



LICENSING SUB-COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
MONDAY, 17TH SEPTEMBER, 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 DISCLOSABLE PECUNIARY AND OTHER INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19 -20 of the Members' Code of Conduct.</p> <p><u>HEARINGS</u></p>	
6	City and Hunslet	10.4(7)	<p>REVIEW OF THE PREMISES LICENCE FOR PHONO, 174 LOWER BRIGGATE, LEEDS LS1 6DT</p> <p>To consider a report of the Head of Licensing and Registration on an application for a Review of the premises licence held by Phono, 174 Lower Briggate, Leeds LS1 6DT.</p> <p>Appendix D is exempt under Access to Information Procedure Rule 10.4 (7).</p> <p>(Report attached)</p>	1 - 58



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: 17th September 2012

Subject: Review of the Premises Licence for Phono, 174 Lower Briggate, Leeds, LS1 6DT,

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 checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4 (7)		
Appendix number: D		
This appendix is regarded exempt under the provisions of Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005).		

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 Phono, 174 Lower Briggate, Leeds, LS1 6DT. 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 application by West Yorkshire Police. 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. Details of the review application, are attached at **Appendix A**.

2.0 Background Information

2.1 On 20th November 2006, an application was submitted for a premises licence for the premises formerly known as Oslo, following the liquidation of the previous company

operating as Oslo. The applicants were Iniquity Dens Limited. Representations were received to the application from responsible authorities, but agreements were reached and a premises licence was granted as applied for.

On the 6th September 2007, a variation application was submitted for the premises, now known as Religion. The application was to request an increase in the licensing hours. Representations were received from other persons. A Sub Committee hearing was scheduled. The Sub Committees decision, was to grant the variation with an added condition that the applicant had offered.

In March 2009, an application was received to transfer the premises licence into the name of Christopher Ayre, this was successful.

On the 10th Feb 2010, a letter was received from Mr Nathan-Geary, together with a consent to transfer form from Christopher Ayre to Vektor Investment Management Limited. The letter informed the Licensing Department that a transfer application would follow within four weeks, as he was close to letting the premises to another tenant. No application was received within the said time and in May 2010, a letter was sent to Christopher Ayre and Raven Pine Ltd (Mr Paul Nathan-Geary), informing them that Mr Ayre was still responsible for the premises and the annual fee was due. A letter was received back from Christopher Ayre, explaining that he no longer had dealings with the premises and had completed all the necessary paper work to transfer

On 29th July 2010, a complete transfer application was received to transfer the licence from Christopher Ayre, to Matthew Powell, with immediate effect, also a dps change application was received to change the dps from Christopher Ayre to Lisa Gaskin. The premises were now known as Boudoir. Mr Powell had now acquired the premises licence on an interim basis. An objection was received from West Yorkshire Police to both applications. A Sub Committee hearing was scheduled to decide the applications.

On 13th August 2010, an application was received to change the dps from Lisa Gaskin to Lee Maurice Yates. This application superseded the previous one, therefore the hearing for the dps change was withdrawn. There was no objection to this application, therefore Lee Maurice Yates became the dps. The hearing for the transfer of the premises licence still remained, the decision of the Sub Committee was to refuse the application, therefore the transfer which had interim effect ceased on the 6th September 2010 and the premises licence holder reverted back to Christopher Ayre.

On 30th September 2010, a letter was received from Lee Maurice Yates, requesting to be removed from being the DPS at Boudoir from midnight.

On 6th October 2010, another application was received to transfer the premises licence into the name of Matthew Powell, and change the dps into the name of Matthew Powell, again an objection to both applications was received from West Yorkshire Police. A Sub Committee hearing was scheduled for the 8th November 2010.

On 5th November 2010, an application to transfer the premises licence to Ravenpine Ltd and change the dps to Lee Maurice Yates, was received in the Licensing Office. This application now superseded the previous one, therefore the hearing was cancelled. No representations were received to this application and the licence

transfer and dps change were granted. The premises licence holder was now Ravenpine Ltd and the dps was Lee Maurice Yates.

On the 24th Oct 2011, a letter of request was received, to change the name of the premises from Boudoir to Phono.

On the 26th July 2012, the application for review of the premises licence was submitted by West Yorkshire Police.

On 16th August 2012, an application to change the dps from Lee Maurice Yates to Maritn Andrew Baxter, was submitted to have immediate effect, no representations were received to this application and the licence was issued.

