



LICENSING SUB-COMMITTEE

**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
MONDAY, 30TH APRIL, 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		Item 6 Appendix E	<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> <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>	
4				

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	Burmantofts and Richmond Hill	10.4 (1, 7)	<p>REVIEW OF A PREMISES LICENCE FOR: STARLIGHT BAR, UNIT 10, SHAFTESBURY PARADE, HAREHILLS LANE, HAREHILLS, LEEDS, LS9 6TA</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 Starlight Bar, Unit 10, Shaftesbury Parade, Harehills Lane, Harehills, Leeds 9. The application has been made by West Yorkshire Police under the provisions of Section 51 of the Licensing Act 2003.</p> <p>(Please note that Appendix E of the report is regarded as exempt under the provisions of Pargaraph 14 of the Licensing Act 2003 (Hearings Regulations 2005)</p> <p>(Report attached)</p>	1 - 300



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 30th April 2012

Subject: Review of a Premises Licence for:
**Starlight Bar Unit 10, Shaftesbury Parade, Harehills Lane,
 Harehills, Leeds, LS9 6TA**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Burmantofts & Richmond Hill		
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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		
NOT FOR PUBLICATION Exempt under the Regulation 14 of the Licensing Act 2003 Hearings and Regulations 2005 (SI 2005 No44)		
Appendix number:E		

Executive Summary

This report informs Members of an application for the review of a Premises Licence made by West Yorkshire Police in respect of Starlight Bar, Unit 10, Shaftesbury Parade, Harehills Lane, Harehills, Leeds, LS9 6TA under Section 51. of the Licensing Act 2003. The Licensing Authority is now under a duty to review the Premises Licence held in respect of Starlight Bar.

Members should note that following the receipt of the Review application an application to surrender the Premises Licence was received. Following the 28 day consultation period no Licence Transfer was received therefore the Premises Licence was surrendered.

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"). Finally, this report informs members of the options available to them when reviewing a premises licence

2.0 Background Information

2.1 An application to convert and vary a Justice Licence was received in 2005 and the licence was duly granted. An application to vary the Premises Licence was received on the 26th June 2006 this was for a temporary structural change which was needed due to a fire the premises had on the 3rd April 2006.

On the 24th Aug 2010 a Licence Transfer was received transferring the Licence from Mr Anthony Flynn to Mr Nawaz Khan.

On the 10th Nov 2010 an application to Vary the Premises Licence was received this attracted representations from Members of the Public and Responsible Authorities. This application went to a hearing on the 10th January 2011 where it was refused. On the 24th December 2010 before this application was heard the Dps withdrew their consent

On the 27th January a Transfer application was received transferring the Premises Licence to a Mr Gavin Mackay Ferguson and Honor Jafar Rafik. West Yorkshire Police objected to this transfer. This was scheduled for a hearing on the 7th March 2011 at this hearing the application was adjourned until the 28th March 2011 .

On the 23rd March 2011 this application was withdrawn by the applicants and the hearing was cancelled. The Licence reverted back to Mr Khan being the Licence Holder with the Premises having no Dps

On the 13th December 2011 another transfer application was received to transfer the Licence from Mr Khan to Mr Amiri and a Dps change nominating Mr Amiri. West Yorkshire Police objected to both applications so this was scheduled for a hearing on the 16th January 2012.

On the 16th January the application was heard before the Sub Committee where the decision reached was to refuse the Transfer application. Subsequently the Dps application was withdrawn.

On the 1st March 2012 West Yorkshire Police submitted an application for a review

On the 2nd March 2012 Mr Khan the Premises Licence holder surrendered the Premises Licence. The Letter of surrender is attached at **Appendix A**

No application to transfer the Licence was made within the 28 day notice period and subsequently the Premises Licence lapsed on the 30th March 2012.

Therefore members should note that there is now no Premises Licence in force.

2.2 The premises had the benefit of a Premises Licence issued under the Licensing Act 2003 for the following licensable activities to take place during the stated hours:

Sale by retail of alcohol	
Monday to Saturday	11:00 - 23:00
Sunday	12:00 - 22:30
Performance of recorded music	
Every Day	00:00 - 23:59

2.3 The premises licence allowed the premises to be open to the public during the following times:

Monday to Saturday	11:00 - 23:00
Sunday	12:00 - 22:30

2.4 The Premises Licence Holder was Mr Nawaz Khan

2.5 A copy of the Premises Licence is attached at **Appendix B** for the benefit of members.

2.6 A map detailing the location of the premises is attached at **Appendix C**

3.0 Main Issues

3.1 The review is being sought by West Yorkshire Police on the grounds of Crime and Disorder, Public Safety, The Prevention of Public Nuisance and The Protection of Children from Harm as listed at **Appendix D**. Part of these review documents due to their content are not for publication this is attached as **Appendix E**

3.2 As part of the review procedure details of the review and an outline of the grounds on which the review was requested must be displayed at the premises for a period of 28 days commencing the day after the application was received, this being **1st March 2012**

3.3 Notices providing details of the review were duly placed on prominent display at the premises on **2nd March 2012**, which were then checked on a regular basis. The notices were removed at the end of the 28 day consultation period.

