



LICENSING SUB-COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
MONDAY, 13TH FEBRUARY, 2012 AT 10.00 AM

MEMBERSHIP

Councillors

S Armitage - Cross Gates and Whinmoor;
K Bruce - Rothwell;
R Downes - Otley and Yeadon;

Agenda compiled by:
Tel No:
Governance Services
Civic Hall
LEEDS LS1 1UR

Helen Gray
247 4355

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<u>PRELIMINARY PROCEDURES</u> ELECTION OF THE CHAIR	
2			APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded) (*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)	

Item No	Ward	Item Not Open		Page No
3			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1) To highlight reports or appendices which:</p> <p>a) officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>b) To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>c) If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p> <p>2) To note that under the Licensing Procedure rules, the press and the public will be excluded from that part of the hearing where Members will deliberate on each application as it is in the public interest to allow the Members to have a full and frank debate on the matter before them.</p>	
4			<p>LATE ITEMS</p> <p>To identify any applications as late items of business which have been admitted to the agenda for consideration</p> <p>(the special circumstances shall be identified in the minutes)</p>	

Item No	Ward	Item Not Open		Page No
5			<p>DECLARATIONS OF INTEREST</p> <p>Members are reminded to declare any interests at the start of the hearing on each application for the purpose of Section 81 (3) of the Local Government Act 2000 and paragraphs 8 to 12 of the Members Code of conduct</p> <p><u>HEARINGS</u></p>	
6	City and Hunslet;		<p>"DELI POLSKA" - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE FOR DELI POLSKA (POLISH DELICATESSE), 171 DEWSBURY ROAD, HUNSLET, LEEDS LS11 5EG</p> <p>To consider the report of the Head of Licensing and Registration on an application received for the Review of the premises licence held at the premises known as "Deli Polska", 171 Dewsbury Road, Hunslet, Leeds LS11 5EG. The application is made under Section 51 of the Licensing Act 2003 by West Yorkshire Police</p> <p>(Report attached)</p>	1 - 38



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 13th February 2012

Subject: Review of a Premises Licence for Deli Polska (Polish Delicatessen), 171 Dewsbury Road, Hunslet, Leeds, LS11 5EG

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	City & Hunslet	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
Appendix number:		

Executive Summary

This report informs Members of an application for the review of a Premises Licence under Section 51 of the Licensing Act 2003, sought by West Yorkshire Police in respect of Deli Polska, 171 Dewsbury Road, Hunslet, Leeds, LS11 5EG. The Licensing Authority is now under a duty to review the Premises Licence held by these premises.

1.0 Purpose of this Report

1.1 This report provides Members with the background and history to the making of the review. The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act"), and informs members of the options available to them when reviewing a premises licence.

2.0 Background Information

2.1 An application for the grant of a Premises Licence was received by the Licensing Authority on 26th January 2009. The application was made to licence a Polish Delicatessen with the authority to sell alcohol for consumption off the premises.

During the consultation period representation was received from West Yorkshire Police offering suggested measures to promote the prevention of crime and disorder. These measures were agreed by the applicant prior to the hearing.

However a total of 22 representations remained outstanding from local residents whose primary concerns were in relation to crime & disorder and the prevention of public nuisance. In particular, their concerns focused on exasperating the problem of underage drinking and youths congregating within the local area. Other mutual concerns highlighted excessive litter and parking issues.

The application proceeded to hearing on 20th April 2009 where Members considered the written and verbal submissions made on behalf of the applicant. The committee also considered the representations received from local residents.

Members appreciated the problems in the area and the strength of local feeling. However, they felt there was no evidence to show that this application would add to those problems. As there was no evidence that this application would add to the problems in the area, the licensing sub committee resolved to grant the application as applied for, subject to the agreement reached with West Yorkshire Police and measures offered within the Pro-Forma Risk assessment.

2.0 Premises Licence

2.1 The Premises Licence Holder is Miss Makgorzata Czerwiec.

2.2 A copy of the Premises Licence can be found at Appendix A of this report.

2.2 In summary, the Premises Licence permits the following:

Sale by retail of alcohol (for consumption off the premises)
08:00 until 22:00 hrs Monday to Saturday
09:00 until 22:00 hrs Sunday

The times when the premises are open to the public:
08:00 until 22:00 hrs Monday to Saturday
09:00 until 22:00 hrs Sunday

3.0 Designated Premises Supervisor

3.1 The Designated Premises Supervisor for the premises is Mr Karl Brown.

4.0 Location

4.1 Maps which identify the location of the premises are attached at Appendix B.

5.0 Main Issues

5.1 The review is being sought by West Yorkshire Police on the grounds of the prevention of crime & disorder. A copy of the review application is located at Appendix C of this report.

5.2 Documentary Evidence to support the review on the grounds described above can be found at Appendix D.

- 5.3 As part of the review procedure, details of the review and an outline of the grounds on which the review is requested must be displayed at the premises for a period of 28 days, commencing the day after the application is received.
- 5.4 Such notices were duly placed on prominent display at the premises on 22nd December 2011 and checked on a regular basis. The notices were removed at the end of the consultation period on 18th January 2012.
- 5.5 Section 51 of the Licensing Act 2003 places the Licensing Authority under a duty to review the premises Licence in respect of Deli Polska. A summary of the procedure followed in accordance with the Act is attached to this report by way of a flow chart at Appendix E.

6.0 Relevant Representations

- 6.1 Under the Act representations can be received from responsible authorities or interested parties. Representations must be relevant and, in the case of an interested party, must not be frivolous or vexatious.
- 6.2 Representation from Responsible Authorities
- 6.2.1 A representation has been received from Environmental Health in their capacity as a Responsible Authority. Member's attention is drawn to Appendix F of this report.
- 6.3 Representation from Interested Parties
- 6.3.1 The application has not attracted any representation from interested parties.

7.0 Matters Relevant to the Application

- 7.1 Members of the Licensing Sub Committee must make decisions with a view to promoting the licensing objectives which are:
- 7.1.1 the prevention of crime and disorder;
 - 7.1.2 public safety;
 - 7.1.3 the prevention of public nuisance; and
 - 7.1.4 the protection of children from harm.
- 7.2 In making their decision Members are obliged to have regard to guidance issued under Section 182 of the Act, a copy of the relevant section is attached at Appendix G. Members must also have regard to the Council's licensing policy (paragraphs 5.99 to 5.117), the relevant representations made and evidence they hear.

8.0 Implications for Council Policy and Government

- 8.1 It is the stated licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 12.13 of the policy with particular seriousness.