3.0 Premises Licence

3.1 The premises licence holder is Ravenpine Ltd.

3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits the following:

Sale by retail of alcohol on and off the premises
11:00 until 06:00 hrs Sunday to Thursday
11:00 until 08:00 hrs Friday and Saturday

Regulated entertainment
11:00 until 06:00 hrs Sunday to Thursday
11:00 until 08:00 Friday and Saturday

Late night refreshment
23:00 until 05:00 every day

Non standard timings:
On 31st December each year to 06:00 hours on 2nd January the following year, unless 2nd is a Friday or Saturday then it will be 08:00 hours.

4.0 Designated Premises Supervisor

4.1 The Designated Premises Supervisor for the premises is Mr Martin Andrew Baxter.

5.0 Location

5.1 A map which identifies the location of the premises are attached at **Appendix C**.

6.0 Main Issues

6.1 The review is being sought by West Yorkshire Police on the grounds of The Prevention of Crime and Disorder, Prevention of Public Nuisance and Public Safety. The grounds for this premises licence review, relate to the performance of the premises over approximately the last twelve months, and police issues not yet satisfactorily resolved.

6.2 It should be noted that certain information submitted by West Yorkshire Police, within the application is potentially exempt information under Access to Information Rule 10.4 (7), as it includes information which relates to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. This information is contained within **Appendix D**.

7.0 Relevant Representations/Letters of Support

7.1 Under the Act representations/support can be received from responsible authorities and or other persons. Representations must be relevant and, in the case of other people, must not be frivolous or vexatious.

7.3 There are no additional representations.

8.0 Matters Relevant to the Application

8.1 Members of the Licensing Sub Committee must make decisions which are appropriate to the promotion of the licensing objectives which are:

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

8.2 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 E**. Members must also have regard to the Council's licensing policy, the relevant representations made and evidence they hear.

9.0 Implications for Council Policy and Government

9.1 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 13.15 of the policy with particular seriousness.

10.0 Legal and Resource Implications

10.1 There are no resource implications in determining the review.

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

11.0 Recommendations

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

- to modify the conditions of the licence (which includes adding new conditions or any alteration or omission of an existing condition);
- exclude any licensable activities to which the application relates;
- to remove the Designated Premises Supervisor;
- to suspend the licence for a period not exceeding 3 months; and/or
- to revoke the licence.

- 11.2 Members may 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.
- 11.3 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.
- 11.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 11.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 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 be appropriate for the promotion of the licensing objectives.

12.0 Background Papers

- 12.1 Guidance issued under s182 Licensing Act 2003
- 12.2 Leeds City Council Statement of Licensing Policy
- 12.3 Background papers – Support from a member of the public <delete if appropriate>

Appendices

- Appendix A Review application
- Appendix B Premises Licence
- Appendix C Map of premises
- Appendix D Exempt information
- Appendix E Extract from the S182 Guidance

This page is intentionally left blank

RESTRICTED



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.

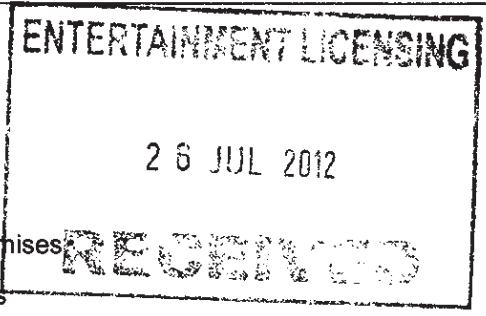
I, (insert name of applicant) **Sergeant 4581 Robert G FULLILOVE**

- **Apply for the review of a Premises Licence under Section 51**
- ~~Apply for the review of a Club Premises Certificate under Section 87 of the Licensing Act 2003 for the premises described in Part 1 below~~

Part 1 – Premises or Club Premises details
Postal address of premises or, if none, Ordnance Survey map reference or description:
PHONO 174 Lower Briggate
Town/City: LEEDS Postcode: LS1 6DT

Name of premises licence holder or club holding club premises certificate (if known):
Ravenpine Ltd 4 Harewood Yard The North Range Harewood LEEDS LS17 9LF
Number of premises licence or club premises certificate (if known): PREM/02363/VO1

Part 2 – Applicant details
Please 'check' appropriate box(es)
I am:
1. An interested party (please complete A or B below)
(a) a person living in the vicinity of the premises <input type="checkbox"/>
(b) a body representing persons living in the vicinity of the premises <input type="checkbox"/>
(c) a person involved in business in the vicinity of the premises <input type="checkbox"/>
(d) a body representing persons involved in business in the vicinity of the premises <input type="checkbox"/>
2. A responsible authority (please complete C below) <input checked="" type="checkbox"/>
3. A member of the club to which this application relates (please complete A below) <input type="checkbox"/>