3.4 Section 51 of the Act places the Licensing Authority under a duty to review the premises Licence in respect of . The Licensing Authority must then follow a procedure set out in the Licensing Act 2003. A summary of this procedure is attached to this report by way of a flow chart at **Appendix F**

4.0 Relevant Representations

4.1 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.

4.2 A representation has been received from a local resident. The primary concern of this objection relates to Crime and Disorder and Noise Nuisance. The main issue being the objector has had to contact both the Licensing Section and West Yorkshire Police on a number of occasions to report Crime and disorder and Noise Nuisance. Members are invited to consider the background papers.

4.3 Copies of the representation will be available at the hearing for Members consideration

5.0 Matters Relevant to the Application

5.1 Members of the Licensing Sub Committee must make decisions with a view to promoting the licensing objectives which are:

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

5.2 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** and the council's licensing policy (paragraphs 5.99 to 5.117). Members must also have regard to the relevant representations made and evidence they hear.

6.0 Implications for Council Policy and Government

6.1 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.

7.0 Legal and Resource Implications

7.1 There are no resource implications in determining the review.

7.2 The Act provides the right to appeal on any decision reached on review. The right of appeal is to the Magistrates Court.

8.0 Recommendations

8.1 Members are requested to determine this review but should note that there is no Premises Licence in force due to the surrender as mentioned in 2.1 of the report.

Background Papers

- Guidance issued under s182 Licensing Act 2003
- Leeds City Council Statement of Licensing Policy
- Copy of Public Representation

1774/008

Appendix A

2/3/2012

TO WHOM IT MAY CONCERN,

RE: PREM/01774

STARLIGHT BAR

UNIT 10 SHAFTESBURY PARADE

PIAREHILLS

LS9 6TA.

I NAWAL KHAN OF 53, EASTERLAY ROAD
WOULD LIKE TO SURRENDER THE PREMISES
LICENCE FOR THE ABOVE PREMISES.

MANY THANKS.



ENTERTAINMENT LICENSING

02 MAR 2012

RECEIVED

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Premises Licence

Public Register Copy

Premises Licence Number:

PREM/01774/V01

Initial licence issued from:

25th July 2006

Current licence effective from:

24th August 2010

Appendix B

Premises Address: Starlight Bar, Unit 10, Shaftesbury Parade, Harehills Lane, Harehills, Leeds, LS9 6TA

Licensable activities authorised by this licence: Sale by retail of alcohol; Performance of recorded Music

Times for licensable activities

Sale by retail of alcohol

Monday to Saturday 11:00 - 23:00

Sunday 12:00 - 22:30

Performance of recorded Music

Every Day 00:00 - 23:59

Opening hours of premises

Monday to Saturday

11:00 - 23:00

Sunday

12:00 - 22:30

Alcohol sales are permitted for consumption both on and off the premises

Premises Licence Holder(s): Nawaz Khan, 53 Easterly Road, Gipton, Leeds, LS8 2TW

Designated Premises supervisor: There is no Designated Premises Supervisor specified. Therefore no sales of alcohol can take place under the authority of this licence.

Access to the premises by children is unrestricted.

Detailed in full on Part A of this licence.

Licence Issued under the authority of Leeds City Council



Mr Matthew Nelson
Licensing Officer
Entertainment Licensing
Legal, Licensing and Registration

Licence produced on 25/03/2011

Annex 1 – Mandatory conditions

1. 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
2. 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.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- a. games or activities which require or encourage, or are designed to require or encourage, individuals to -
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
 - b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - d. provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
 - i. the outcome of a race, competition or other event or process, or
 - ii. the likelihood of anything occurring or not occurring;
 - e. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the

- mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
 7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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 a holographic mark.

8. The responsible person shall ensure that -
 - a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
 - i. beer or cider. 1/2 pint;
 - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - iii. still wine in a glass:125 ml; and
 - b. customers are made aware of the availability of these measures

Embedded restrictions attached to the licence by virtue of grandfather rights.

9. Alcohol shall not be sold or supplied except during the hours stated on this licence and:
 - a. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.
 - b. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).
10. The above restrictions do not prohibit:
 - a. the taking of the alcohol from the premises, (unless the alcohol is supplied or taken in an open vessel,) during the first thirty minutes after above hours;
 - b. the consumption of the alcohol on the premises by persons taking meals there during the first thirty minutes after the above hours, if the alcohol was supplied for consumption ancillary to those meals.
 - c. consumption of the alcohol on the premises by, or, the taking, sale or supply of alcohol to any person residing in the licensed premises;
 - d. the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of alcohol so ordered;
 - e. the sale of alcohol to a trader or club for the purposes of the trade or club;
 - f. the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's Naval, Military or Air Forces;
 - g. the taking of alcohol from the premises by a person residing there; or

- h. the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;
 - i. the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.
11. Where the number of children attending the entertainment exceeds 100 the licensee shall ensure that the provisions of Section 12 of the Children and Young Persons Act 1933 are complied with.

Annex 2 – Conditions consistent with the Operating Schedule

Additional details in respect of Licensable Activities authorised by this licence

12. Performance of recorded Music

Location where activity will take place:

This activity will take place indoors.

