- Emergency procedures
- Compliance with the licence conditions
- Relevant obligations and offences under the Licensing Act, particularly those associated with the sale of alcohol
- Identification and refusal of underage sales
- Use of accredited training courses and recognised industry qualifications (e.g. BII)

**The council expects** 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, a marquee, in a smoking shelter etc.

The **council expects** all applicants to 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.

**The council recommends** that procedures to deal with drunken customers, violence and anti-social behaviour, in and outside premises, and the provision of closed-circuit television in certain premises should be considered by applicants, licencees and event organisers when addressing this issue.

**The council encourages** personal licence holders to actively participate in established “Pubwatch” schemes, where issues relating to crime and disorder can be addressed. **The council encourages** involvement in the “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.

**The council recognises and promotes** effective and responsible management of all licensed and authorised premises through competent, efficient and regular instruction, recorded training, supervision of staff and the adoption of good practice, such as ‘Challenge 25’. These are amongst the most important control measures for the achievement of all Licensing Objectives.

**The council will take a positive view** of anyone who invests in appropriate training, and nationally accredited qualifications tailored to the licensing sector. Training records should be kept available for inspection by relevant enforcement agencies as a matter of good practice.

It is important that qualified and competent people are present who can discuss any problems or matters of concern arising from the licensable activities at or near to the premises with officers from DCC Licensing Services and Police.

**The council also 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 are 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.

**Maximum occupancy:** When its discretion is invoked, the council 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 premises or event. Any such decision will be based on the nature and style of the operation.

The council will consider information provided by the applicant and any other body (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.

**Security:** 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. 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 as well as the hours of trading.

**Toughened/Safety Glass:** 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 especially to any premises associated with a higher risk for potential crime and disorder. This will be particularly relevant for high-volume vertical drinking establishments and those premises open beyond midnight in areas where there is a high concentration of venues.

The council and several of its partners have signed a collective new pledge as part of an ongoing campaign to eradicate single use plastics. The agreement commits all signatories to significantly reduce, and work towards ultimately removing, the use of unnecessary single use plastics from their operations. If alternatives to normal glass are used, the use of suitable alternatives, including non-single use plastics, is encouraged.

**Drugs/Knives/Weapons:** The council 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 or consumed within the premises to prevent tragedies and harm because of drug misuse.

**The council will expect** licensees to be familiar with the Home Office Drug Strategy booklet entitled Safer Clubbing (ISBN 1840827807) or other subsequent editions. The council 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.

In addition to the information provided above, **Table 1 in Appendix VI** provides recommendations, suggestions and examples for how to prevent the specific crime/disorder outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

**7.2 Public Safety** - The Act covers a wide range of premises that require licensing. Each of these types of premises presents a mixture of risks, with many common to most premises, and others unique to specific operations. It is essential that applicants acknowledge these risks and that premises are constructed or adapted and operated to safeguard occupants and people in the immediate vicinity who may be affected by the premises and activities taking place therein.

Applicants are advised to seek advice on such matters from the council's occupational health and safety team, Health and Safety Executive, Durham Constabulary and the Durham and Darlington Fire and Rescue Service. They should incorporate any recommendations from these responsible authorities in their

Operating Schedule before submitting their applications. Matters for consideration include:

- First Aid
- Public security
- Event control
- Polycarbonate Glass
- Fire Safety
- Electrical safety
- Building safety
- Transport
- Drink driving issues
- Occupancy levels

In addition to the information provided above, **Table 2 in Appendix VI** provides recommendations, suggestions and examples of how to prevent the specific dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, clientele and workforce when identifying hazards, assessing risks and identifying controls.

**7.4 Protection of Children from Harm** - the protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Secretary of State's Guidance to the Licensing Act 2003 also makes clear that the authority must also consider the need to protect children from sexual exploitation when undertaking licensing functions.

While the Act does not prohibit children from having free access to any licensed premises, the council recognises that limitations may have to be considered where it appears necessary to protect children from physical, moral or psychological harm and the effects of alcohol on parenting. Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises.

Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.

**The council will expect** applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises. **The council will also expect** any licence holder who wishes to hold events for children to provide it, and the Police, with a detailed risk assessment of that event including how the event will be managed, staffing levels for the event and how any child will be prevented from being exposed to any harm.

**The council will give considerable weight** to representations about child protection matters particularly from the Local Safeguarding Children's Board who act as the responsible authority under the Act for matters relating to child protection. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations.

These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the council, linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries), this evidence will be considered. The council will also consider what action is appropriate to ensure this licensing objective is effectively enforced.

In relation to applications for the grant of a licence in areas where evidence is presented, on high levels of alcohol-related harms in persons aged under 18, the council will also consider what conditions may be appropriate to ensure that this objective is promoted effectively.

The council will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises where it is necessary to prevent physical, moral or psychological harm.

**The council will expect** all licence holders or premises, that wish to allow children on to their premises, to ensure that access is restricted where appropriate. This could include ensuring that all children are accompanied and that they do not have access to, or sight of, alcohol. **The council will consider** the following when dealing with a licence application where children may have limited access:

- Limitations on the hours when children may be present.
- Limitations or exclusion when certain activities are taking place.
- Requirements for an accompanying adult to be present.
- Full exclusion of people under 18 from the premises when certain licensable activities are taking place (e.g. entertainment of a sexual nature).
- Limitations on the parts of premises to which children might be given access.
- Any other limitations appropriate to the application and according with the four licensing objectives.