9.0 Legal and Resource Implications

- 9.1 There are no resource implications in determining the review.

9.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrate's Court.

10.0 Recommendations

10.1 Members are requested to determine this review. The Committee must take such of the following steps as it considers necessary for the promotion of the licensing objectives:

10.1.1 to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);

10.1.2 exclude any licensable activities to which the application relates;

10.1.3 to remove the Designated Premises Supervisor;

10.1.4 to suspend the licence for a period not exceeding 3 months; and/or

10.1.5 to revoke the licence.

10.2 Members may alternatively decide that no action is necessary and that the circumstance of the review does not require the Committee to take any steps to promote the licensing objectives.

10.3 Members should note the Guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible authorities have already issued such warnings, the issuing of another warning should not be repeated.

10.4 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must actually be necessary in order to promote the licensing objectives.

11.0 Background Papers

11.1 Guidance issued under s182 Licensing Act 2003

11.2 Leeds City Council Statement of Licensing Policy



Public Register Copy

Premises Licence Leeds City Council

Licence Issued By:

On: 8th July 2009


 N
 25
 Jackson.
 Nicole Jackson
 Assistant Chief Executive (Corporate Governance)

Premises Licence Number

PREM/02702

Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code

Deli Polska
 Polish Delicatessen
 171 Dewsbury Road
 Hunslet
 Leeds
 LS11 5EG

Telephone number 07845557166

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol

Monday to Saturday 08:00 - 22:00
Sunday 09:00 - 22:00

The opening hours of the premises

Monday 08:00 - 22:00
Tuesday 08:00 - 22:00
Wednesday 08:00 - 22:00
Thursday 08:00 - 22:00
Friday 08:00 - 22:00
Saturday 08:00 - 22:00
Sunday 09:00 - 22:00

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

Alcohol is supplied for consumption off the premises

Name, (registered) address of holder of premises licence

Makgorzata Czerwiec
Polish Delicatessen
171 Dewsbury Road
Hunslet
Leeds
LS11 5EG

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

Not Applicable

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Karl Graham Brown

State whether access to the premises by children is restricted or prohibited

None

Annex 1 – Mandatory conditions

Only individuals licensed by the Security Industry Authority may be used at the premises to guard against:-

- a. unauthorised access or occupation (e.g. through door supervision), or
- b. outbreaks of disorder, or
- c. damage

No supply of alcohol may be made under this licence

- a. At a time when there is no designated premises supervisor in respect of the premises licence, or
- b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

Annex 2 – Conditions consistent with the Operating Schedule

Conditions agreed with West Yorkshire Police

All refusals of sales of alcohol will be recorded in the 'shop log' referred to in the application. The entry will contain the following details: - The times, day and date the refusal was made, the name of the staff member refusing the sale, the name and address of the person attempting to buy the alcohol (where supplied), full description of said person and full details of the alcohol they attempted to purchase.

A training register will be maintained at the premises. The register will contain training records which include the following; the time, day and date the training was given, details of the training given, the signature of the person supplying and the person receiving said training.

A suitable CCTV system operated in accordance with guidance from West Yorkshire Police shall be installed inside the premises. The CCTV shall be in operation during all hours the premises are open and footage shall be made available immediately in request by a police officer or a council licensing enforcement officer.

All CCTV footage to be stored for a minimum of 31 days and the quality of the footage to be of a standard required to a court of law.

Conditions undertaken by the applicant taken from the Pro Forma Risk Assessment

A suitable CCTV system will be maintained and be operational on the premises at all times when licensed activities are being carried out

The Siting and standard of the CCTV system will be agreed with WYP prior to installation and will comply with that agreement at all times

Changes to the siting and standard of CCTV systems may only be made with the written consent of West Yorkshire Police

Security footage will be made secure and retained for a period of time to the satisfaction of WYP

A Supervisors Register will be maintained at the licensed premises, showing the names, address and up-to-date contact details for the DPS and all personal licence holders

The Supervisors Register will state the name of the person who is in overall charge of the premises at each time that licensed activities are carried out, and this information will be retained for a period of twelve months and produced for inspection on request to an authorised officer.

The Daily Record Register will contain consecutively numbered pages, the full name and registration number of each person on duty, the employer of that person the date and time he/she commenced duty (verified by the individual's signature)

The Daily Record Register will be retained for a period of twelve months from the date of the last entry
The Licensee will ensure that an Incident Report Register is maintained on the premises to record incidents such as anti social behaviour, and ejections from the premises

The Incident Report Register will be produced for inspection immediately on the request of an authorised officer.

Written records of all accidents and safety incidents involving members of the public will be kept. These will be made available at the request of an authorised officer.

All Equipment with which the public may have contact, will be maintained, stored and operated in a safe manner. Appropriate maintenance and test records will be kept and be available for inspection by an authorised officer.

Electrical installations will be inspected on a periodic basis (at least every 5 years) by a suitably qualified and competent person. Inspection records/certificates will be kept. These will be made available at the request of an authorised officer.

Portable electrical appliances including those brought in temporarily onto the premises will be checked on a regular basis by a suitably trained and competent person to ensure they are in safe condition. Records will be kept of these checks .These will be made available at the request of an authorised officer.

The premises will be operated in a manner which will prevent unwanted odours causing a nuisance to persons in the immediate area or nearby properties.

The licensee will ensure that business waste is stored inside closed containers awaiting collection, that litter arising from people using the premises is cleared away regularly, that promotional materials such as flyers do not create litter, and that other street advertising is carried out lawfully.

The Licensee will adopt a proof of age scheme which is approved by WYP and West Yorkshire Trading Standards.

The Licensee's staff will ask for evidence of age from any person appearing to be under the age of 18 who is attempting to purchase alcohol at the premises.

Signs will be provided informing customers that sales will not be made to under 18s, and that age identification may be required.

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

Not Applicable

Annex 4 – Plans

The plans for these premises are as those submitted with the application. A copy of which is held by Leeds City Council Licensing Authority.