13. Concerns in respect of children

Not Applicable

Conditions consistent with the operating schedule relating to the licensing objectives

None

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

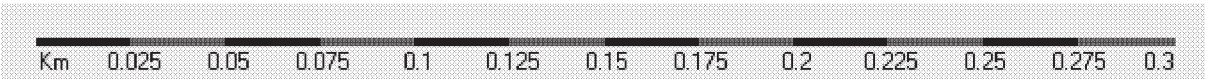
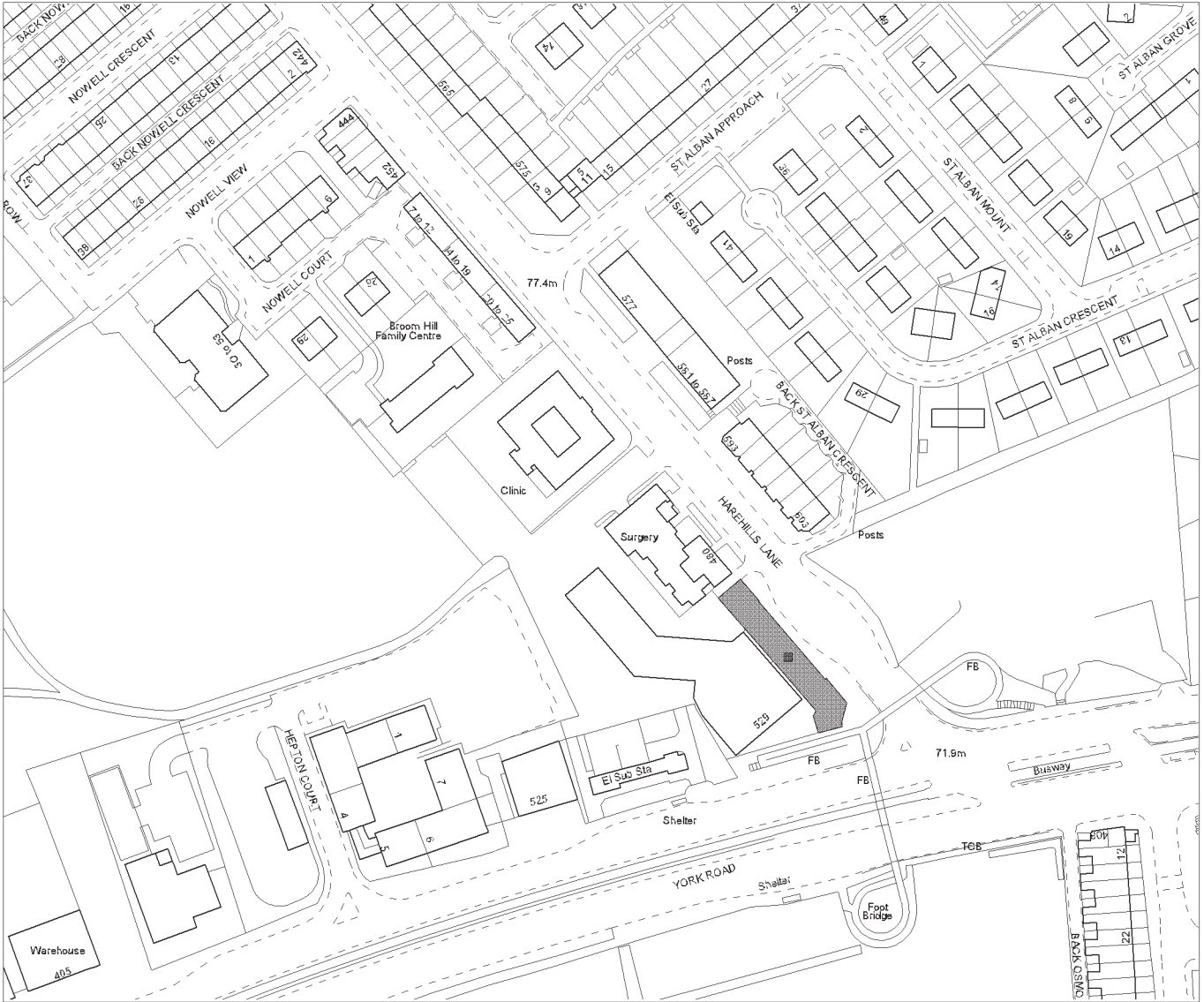
None

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.

PREM/01774/005 Starlight Bar

Unit 10, Shaftesbury Parade, Harehills Lane LS9 6TA



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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Date:	16 April 2012
Scale:	1:1998
Comments:	Appendix C

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**Licensing Department**

Millgarth Police Station
 Millgarth Street
 Leeds
 LS2 7HX

Leeds District Licensing Department

Tel: 0113-2414023

Fax: 0113-2413123

Email: lynn.dobson@westyorkshire.pnn.police.uk

Website:

Your ref:

Our ref:

29 February 2012

✓ **Entertainment Licensing Section****Leeds City Council****Civic Hall****Leeds****LS1 1UR****RE: APPLICATION FOR REVIEW OF PREMISES LICENCE:****PREMISES: THE STARLIGHT BAR, SHAFTSBURY PARADE, HAREHILLS LANE, LEEDS LS9 6PJ**

In accordance with Section 51 Licensing Act 2003, I hereby serve the application on the following-:

PREMISES LICENCE HOLDER:**Mr Nawaz Khan****53 Easterly Road****Leeds LS8 2TW****EACH RESPONSIBLE AUTHORITY:**

Yorkshire Police Robert Patterson Leeds District Licensing Officer Millgarth Police Station Leeds LS2 7HX T: 0113 241 4023 bob.patterson@westyorkshire.pnn.police.uk	West Yorkshire Fire and Rescue Service Leeds Fire Station Kirkstall Road Leeds LS3 1NF T: 0845 155 0595 Leeds.district@westyorksfire.gov.uk
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NOT PROTECTIVELY MARKED

Leeds City Council City Development Department Leeds City Council Planning and Development Services The Leonardo Building 2 Rossington Street Leeds LS2 8HD T: 0113 247 8000	Leeds City Council Health and Environmental Action Service Millshaw Office Millshaw Park Way Churwell Leeds LS11 0LS T: 0113 222 4406
West Yorkshire Trading Standards Licensing Team PO Box 5 Nepshaw Lane South Morley Leeds LS27 0QP T: 0113 253 0241 www.ts.wyjs.org.uk	Children and Young People Social Care Safeguarding & Reviewing 4 th Floor East Merrion House 110 Merrion Centre LS2 8QB
Health and Safety Executive Marshalls Mill Marshall Street Leeds LS11 9YJ Tel: 0113 283 4200	Leeds City Council Health & Safety Team Health and Environmental Action Service Millshaw Office Millshaw Park Way Churwell Leeds LS11 0LS T: 0113 247 7791

Further and in accordance with Section 52(1)(b) Licensing Act 2003, I hereby give notice, that the holder of the premises licence and any responsible authority, may make representations to the licensing authority about this review application, any time between the dates indicated on the notice which has to be displayed by the licensing authority, at or near the site of the premises to which the application relates, for a period of no less than 28 consecutive days starting on the day after the day on which the application was given to the relevant licensing authority – Regulations “The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (S/I 2005/No.42).

Yours faithfully,


Lynn Dobson
Leeds District Licensing Office.
West Yorkshire Police.

NOT PROTECTIVELY MARKED

Premises Licence Review-

The Starlight Bar,
Shaftsbury Parade,
Harehills Lane, Leeds
LS9 6PJ

B – Details of other applicant

Surname: _____ Forename(s): _____
 Address: _____
 _____ Town/City: _____ Postcode: _____
 Daytime contact telephone number: _____
 E-mail address (optional): _____

C – Details of responsible authority applicant

West Yorkshire Police

Surname: Dobson Forename(s): Lynn
 Address: Millgarth Police Station, Millgarth Street
 _____ Town/City: Leeds Postcode: LS2 7HX
 Daytime contact telephone number: 0113 2414111
 E-mail address (optional): lynn.dobson@westyorkshire.pnn.police.uk

This application to review relates to the following licensing objective(s): (Please 'check' one or more boxes)

- (a) The prevention of crime and disorder
- (b) Public Safety
- (c) The prevention of public nuisance
- (d) The protection of children from harm

State the ground(s) for review (please read Guidance note 1):

The Starlight Bar, Shaftsbury Parade, Harehills Lane, Leeds LS9 6PJ, has been a problem premises, on and off for many years. The premises were well known, for all the wrong reasons, especially the fights that have spilled out onto the street which the Police have had to deal with.

Whilst the premises have had a troubled history, this application concerns itself with the last eighteen months and the current premises licence holder (PLH), Nawaz Khan.

The control Mr Khan has over the running of the premises has been brought into question and he appears to be a 'front man' for others more criminally connected. The concerns cover the full range of licensing objectives and are supported by the attached documentation to this application. The 'users' of the building disregard all offers of assistance and advice in respect of crime and disorder, public safety, public nuisance and protection of children from harm.

Meetings have been scheduled and cancelled by the PLH and other representatives have been sent on his behalf, who do not have the authority to speak or make decisions in relation to the business. The waters are continually muddied by repeated applications to vary or transfer the premises licence.

On 11 February 2012 a Section 19 Closure Notice was served by Sgt Stones because the premises were found to be serving alcohol without a designated premises supervisor (DPS).

It is felt that eighteen months of action planning has failed and a review of the premises licence is the only option available.

A full chronology is set out in the application pack and this is supported by partner agencies who have also provided statements.

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

[Empty box for representations]

Please 'check' appropriate box(es)

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

It is an offence, liable on conviction to a fine up to Level 5 on the standard scale, under Section 158 of the Licensing Act 2003, to make a false statement in, or in connection with this application

Part 3 – Signatures (please read Guidance note 3)

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

Signature:  Date: 29/02/12

Capacity: NEL LICENSING

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

Surname:

Forename(s):

Address:

Town/City:

Postcode:

Telephone number (if any):


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

Notes for Guidance

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

WITNESS STATEMENT

(Criminal Justice Act 1967, s.9; Magistrates' Courts Act 1980, s.5B;
Criminal Procedure Rules, r.27.2)

NICHE Ref. No:	<input type="text"/>	URN:	<input type="text"/>
Statement of:	Lynn Dobson		
Date of birth:	Over 18	Occupation:	PC 5783
This statement (consisting of: 10 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:	290212

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

I am the above named person and I am a serving Police Officer in West Yorkshire Police. I am currently stationed at Millgarth Police Station, in the Leeds District Licensing Department and have responsibility for licensed premises in the North East Leeds area of the city. I have twenty years Police experience and I have worked in the North East Leeds area all my service. I know the problems in the different areas of the Division very well and know the problems associated with particular premises going back over a number of years. I bring my experience as a Patrol Officer, a Tutor, a Researcher and an Operations Planner to my current role of Licensing Officer.