The council recommends that retailers of alcohol ensure that their staff are properly trained in all aspects of responsible retailing, including the sale of alcohol and age restricted sales. The Council fully endorses and promotes knowledge of and adherence to Challenge 25 within the retail business sector.

Further advice and information on age restricted sales and training can be found by contacting Durham County Council's Trading Standards service at [trading.standards@durham.gov.uk](mailto:trading.standards@durham.gov.uk)

The council will work closely with the Police and the Council's Trading Standards service to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children. We know alcohol is harmful to the health of children and young people whose minds and bodies are still developing.

Alcohol must not be served to persons under the age of 18, except in limited circumstances allowed by the law, and then only after verifying a person's proof of age e.g. 16 and 17-year-olds may drink beer, wine or cider with a table meal in relevant premises, where accompanied by an adult aged 18 years or over. The currently accepted verifications for proof of age are a passport, a photo card driving licence or a proof of age scheme such as Challenge 25.

The council is aware of a young person's vulnerability to alcohol and events, which are aimed at children under the age of 18 years on licensed premises, will not be supported by the council unless the applicant can demonstrate that all safeguards for children have been addressed (such as the removal of alcohol advertising).

The council, Durham Constabulary Harm Reduction Unit and the Local Safeguarding Children Board have produced a "good practice guide" for an event catering for under-18's and mixed events of under and over 18's. This guide is highly recommended by the council and should be adhered to by licence holders and event organisers. The guide is reproduced in Appendix I.

Recorded staff training programs, the use of a refusals register, in-store signage and limited access to alcoholic drink can all reduce the likelihood of illegal sales and proxy sales and are encouraged by the council.

**Access to Cinemas:** The 2003 Act requires that any premises showing films must ensure that children are not able to view age restricted films (as classified by the British Board of Film Classification). **The council will expect** any licence holder or applicant who intends to show films to outline suitably robust measures on how they will protect children from exposure to this potential harm. The authority may impose suitable conditions if it believes it is required for the promotion of the four licensing objectives.

The Act provides that it is mandatory for Licensing Authorities to include a condition in all premises licences and club certificates authorising the exhibition of film, for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by the British Board of Film Classification or by the council itself.

Should the council need to adopt its own system of film classification the information regarding such classifications will be published on the council's website.

**Children and Public Entertainment:** Many children go to see and/or take part in entertainment arranged especially for them. For example, children's film shows and dance or drama school productions, and additional arrangements may be required to safeguard them while at the premises. Where many children are likely to be present on any licensed premises, for example a children's pantomime, disco/rave or similar event, the authority expects all children to be supervised by an appropriate number of adults and to ensure that the venues put measures in place to prevent any child being exposed to harm.

Where entertainment requiring a licence is specifically presented for children, the council will normally expect the presence of at least one member of staff from the Licensed premises for every 50 children present to ensure their safety and protection from harm and to control their access and egress from the premises. The council will

require those caring for or supervising children to have undergone an appropriate criminal record check with the Disclosure and Barring Service.

Venue operators may also apply their own admissions policy to their premises. If a venue has carried out a risk assessment that deems it appropriate to exclude children or young persons from their premises, then that is a matter for them.

**The council will expect** all venue operators to risk assess their venues accordingly against the nature of the licensable activities they intend to carry out. This could include, for example, allowing accompanied children into a premise up until a certain time and then excluding them for the rest of the time the premises are open.

Regarding this licensing objective, the council considers Durham County Council Safeguarding Children Board to be the competent authority for matters relating to the protection of children from harm. A protocol exists between Durham Local Safeguarding Children Board and Durham Constabulary. All safeguarding concerns identified because of premises, personal applications and all variations to licences are covered by this protocol.

Applicants are advised to seek advice from the Local Safeguarding Children Board and incorporate any recommendations in their Operating Schedule before submitting their applications.

**The council strongly recommends** that events, involving persons under the age of 18 years and persons over 18 years, do not take place unless there are sufficient and robust control measures in place. Experience has shown that mixed age events are extremely difficult to control and manage and they have led to persons under the age of 18 being exposed to alcohol and entertainment late into the night.

It is the council's view that mixed age events should not take place within the late-night economy, particularly at venues that are alcohol and entertainment-led and which are operating late at night. It is the council's view that these mixed aged events can have an adverse impact on a young persons wellbeing as well exposing them to unacceptable levels of harms associated with the night time economy.

In addition to the information above, **Table 4 in Appendix VI** provides recommendations, suggestions and examples of how to protect children from each of the dangers outlined. This table is not exhaustive, and every applicant must consider the specific situation, location and circumstances associated with their premises, activities, cliental and workforce when identifying hazards, assessing risks and identifying controls.

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## **Appendix 9: 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.

## **Public safety**

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
  - Ensuring appropriate access for emergency services such as ambulances;
  - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
  - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
  - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
  - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
  - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
  - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

## Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
  - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

## Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

## Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act<sup>1</sup>, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

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<sup>1</sup> S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## **Protection of children from harm**

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
  - it is known that unaccompanied children have been allowed access;
  - there is a known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.
- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:

- restrictions on the hours when children may be present;
- restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of the premises to which children may have access;
- age restrictions (below 18);
- restrictions or exclusions when certain activities are taking place;
- requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- full exclusion of people under 18 from the premises when any licensable activities are taking place.

- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

## **Offences relating to the sale and supply of alcohol to children**

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to

prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

### Table of relevant offences under the 2003 Act

<b>Section</b>	<b>Offence</b>	<b>Prosecuting Authority</b>
Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
Section 151	Delivering alcohol to children	Police and/or Licensing Authority
Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

## 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.