Key

- - Non-Premises Licence / Terminated Licence
- ✦ - Private Members Club
- ✳ - Community Premises (With Alcohol)
- ✳ - Community Premises (Without Alcohol)
- ◆ - Entertainment Only
- ✧ - Outdoor Space – High Capacity
- ✚ - Late Night Refreshment
- ▲ - Off Licence
- - On Licence (Primary Use)
- - On Licence (Secondary Use)

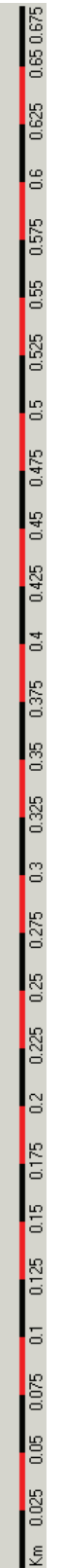
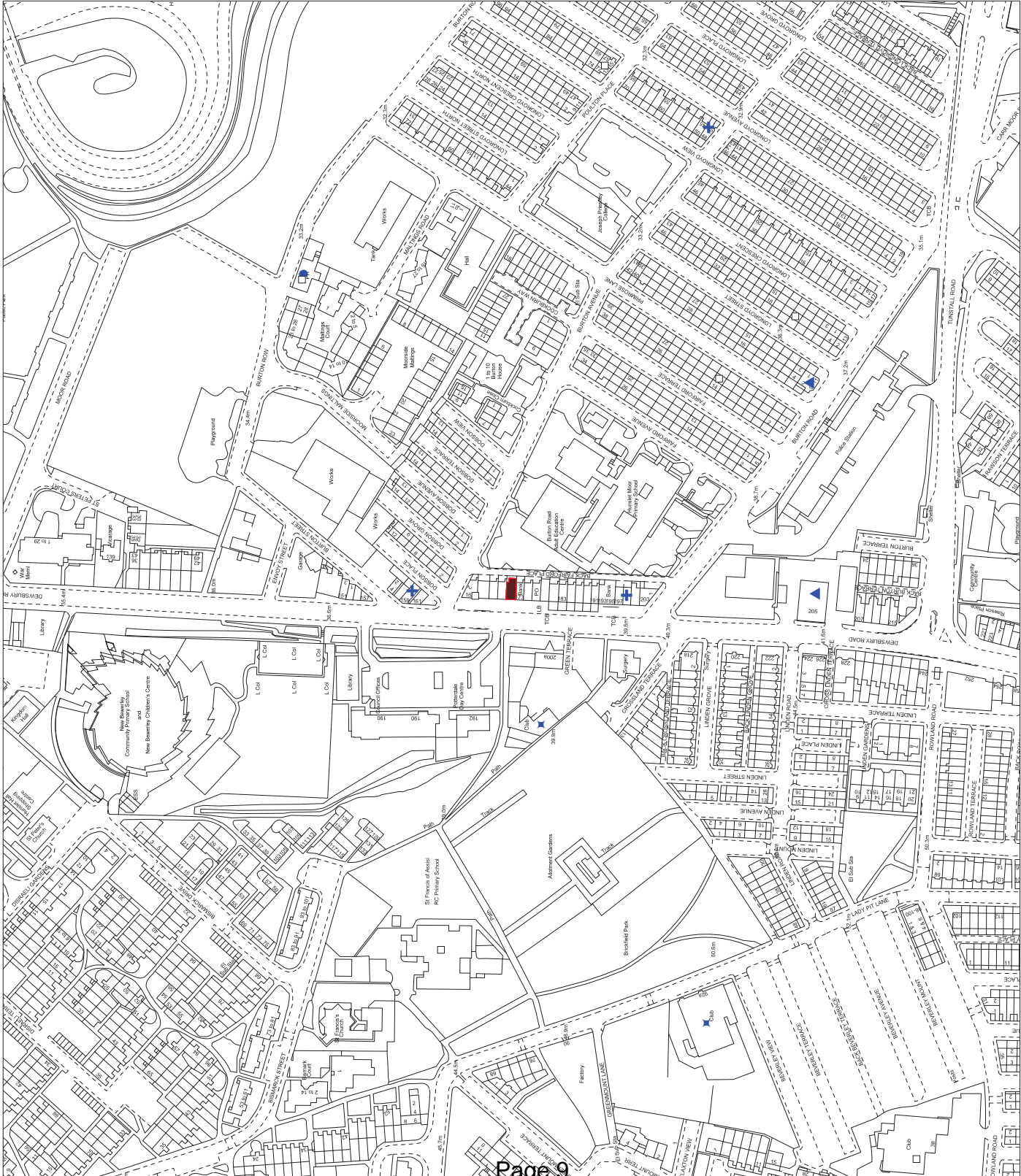
This map is based upon the Ordnance Survey's digital data with the permission of the Ordnance Survey on behalf of the controller of Her Majesty's Stationary Office

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Title:	PREM/02702/002 - Deli Polska
Sub Title:	171 Dewsbury Road, Hunslet, Leeds, LS11 5EG
Date:	01 February 2012
Scale:	1:2250





Key

□	Non-Premises Licence / Terminated Licence
✦	Private Members Club
✳	Community Premises (With Alcohol)
✳	Community Premises (Without Alcohol)
◆	Entertainment Only
✧	Outdoor Space – High Capacity
+	Late Night Refreshment
▲	Off Licence
●	On Licence (Primary Use)
■	On Licence (Secondary Use)