One premises that I am very familiar with is The Starlight Bar, Shaftsbury Parade, Harehills Lane Leeds LS9 6PJ. These premises are situated in the Burmantofts and Richmond Hill (BRH) area of the Division and have been problematic, on and off, for a number of years. I have visited the premises on numerous occasions during my service but have only become more involved with the premises since becoming the Licensing Officer for the whole NEL area. Part of my role is to liaise with the Neighbourhood Policing Team (NPT) and resolve any emerging issues associated with licensed premises. BRH is headed by Inspector Hawkes and she is my main point of contact in relation to licensing matters. I also liaise closely with the Leeds City Council Licensing Department and have had cause to discuss and visit The Starlight Bar with Police Officers, Council Staff and

Signature: 

Signature witnessed by:

NICHE Ref. No:		URN:	
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Continuation Statement of Lynn Dobson

running of the premises than a landlord would be expected to be. And Arman Amiri is suspected of being a 'front man' for Honor Rafiq whose details appear throughout the chronology and seems to be the key figure in the running of the premises.

Between August 2010 and September 2010 an application was received and processed, to transfer Nawaz Khan onto the premises licence as PLH. This process was eventually successful and there were no grounds to object to this application. The DPS at this time was Anthony Flynn. Flynn had previously been both PLH and DPS.

Within approximately two weeks, information was received that the premises were open until 0400hrs/0500hrs when their licence did not permit them to do so. This information was passed to the Neighbourhood Policing Team (NPT) and eighteen months of monitoring and evidence gathering commenced in relation to The Starlight Bar.

Throughout this statement I will refer to the premises as The Starlight Bar although it has been known by other names during this time. Ibiza Bar, Tropicana and Byblos being the other three names I am familiar with.

Inspector Hawkes and her Officers have continued to evidence gather throughout this time and all this information has been shared with LCC Licensing and partner agencies. As well as the breaches of the licence in respect of the hours the premises were keeping, the noise emanating from the premises was a huge concern for the residents. These concerns have been voiced to the local ward councillors, WYP Officers and LCC Officials and have all required further investigation.

As a Licensing Officer we receive complaints in relation to noise and crime and disorder issues on a regular basis. Most of the time I would say that the complainants wish to remain anonymous for fear of reprisals, but in the case of The Starlight Bar there has been a real depth of feeling within the community and residents have wanted their voices to be heard. Some residents have lived in the area for a long time and they have seen the problems associated with The Starlight Bar. They have lived through these problems and the ups and downs of having a home close to licensed premises.

Signature: 

Signature Witnessed by:

NICHE Ref. No:		URN:	
----------------	--	------	--

Continuation Statement of Lynn Dobson

what the intended use of the venue was. The meeting was cancelled by the PLH as he was too busy to meet with WYP, WYFire and LCC and was rearranged for 7 October 2010.

On 7 October 2010 the pre-arranged meeting took place and officers met and spoke with Nawaz Khan.

The meeting took place on site and there were a number of workmen present along with an independent fire assessor. It was made very clear that it was important to see early sight of a fire risk assessment especially in light of the fire in 2006. The business arrangement Mr Khan had with an Eastern European male was discussed. As was the CCTV at the premises and the inadequacies of the shop bought system on one of the tables. Mr Khan was reluctant to divulge details of his business partner and said that he was not a business partner just a male with interest in the business.

Upon leaving the premises Officers passed two Eastern European males entering the venue. A check of their vehicle showed that they were known on Police systems and were of interest to the Police.

Intelligence was submitted upon returning to the Police Station linking them to the premises and to the vehicle.

Several temporary event notices (TENs) have been received over the next few months and where there have been no grounds to object the applications have been allowed to proceed. However a subsequent application to vary the premises licence and extend the hours considerably has attracted a representation. A copy of this letter of representation is attached to this bundle of evidence and was subsequently refused at hearing.

Intelligence has continued to be received about the use of the venue and those connected to the premises. Reports suggest that the premises were still opening beyond their permitted hours thereby committing further offences and causing annoyance to residents and other businesses.

Intelligence gathering continued during this time along with close liaison between partner agencies, the Licensing Department and the NPT.

On 25 November 2010 Officers from WYP, WYFire and LCC Licensing attend at the premises to a pre-arranged meeting. Again Nawaz Khan did not attend the meeting, having called to say that he was too

Signature: 

Signature Witnessed by:

NICHE Ref. No:		URN:	
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Continuation Statement of Lynn Dobson

insecure, possibly burgled, but it was Rafiq who made the arrangements for the security of the building.

All subsequent engagement is with Honor Rafiq.

On 9 December 2010 I was copied into a string of e-mails between the local ward councillor and the NPT raising concerns about the premises and the impact they have on the community. On 10 December 2010 I was copied into an e-mail chain between LCC Licensing and WYFire in which concerns are expressed over public safety and the non-existence of a fire risk assessment. All the while NPT have continued to evidence gather, liaise with partners, liaise with residents and councillors and liaise with the Licensing Department.