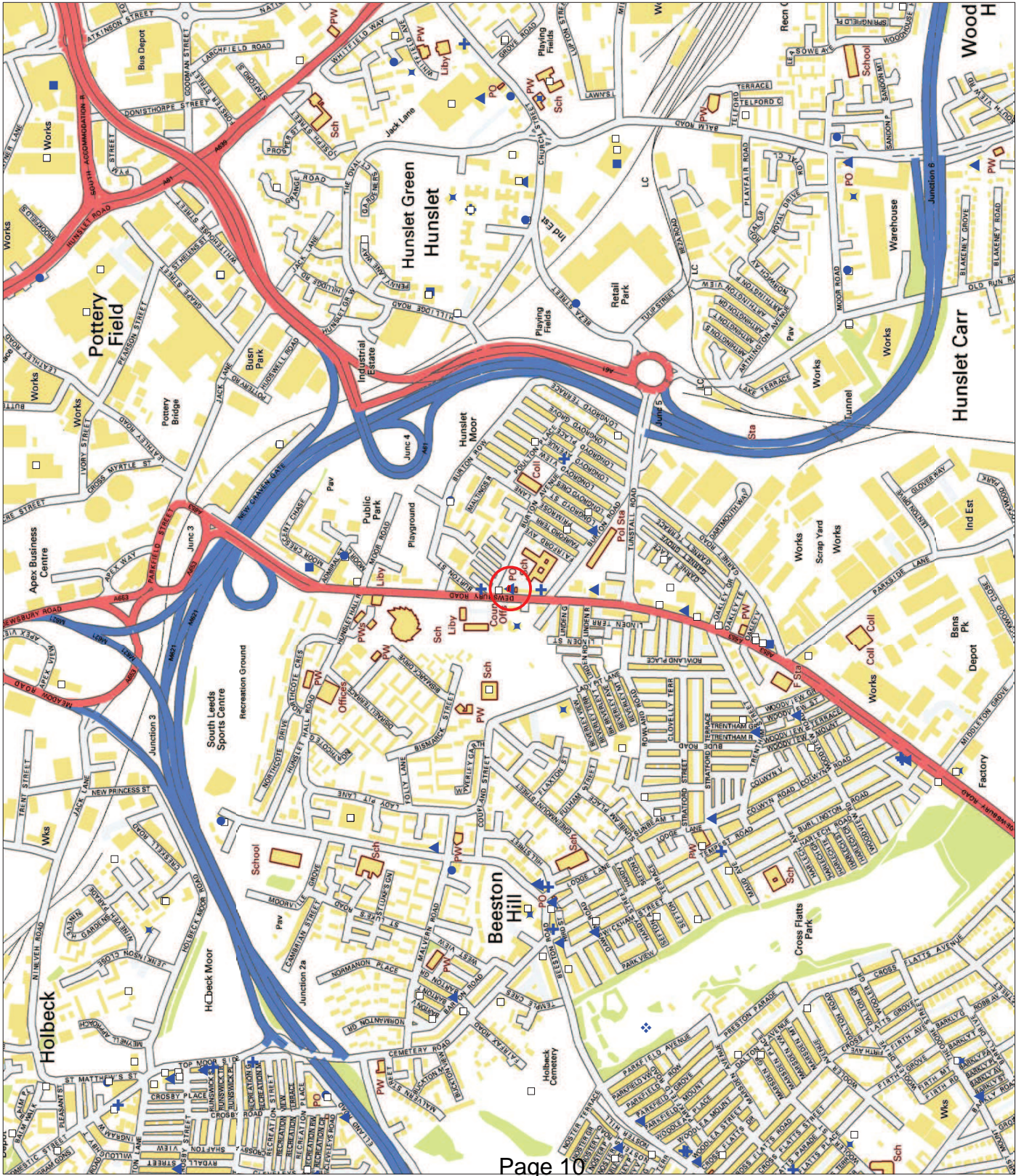
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Title:	PREM/02702/002 - Deli Polska
Sub Title:	171 Dewsbury Road, Hunslet, Leeds, LS11 5EG
Date:	01 February 2012
Scale:	1:8000



**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,

PC 5548 Catherine Arkle

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

Part 1 – Premises or club premises details

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

**Polish Delicatessen
171, Dewsbury Road
Leeds**

**Post town
LEEDS**

**Post code (if known)
LS11 5EG**

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

Makgorzata Czerwicz

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

PREM/02702

Part 2 – Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity
of the premises

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

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

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

Please tick

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

Surname

First Names

I am 18 years old or over

Please tick yes

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

Post Town

Post Code

Daytime contact telephone number

**E-mail address
(optional)**

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

West Yorkshire Police
Licensing Department
Millgarth Police Station
Millgarth Street
LEEDS LS2 7HX

Telephone number (if any)

0113 2413072

E-mail address (optional)

catherine.arkle@westyorkshire.pnn.police.uk

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

Please tick one or more boxes

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

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

These off-licence premises and the Premise Licence Holder are, and have been, the subject of an investigation by HM Revenue and Customs over a sustained period of time.

Since November 2009 the premises in question, the PLH's home address and other premises in Leeds which she controls have been visited by HMRC and substantial amounts of illegally imported cigarettes, hand rolling tobacco and alcohol have been seized along with a substantial amount of cash. The cash is now subject of a cash forfeiture order.

Despite having been arrested in December 2010 by HMRC Officers for the evasion of excise duty the PLH has continued to operate illegally. The PLH is a repeat offender operating under a Premises Licence. HMRC are not a Responsible Authority under the Licensing Act 2003 and therefore action is required from West Yorkshire Police in respect of the licence.

The illegal sale and importation of goods has taken place over at least the past 2 years. The actions of the PLH have constantly undermined the licensing objective of the prevention of crime and disorder, and West Yorkshire Police now apply for the revocation of the Premises Licence to prevent further abuse of it.

Please provide as much information as possible to support the application

(please read guidance note 2)

Documentary evidence to support the review and the grounds previously described is contained in Criminal Justice Act witness statements from the following:

PC 5548 Catherine Arkle
Jai Vantoch-Wood – Officer of HM Revenue & Customs

Please tick yes

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

If yes please state the date of that application N/A Day
Month
Year

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

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

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

Part 3 – Signature (please read guidance note 3)

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

Signature: 

Date: 20th December 2011

Capacity: Divisional Licensing Officer, City & Holbeck

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

Mr. Bob Patterson	PC Cath Arkle
Licensing Dept	Licensing Dept
Millgarth Police Station	Millgarth Police Station
Millgarth Street	Millgarth Street
Leeds	Leeds
LS2 7HX	LS2 7HX

Post town LEEDS

Post Code LS2 7HX

Telephone number (if any) 0113 2414023/ 0113 2413072

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) Robert.Patterson@westyorkshire.pnn.police.uk/
Catherine.Arkle@westyorkshire.pnn.police.uk**

Notes for Guidance

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

This page is intentionally left blank

No:



Witness Statement

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Crime Ref. No:

URN:

Statement of CATHERINE ARKLE

Date of birth: Over 18

Occupation: PC 5548

This statement (consisting of: **3** page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything which I know to be false or do not believe to be true.

Dated: 20th December 2011

Signature:



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

I am a police constable in the West Yorkshire Police, City and Holbeck Division, currently stationed at Millgarth Police Station in the capacity of Divisional Licensing Officer. I have jurisdiction over the city centre and the Morley, Holbeck and Rothwell areas of Leeds. The city centre demands most of my time with approximately three hundred licensed premises operating in that area. I have worked in this position since Spring 2005.

My duties entail enquiring into the background of various liquor licence applications, preparing police reports for the Licensing Authority and partnership multi agency working with the licensing trade. I am responsible, together with other members of the Licensing Department, for maintaining computer records aimed at monitoring incidents and crimes that relate to licensed premises.

Signature:



Signature Witnessed by:

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Continuation Statement of CATHERINE ARKLE

Recently we have become aware of a lack of sharing of information between the police and HM Revenue and Customs. HMRC are not a responsible authority but are heavily involved with licensed premises through enforcement visits to check tobacco and alcohol products are being sold without the evasion of excise duty. Senior management in both organisations have now reached agreements on the sharing of information and police assisting HMRC through licensing enforcement action, such as applications for reviews of premises licences. The country currently suffers substantial financial loss through the organised crime of evasion of tax duty.

Polish Delicatessen, 171, Dewsbury Road, Leeds, LS11 5EG

The Premises Licence Holder for the above mentioned shop is Makgorzata Czerwiec. On 23rd January 2009 West Yorkshire Police Licensing Department received an application for a premises licence at 171, Dewsbury Road. The normal checks were done on the applicant and the premises with nothing of note coming to light. A 'qualified' objection was made to the application by West Yorkshire Police. Agreements were reached with the applicant over the recommended conditions to be imposed on the premises licence to promote the licensing objectives and the police objection was therefore withdrawn.

On 25th October 2011 West Yorkshire Police Licensing Department received another application from the same applicant for premises situated within Leeds market. Due to a recent change in procedure regarding off-licence applications in particular I immediately made enquiries with HMRC. I was informed by Jai Vantoch-Wood, officer of HMRC, that he and other officers had had several dealings with the applicant, Ms Czerwiec, her premises at Dewsbury Road and the premises, without a licence, in Leeds market, and also her home address. I was informed that there had been several instances of seizures of illegally imported tobacco and alcohol from all three addresses and also a large cash seizure from the applicant's home address.

Signature: 

Signature Witnessed by:

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Continuation Statement of CATHERINE ARKLE

Due to the information supplied to me I made an outright objection to the application for a premises licence in Leeds market. A hearing was set for Monday 12th December 2011 at the Civic Hall. The applicant failed to attend and the licence was not granted after the evidence was heard by the Licensing Sub-Committee.

Police computer systems have again been interrogated in relation to the PLH and both her home address and 171, Dewsbury Road. Of note is a report of an arrest of a Polish male at 171, Dewsbury Road on 9th June 2011. This was for an offence of handling stolen goods and resulted in a search of the male's home address which is the same as Ms.Czerwiec - [REDACTED] Leeds 17. Officers found large quantities of cash lying around the front room and mail linking both Czerwiec and the Polish male to that address. They also discovered bank account details which showed various amounts of cash passing through the account and being transferred into various other accounts. 2 vehicles, a Jaguar and a BMW, were also found to be registered to the Polish male. A white Iveco panel van without any number plates was found on the drive of the address. It contained five x twelve gallon drums filled with petrol/diesel and number plates.

As a result of the information received from HMRC and our own intelligence reports West Yorkshire Police now apply for a review of the premises licence at 171, Dewsbury Road. The licence to sell alcohol has been abused by Ms Czerwiec and used as a cover to sell illegally imported alcohol. This is a direct undermining of the crime prevention licensing objective, and I have no doubt that if a licence had been granted for the stall in the market the same illegal sales of alcohol would have occurred there as have at 171, Dewsbury Road. West Yorkshire Police now ask that the premises licence for 171, Dewsbury Road be revoked and will be relying on evidence provided by HMRC at any hearing.

Signature: [REDACTED]

Signature Witnessed by:

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WITNESS STATEMENT

ENGLAND AND WALES ONLY

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of: Jai Vantoch-Wood

Age if under 18: Over 18 (If over 18 insert 'over 18')

Occupation: Officer of HM Revenue & Customs

This statement consisting of 1 page(s) each signed by me is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false or do not believe to be true.

Signature: _____

Date: 23rd November 2011

I have recently been contacted by PC Cath Arkle from Leeds District Licensing Office, Milgarth Police Station, Leeds.

PC Arkle has asked me to research any dealings HMRC may have had with the below named person:

Malgorzata Czerwiec

DOB: [REDACTED]

12, [REDACTED]

[REDACTED]

And also any dealings we may have had with premises for which she is the named premises licence holder at 171 Dewsbury Road Leeds LS11 5EG.

I have noted the dates and seizure amounts below for your information which I have taken from our Inland Detection Seizure file. These are not all seizures of goods I have been involved in personally:-

171 Dewsbury Road Leeds LS11 5EG

Date	Goods seized
14/11/2009	1180 cigarettes and 36 litres Vodka
19/09/2010	220 cigarettes and 0.05kg hand rolling tobacco
15/06/2011	800 cigarettes and 45 litres mixed alcohol (wine and vodka)
21/11/2011	760 cigarettes and 2.1 litres vodka

232-234 Kirkgate Market Leeds LS2 7HY

Date	Goods seized
09/12/2010	760 cigarettes

12 [REDACTED] Leeds [REDACTED]

Date	Goods seized
09/12/2010	14,920 cigarettes, 51.3 litres spirits, 6.3 litres wine and approximately £28,318.81 (£27,545.00 Sterling, 4 Bulgarian Lev, 2,286.46 Polish Zloty and 323.46 Euros. Cash forfeiture ongoing)

Date: _____

Signature: _____

(signature of witness)

Signature: _____

(signature witnessed by)

STATEMENT OF WITNESS: ENGLAND AND WALES ONLY

INTELL: THEFT/ FINANCIAL/ OTHER - At 12:45hrs on Thursday 9th June, officers attended at JOHN CHARLES SPORTS CENTRE, BEESTON to reports of youths causing damage to vehicles in the car park.

Upon arrival a red ford escort had been damaged and a sat nav stolen from the vehicle. Three youths were later arrested for the offence (# 262735 refers).

After interview the youths admitted to selling the sat nav to a Polish male at the POLSKIE DELICATESEN, 171 DEWSBURY ROAD.

Officers attended at the delicatessen and spoke to a male called [REDACTED]

[REDACTED] immediately admitted to buying the sat nav from the youths for £5 and handed the sat nav to officers. He was arrested for handling stolen goods, to which Occ# 269622 refers.

A section 18 house search was done at the flat above the store to which [REDACTED] said he lived. There was a family living at the locus.

E41 - They stated that [REDACTED] did not live there, but rented out the flat to them.

Outside the store was a silver BMW VRM: [REDACTED] which was registered to [REDACTED] at an address of [REDACTED] MEANWOOD. There was also a Silver Jaguar VRM: [REDACTED] outside the store.

A further section 18 was carried out at that address. There were no further items of note at the address, linking him to any further offences of handling. However, there were large quantities of cash lying around the front room with receipts from the Polski delicatessen and mail addressed to both [REDACTED] and a female called Malgorzata CWERWIEC

There was a Barclays bank account No. [REDACTED] (sort code: [REDACTED]) which showed various amounts of cash passing through the account and being transferred to other accounts.