On 24 December 2010 I was advised that Anthony Flynn had resigned his position as DPS. The NPT were immediately informed that no sales of alcohol could take place without this position being filled.

On 30 December 2010 Officers from the City NPT were on duty and were outside Oceana Night Club in Leeds when they had cause to speak to males distributing leaflets outside the venue. Their presence, effectively touting for trade outside a competitor's venue, was causing tension and Officers approached to diffuse the situation and to see what material they were distributing.

Officers seized a bundle of flyers advertising a 'Bubblecious' event and directing people to an address on Harehills Lane Leeds 9. It was soon established that this event was being held at The Starlight Bar, under a different name. The event was an under 18s event and the address the young people were being directed to did not exist. Alarm bells rang on a number of fronts with regard this leaflet. It was just weeks earlier that Officers were being told that the venue was to be a sports hall and not a night club; The venue did not have a DPS at the premises at the time of advertisement; Under eighteens events can be notoriously problematic and there were safeguarding issues of directing young people, particularly young females, to an address that did not exist. A subsequent TEN for the event attracted a representation and was withdrawn by the applicant. Again Nawaz Khan and Honor Rafiq blamed the other for the breakdown in communications.

On the same day PS Stones visited the premises to find the premises fully stocked with alcohol. Whilst

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Continuation Statement of Lynn Dobson

representation and the matter went to hearing. At hearing Amiri said that he had keys for the premises as did his landlord and Honor Rafiq. There was confusion as to who Amiri had a contractual arrangement with as his landlord on paper was different to the person who had the keys for the premises. The key holder/landlord was Alan Zolfagary. The application was refused.

The NPT had visited the premises on 4 November 2011 and had found Honor Rafiq with two very well dressed cleaners on site. He claimed to be doing some work for Amiri but was not dressed to do so and an open bottle of spirits was close by.

A follow up visit was made on 5 November 2011 by Insp Hawkes and access could not be gained to the premises. The door to the property appeared unlocked but wedged to form the inside. It was felt that someone was upstairs in the building but was refusing to come to the door. These visits were used as part of the evidence for the representation.

Intelligence has continued to be received from the residents and businesses in the area but also from the Eastern European community. A male from this community attended at the Council offices and claimed that Amiri was 'just a puppet' for the person in charge. It is believed that the person in charge is Honor Rafiq.

A further application was received in December 2011 to transfer both the PLH and DPS positions to Amiri with immediate effect. This thereby gave Amiri the ability to open but he must still operate within the hours on the licence and operate within the conditions of the licence. Officers are asked to be vigilant and report and breaches of the licence either through the intelligence system or direct to the Licensing Department. Officers have visited during the objection period but following a representation and a hearing the application was again refused by the Licensing Committee.

The NPT have been advised on the true meaning of a 'private party' during the last few months of engagement. This method of trying to avoid detection is something which is commonplace and WYP are familiar with. Operators cannot claim that a function is a 'private party' when the event is advertised on face book for example or in the media. They cannot claim that it is a 'private party' when there is a

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The Starlight Bar – A Chronology

190910	0400hrs D & D arrest made very close to the premises when there are no other licensed premises within several hundred metres.	Arrest made and cja attached.
200910	Information received from LCC Licensing that their Officers drove by at approximately 0100hrs 190910 and the premises were quite clearly open. There was a doorman opening and closing the roller shutter door to the premises to allow customers access. No visit made at this time without Police backup	Meeting/Visits to be arranged. As above.
220910	TEN received from Mr Nawaz Khan. Briefing item created fro all NEL Officers and TEN brought to the attention of the NPT to monitor the event.	No object raised at this time. Insufficient grounds to do so.
230910	Informed of Warning letters sent by LCC to the PLH/DPS regarding breaches of the premises licence and noise issues.	Inspection/Visit arranged for 280910
230910	E-mail to Insp Hawkes, Insp Adams and the intelligence unit to ensure a briefing item be placed on the computer system and that passing attention be given to the premises in case they exceed their hours and commit further offences.	Further evidence gathering required from NPT
240910	Visit by PS Stones who spoke with a male claiming to be the owner. Male stated that the premises were being refurbished and that they are not open to the public. Any noise emanating from the premises would be due to the builders working through the night and playing music. Male claimed that that premises would be run as a 'sports hall' and not as a night club.	Follow up visit already booked in for 280910