There was also paperwork from the DVLA relating to a Silver Jaguar VRM: [REDACTED] this was also shown as registered to [REDACTED]

In the drive of the locus was a white Iveco panel van, with no number plates (front or rear). Inside the van were 5 x 12 gallon plastic drums filled with petrol/diesel and number plates

Intelligence/stop check report: Intelligence/stop check report / #721294 SYKES, M. / 12/07/2010 10:23

File Edit View Actions Help

Details Occurrence summary

Occurrence: 13100284853 [Intelligence] Intelligen Task: []

Author: #721294 SYKES, M. Report time: 12/07/2010 10:23

Entered by: #401021 PEARCE, M. Entered time: 12/07/2010 10:23

Remarks: []

Style [] Font []

Operation or Task/Ref: [] Sensitive []

Press Button to Sanitise (Intelligence Staff Only): *Sanitise Source & Officer Details*

Information

INTELL: OTHER - Anonymous information received that the Polish shop, POLSKI DELICATESSEN, 171 DEWSBURY ROAD, BEESTON is selling alcohol, mostly to polish customers and the shop is unlicensed. Information is that they also sell cheap cigarettes which they import (no duty) and a lorry arrives every week from Poland delivering the goods.

ANPR Required

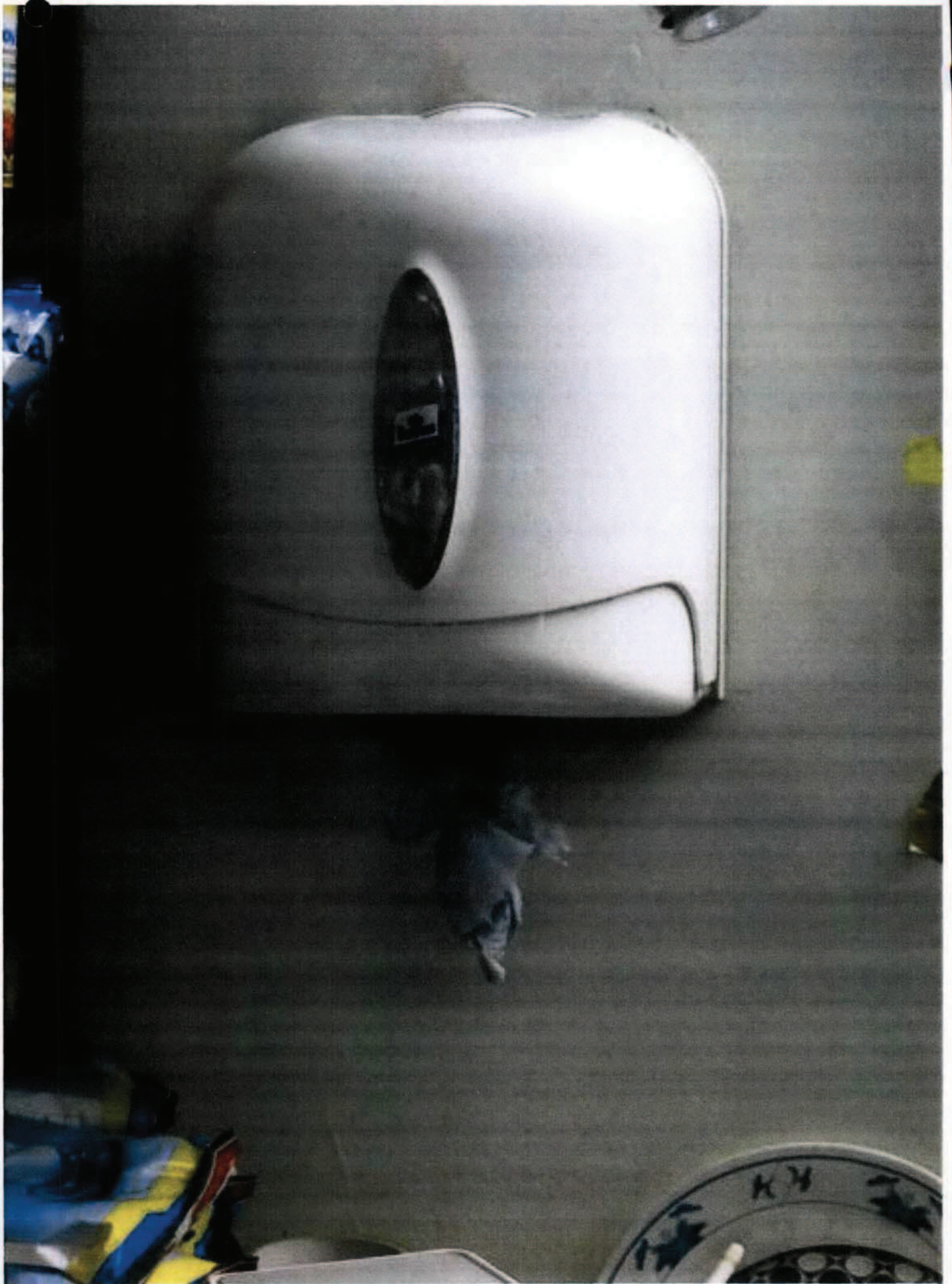
- Please select no of Vehicles if required -