	<p>consumption ON the premises only Provision of regulated entertainment Provision of late night refreshment Maximum number of people attending: 200</p> <p>(TEN received 07/10/10 electronically) Event - Birthday party with a pay bar Sat 23/10/10 from 19:00 hrs into Sun 24/10/10 04:00 hrs Sale by retail of alcohol - consumption ON the premises only Provision of regulated entertainment Provision of late night refreshment Maximum number of people attending: 200</p> <p>(TEN received 21/10/10 electronically) Event - Birthday party with a pay bar Fri 05/11/10 from 20:00 hrs into Sat 06/11/10 03:00 hrs Sat 06/11/10 from 21:00 hrs into Sun 07/11/10 04:00 hrs Sale by retail of alcohol - consumption ON the premises only Provision of regulated entertainment Provision of late night refreshment Maximum number of people attending: 300</p>	
	<p>Further TENs applications received:</p> <p>(TEN received 05/11/10 electronically) Event - Henna party Sat 20/11/10 from 22:00 hrs into Sun 21/11/10 03:00 hrs Sun 21/11/10 from 22:00 hrs into Mon 22/11/10 04:00 hrs Sale by retail of alcohol - consumption ON the premises only Provision of regulated entertainment Provision of late night refreshment</p>	

	application in place to allow them to do so.	
241110	Further applications are received for 041210 and 051210 but are subsequently withdrawn by the applicant.	Monitor to make sure these events do not proceed without authorisation
251110	Meeting arranged with PLH and DPS to discuss the premises. WYP to be joined by LCC Licensing and WYFire. Met with Honor Rafiq who describes himself as a partner in the business.	<p>PLH did not turn up for the meeting called to say he was too busy to meet with Officers</p> <p>Lots of outstanding issues for all agencies and again promises of further action by the premises but nothing forthcoming.</p> <p>See statement form Samantha Longfellow.</p>
021210	<p>First contact with HMRC in relation to a man called Honor Rafiq. Rafiq is well known to HMRC and is described as 'a repeat alcohol, cigarette and tobacco offender'. He is connected to other premises in the Harehills area where HMRC have had involvement for the illegal importation of such items. Mr Khan had phoned to say he was too busy to meet with Authorities. This is the same Honor Rafiq from the meeting on 251110.</p> <p>Intelligence [REDACTED] also refers.</p>	Statement required from HMRC for future applications where Rafiq is connected to the application.
031210	Officers have visited to insecure premises, but they do not appear to have been burgled. Insp Hawkes	Continue to monitor

	be used without the DPS position being filled	
301210	Flyers seized from outside Oceana Night Club in Leeds City Centre for a Bubbleicious event. [REDACTED] refers. Flyers were directing people to an address on Harehills Lane, which was not The Starlight Bar, and concerns were raised regarding both an unauthorised event and safeguarding issues.	Used in evidence for subsequent objection. Event cancelled. Nawaz Khan and Honor Rafiq each blamed the other.
301210	PS Stones made a further visit to the premises and spoke to Honor Rafiq. The bar at the premises was fully stocked with alcohol, and Rafiq claimed that the premises were running a private party on 311210.	A TEN was in place for this date with the capacity being 300 people. WYFire have previously advised that the capacity could be no more than 100. The NPT were advised regarding the 'true meaning' of a 'private party.'
040111	Intelligence [REDACTED] INTELL: Other - Further to intelligence 13100552344 Officers have visited THE STARLIGHT BAR, 15 SHAFTESBURY PARADE, HAREHILLS, LEEDS. It would appear that the 'Bubbleicious' events are to be held there in future. The other name that appears on the promotional flyer is 'TROPICANA', this would be the name THE STARLIGHT BAR, 15 SHAFTESBURY PARADE, HAREHILLS, LEEDS, would be using if they were successful at their forthcoming licensing hearing. The Designated Premises Supervisor has resigned the position, so from this point the premises should not be	

100211

Intelligence [REDACTED]

INTELL: Other - At 1015hrs Thursday 10 February 2011, in company with a Leeds City Council Licensing Enforcement Officer and West Yorkshire Fire visited the STARLIGHT BAR, SHAFTSBURY PARADE, HAREHILLS, LEEDS LS9. The premises have also put a sign above the front door saying that the premises is called 'TROPICANA', however the licence for the premises is still in the name of the STARLIGHT BAR. A1:1

Upon arrival there was an older, bald headed male stood outside the premises having an argument with someone on the telephone. On seeing the above he ended his call and followed everyone upstairs and into the bar area of the premises. On the numerous visits made to the premises it is not unusual for there to be several workmen present, mainly of Eastern European origin, but as Officers started to speak to Honor RAFIK about his plans for the premises, this male joined in the conversation. A1:1

Stating that he was the landlord for the STARLIGHT BAR, 15 SHAFTESBURY PARADE, HAREHILLS, LEEDS. He identified himself as; Ahmad PERSIANI and gave a mobile number of [REDACTED] E2:1

Because of the nature of the visit he was allowed to join in some of the discussions, but kept touching the female Officer on the arm or the shoulder and kept trying to 'hog the conversation'. He was told to refrain from doing this quite forcefully, but did not listen.

A check of Police systems upon returning to Millgarth Police Station showed PERSIANI to be Alan

	Honor Rafiq and an ongoing application for The Starlight Bar	
230311	Application adjourned until 280311 withdrawn the premises therefore cannot trade	NPT made aware
100511	<p>Intelligence [REDACTED]</p> <p>INTELL: Sexual Offences/ Other/ Information received. Above the "STARLIGHT BAR" in the "Shaftesbury Buildings" at the YORK ROAD, GIPTON, LEEDS end of HAREHILLS LANE, HAREHILLS, LEEDS a brothel is operating. Access is via brown plain door at the rear or side. The brothel has five or six polish females who are the sex workers at the location. Could not say if the sex workers were illegal immigrants or not or if they were present with their consent or not. No further details are known. A drive past the location reveal the "STARLIGHT BAR" is a downmarket establishment, with two floors above the ground floor. A ginnel goes around the rear of the building.</p> <p>Loggists Note: STARLIGHT BAR believed to be STARLIGHT BAR, 15 SHAFTESBURY PARADE, HAREHILLS, LEEDS. B41</p>	Continue to monitor and evidence gather.
	The premises remain closed for several months	
141011	New application received proposing Arman Armiri	NPT made aware. Insp Hawkes advises her staff to visit where possible and monitor any activity at the premises until the application is dealt with.

	<p>people arriving. They were smartly dressed and did not appear to be carrying any bottles, cans or glasses with them.</p> <p>Throughout the evening people were coming out of the door and smoking outside before going back inside.</p>	
081111	<p>New premises licence application. Letter of representation.</p>	<p>Refused at hearing.</p>
081211	<p>E-mail from Paul Rix – LCC Licensing</p> <p>A male attended at LCC Reception with regards The Starlight Bar.</p> <p>LCC Licensing and Enforcement Officers met him and recognised him as having been onsite when visit have previously been made to the premises.</p> <p>Male stated that 'he' (Rafik) would keep trying to open the premises with a front man. Following further discussion with LCC it would appear that the male implied that any DPS would be a 'puppet' for Rafiq who was behind the premises</p>	<p>Information passed onto WYP Licensing and NPT</p>
131211	<p>Application received for change of PLH and DPS. Both these applications are to have immediate effect</p>	<p>Objection raised and refused at hearing</p> <p>E-mail also sent to NPT and HMRC for further intelligence gathering.</p>
270112	<p>Information received via LCC Licensing that The Starlight Bar are opening into the 'small hours' of the morning and that they are in receipt of complaints from residents.</p> <p>Intelligence [REDACTED] also refers.</p>	<p>Information passed to NPT for further evidence gathering. Noise issue at present but evidence required of sale or</p>

	further issues and I told him that he needed to turn the music down which he did.	
300112	NPT advised regarding the true meaning of 'private party' and tactics used by operators to try and avoid detection. Chip systems/ raffle tickets and tally systems all used. Operators also claim that customers have come together to drink collectively and to pool their resources when quite clearly they have not.	NPT advised to revisit.
020212	Report of Arson attack. Fire Service attended with WYP and have spoken to Alan Zolfagary who stated that he was in partnership with Honor Rafiq. Suspicious circumstances and reports produced by WYFire and WYP. Occurrence [REDACTED] so refers.	NPT aware and to monitor
110212	E-mail from Sgt Stones. Premises found open: The team spotted the Ibiza Bar open on Saturday night so we paid them a visit. There was also a report from the public log 1610. The bar was open so I served a section 19 notice on the person claiming to be the owner/manager. Niche record [REDACTED] refers. Circumstances are that we visited at 22:50hrs. There was about 10 females outside smoking (not wearing any coats). Loud music was coming from up stairs. The door was open so we entered. At the top of the stairs was a table with a man sat behind. He had a raffle ticket book (clear that many stubs used) and a stamp believed for people going outside to smoke. He was asked about why he had tickets all he could say was that it was a private	Review. Premises failing to engage with authorities and listen to what they are being told.

	<p>about keeping it open. One male in drink very helpfully told us how unfair it was when they had paid to enter. We didn't get a name as we ended up warning him re behaviour and getting the group of males to take him away as they were starting to get hostile.</p> <p>Intelligence [REDACTED] also refers.</p>	
	<p>Review discussed with NPT following Section 19 Closure Notice. Review to be submitted as all other lines of action planning and engagement have failed.</p>	<p>Review.</p>

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Review of Premises Licence

Application for a review received.

- Is the application completed correctly?
- Is the application relevant to the Licensing Objective?
- Is the interested party relying on frivolous, vexatious or a repetitious ground?
- Has the applicant notified responsible authorities and Licence holder?

Notify the applicant as soon as possible that the ground is frivolous, vexatious or a repetition.

Licensing Authority must advertise the review

- Advertisement placed - At or near premises subject to review
- At offices of Licensing Authority
- On leeds.gov.uk

The advert must include the following details

- a) The address of the premises subject to review
- b) The dates between which interested parties & Responsible Authorities may make representations
- c) The grounds of the application for review
- d) The postal address, web site address ,licensing register details etc
- e) That it is an offence to knowingly or recklessly to make a false statement in connection with the review.

The advert is placed for no less than 28 consecutive days starting with the day *after* the application was given to the applicant.

The Licensing Authority must hold a hearing

The hearing must be held within 20 working days beginning with the day *after* the end of the period during which representations may be made



The Licensing Authority must give notice of the hearing, no later than ten working days before the day of the hearing

Notice of the review hearing must be given to
a) The premises licence holder
b) Those that made relevant representations

Representations from interested parties must not be vexatious, frivolous or a repetition.

- A ground for review already specified in an earlier review application of the same premises which has already been determined; or
- Representations considered when the premises licence was first granted; or
- Representations which would have been made when the application for the premises licence was first granted and which were excluded then due to a provisional statement being issued; and
- A reasonable interval has not elapsed since a previous review or the grant of the licence.

Notification that a representation is frivolous, vexatious or repetitious must be given in writing before the review is determined.

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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