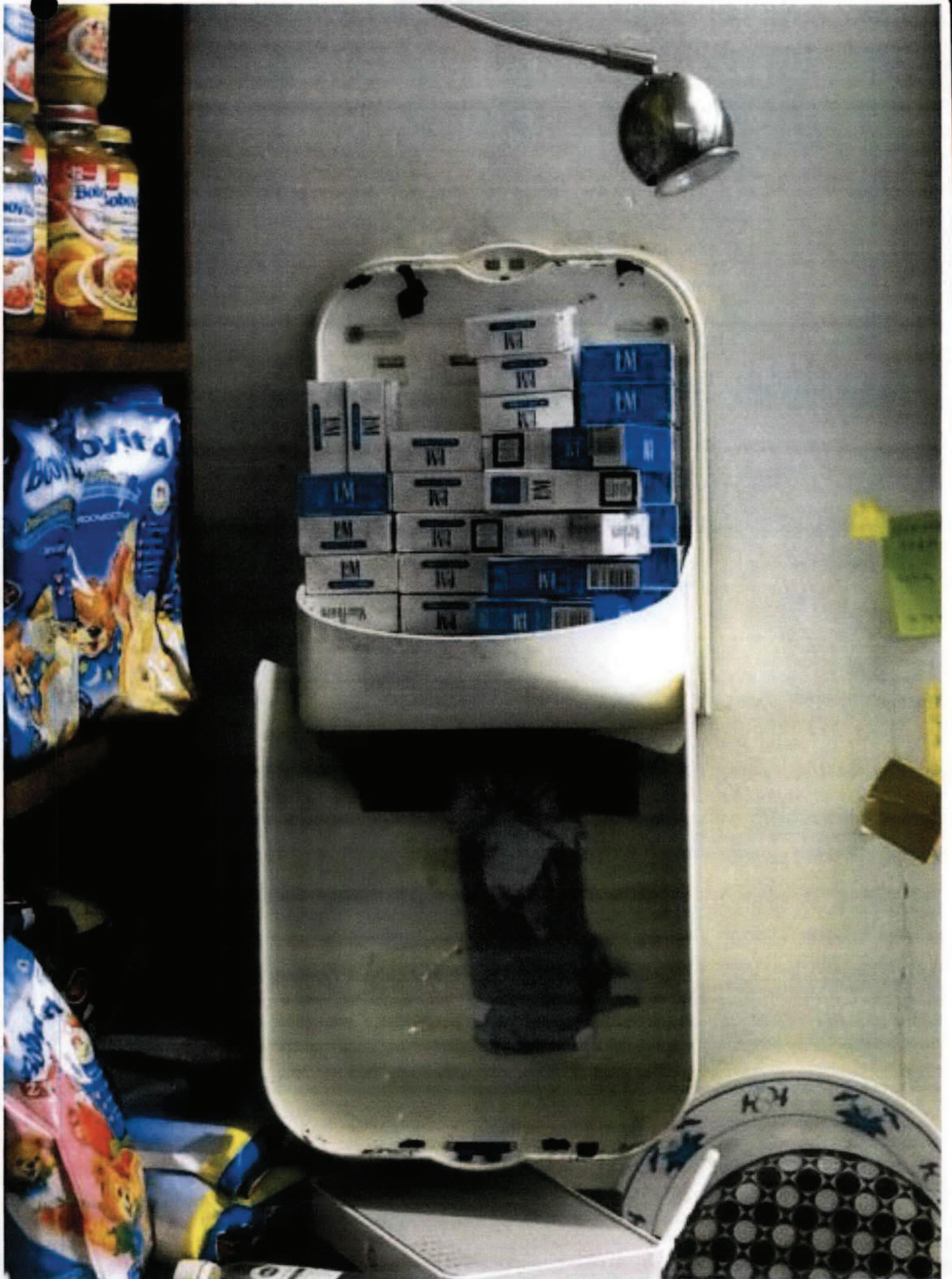
Vehicle 1

VRM: []

Ready



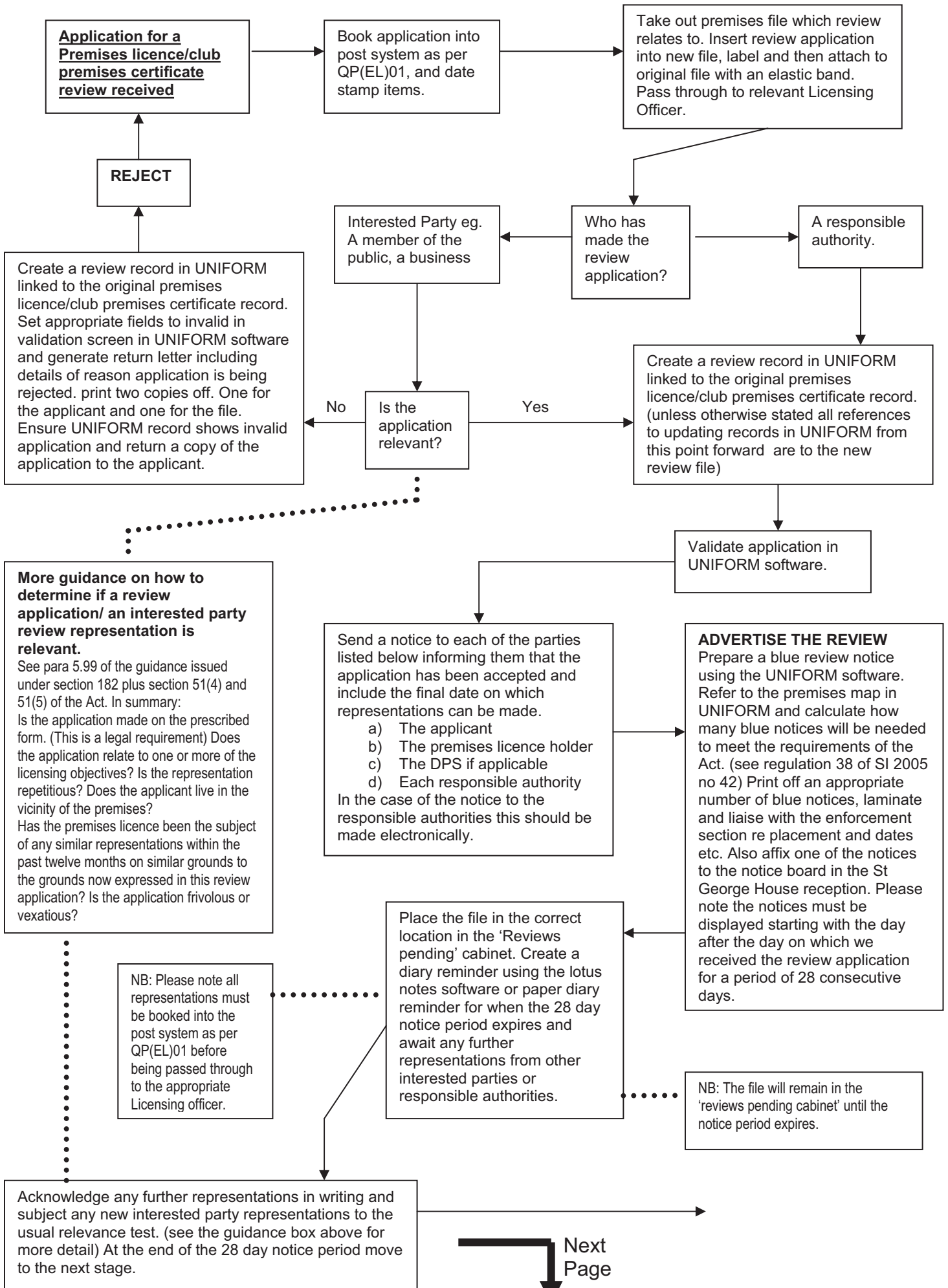


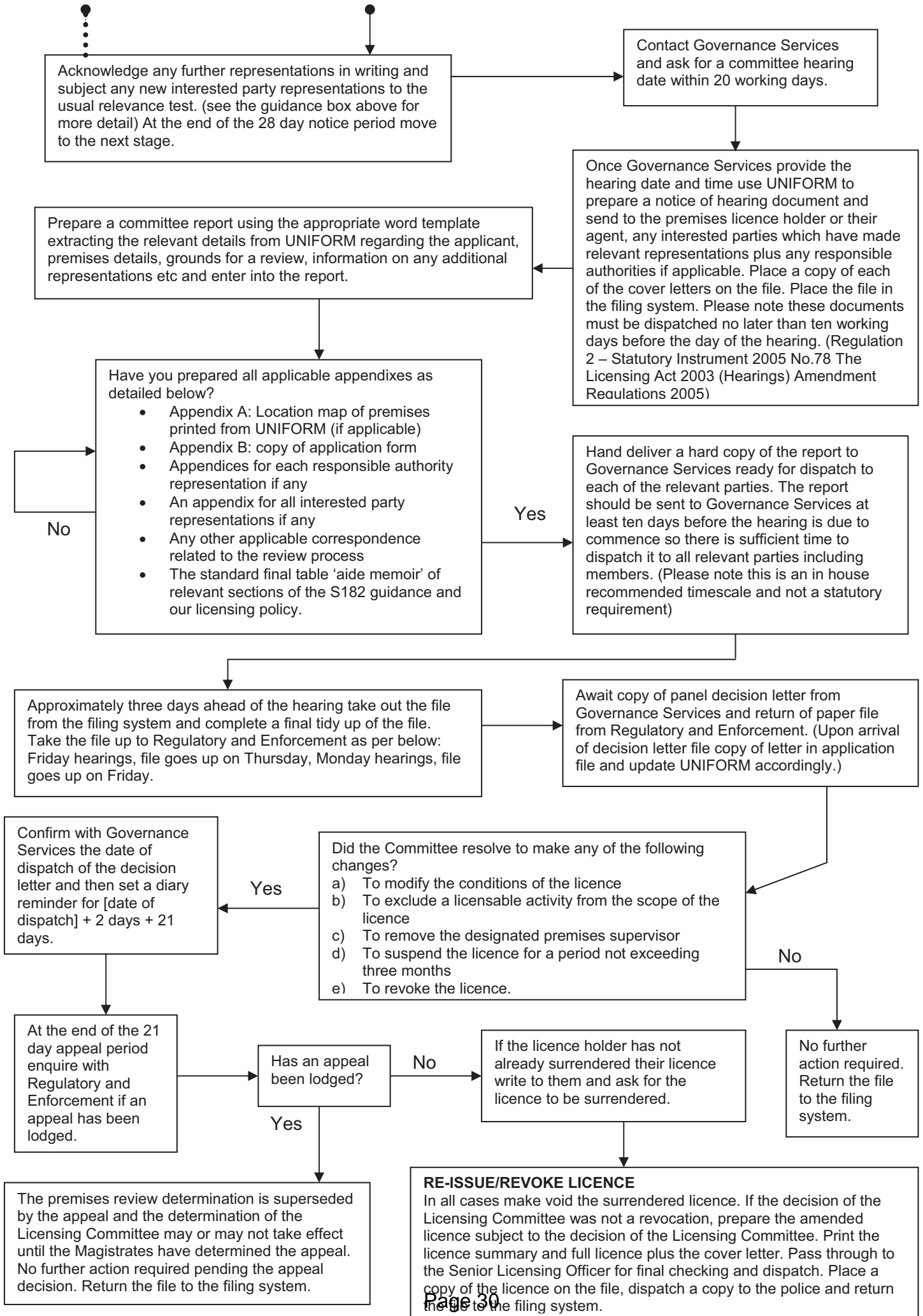






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Entertainment Licensing
Legal Services
Leeds City Council

Environmental protection team
Leeds City Council
Knowsthorpe Gate
Cross Green
Leeds LS9 0NP

Contact: M Bird
Tel: 0113 3951162
Fax:

Our reference: PREM/02702/002
4 January 2012

Dear Sir/Madam

**RE: APPLICATION FOR REVIEW OF PREMISES LICENCE, DELI POLSKA
POLISH DELICATESSEN, 171 DEWSBURY ROAD, BEESTON, LEEDS, LS11 5EG.**

I refer to your e mail dated 21st December 2011 regarding the application to review the premises licence of the above premises by West Yorkshire Police.

Following the inspection of details held by this Department, I can confirm that previous enforcement action has been taken by this service. A complaint was received in 2009 regarding the storage of waste at the premises. An inspection was subsequently carried out which revealed that the operator of the shop, a Ms Czerwiec, had no commercial waste bin or commercial waste contract.

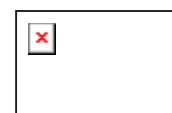
On the 10/02/09 Ms Czerwiec was served with a legal notice to obtain an appropriate commercial bin and commercial waste collection contract. Unfortunately, a fixed penalty notice (FPN) had to be served as Ms Czerwiec failed to comply with the requirements of the waste notice. After a number of delays a commercial bin and waste collection contract was put in place, however, further reminders had to be given before the FPN was eventually paid.

A notice was also served on Ms Czerwiec requiring her to provide details of how she had been disposing of her waste. Ms Czerwiec informed the investigating officer that she had been depositing her waste in the bins of one of her other businesses in Leeds Market, but this would now stop. Therefore, no further action was taken in relation to this issue.

To date no further complaints have been received and this section has no further relevant comments to make.

Yours faithfully

M Bird
Senior Environmental Health Officer



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11. Reviews

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 The Regulations allow applications for reviews to be made electronically, as long as the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via businesslink or the licensing authority's electronic facility.
- 11.4 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.5 Licensing officers may not initiate their own reviews of premises licences, but elected members of the licensing authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention (see paragraph 8.15 above). Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.6 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.7 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to 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 Representations must be 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.
- 11.9 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common

aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.

- 11.10 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 11.11 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

REPETITIOUS REPRESENTATIONS

- 11.12 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation 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 which has already been determined; or
 - representations considered by the licensing authority when the premises licence was first 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 the grant of the licence.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months 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 request for a review of a premises within a 12 month period.
- 11.15 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have 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 on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.17 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote 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 warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like 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 concerns, licensing authorities should not merely repeat that approach.

11.18 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to 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;

- to 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);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.19 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 which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.20 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.

11.21 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 which impact upon the licensing objectives.

11.22 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 a necessary means of promoting the licensing objectives. 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 necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

11.23 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 or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. 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 behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

11.24 Where the licensing authority is conducting a review on the ground 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 licensee 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 necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. 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. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the

licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs 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 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 unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police 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. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE 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. 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 10 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 5 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.

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