A – Details of individual applicant
Surname: _____ Forename(s): _____
I am 18 years old or over: <input type="checkbox"/>
Current postal address if different from premises address: _____ Town/City: _____ Postcode: _____
Daytime contact telephone number: _____
E-mail address (optional): _____

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

Surname: Sergeant 4581 Forename(s): Robert G
Address: West Yorkshire Police
Leeds District Licensing
Millgarth Police Station
Millgarth Street
Town/City: LEEDS Postcode: LS2 7HX
Daytime contact telephone number: 01132 413067
E-mail address (optional): robert.fullilove@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 grounds for this premises licence review relate to the performance of the premises over approximately the last twelve months, and police issues not yet satisfactorily resolved and encompassing the areas of;

- Unsuitable security provision for high-risk gigs held at the club
- Allegations of assault, some serious, including two allegations of sexual assault by on-duty club staff
- Public disorder in the street emanating from the club - even as late as 7 to 8 a.m. on weekdays
- Uncooperative doorstaff and management
- CCTV missing/unavailable to officers after serious assaults took place
- Allegations that doorstaff attempted to allow suspects to evade justice

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

RESTRICTED

The building housing PHONO, and its previous incarnations have been controlled for a number of years by the present Premises Licence Holders but this application relates only to incidents that have occurred when it has operated under its present name and with the present DPS and on-site management.

The operator/DPS that ran the premises before the current incumbents incurred a number of issues with the police, and following consultation the Premises Licence Holders terminated their agreement with them and installed the current DPS Lee Yates and his management team partner Lisa Gaskin. At about that time in November 2010 the Premises Licence Holder's representative Mr Paul Nathan-Geary told police licensing officers in a meeting that he would now be much more careful with who he allowed to operate out of the premises and would only consider a lease arrangement after a twelve month probationary period by the new operators.

Towards the end of 2011 into 2012 police became concerned at certain criminal elements connected to serious crime frequenting Phono, and reports of violence occurring, not all of which were being reported to the police. In addition, these violent acts were spilling out into the street, sometimes as late as 8am during weekdays when commuters were travelling to work. There was a connection between entertainment provided at the club, the client base, and the nature and severity of the incidents.

The club management were spoken to by licensing police officers about these matters, and also complaints from operational officers about management and CCTV issues at the club. They were clearly told this situation must improve. The other complaints encompassed the late provision of CCTV evidence for crime investigations on request, or a total failure to provide CCTV footage with a number of reasons given that were not acceptable. In addition officers formed the opinion that door staff and club management were occasionally deliberately thwarting police attempts to investigate crimes properly. The attitude and conduct of door staff and in particular the DPS to investigating officers and those visiting the premises on licensing visits was uncooperative and poor.

Police concerns were communicated to the club management and Premises Licence Holder.

It was clear to officers that the criminal element were not being sufficiently supervised and controlled in the club and doubt was cast on the ability of the management and door staff to retain control.

It is the opinion of the police that some members of the door team know, and are too close to the client base of the club, and that club management are not strong enough to, or do not choose to supervise their clients or manage their door staff in a satisfactory manner.

In 2012 crime and disorder, and consequently police concerns about the club began to rise and further meetings held and police visits made to Phono were increased.

Despite this, however, on 20 April 2012 a serious sexual offence allegation was made against a door staff member by a female alleging she was assaulted by him in the club toilets. A male staff member was arrested for this offence and is still on bail for it while the criminal investigation continues.

Crimes continued to be committed in the club including two nasty assaults and a robbery in May/June 2012 and police visits to the premises repeated.

RESTRICTED

At about 5am on the morning of Saturday 14th July 2012 two serious incidents occurred connected with Phono. In the first, a male was involved in an assault/disturbance inside and then chased into the street by a number of males, dragged out of a taxi and assaulted, during which time he sustained serious facial injuries.

In the second, a female contacted the police after leaving the club asking for officers to speak to her, as she was alleging that a member of door staff had committed a serious sexual offence against her, once again in the club toilets.

Both offences are currently under investigation, although the former investigation is not being assisted by the non-cooperation of the victim.

The investigation of the sexual offence has been subject of an attempt to pervert the course of justice by a member of club management who rang up the door staff suspect and tipped him off that the police were coming to arrest him. Despite this, the suspect has been arrested and is on police bail pending further enquiries.

Clearly, despite police interaction, this club is not being managed satisfactorily and public safety is being put at risk therefore a review of the premises licence is applied for.

Have you made an application for review relating to this premises before? NO

If 'YES', please state the date of that application:

RESTRICTED

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

[Empty space for providing details of 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:.....

Capacity:.....

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.

This page is intentionally left blank

Premises Licence

Premises licence number:

PREM/02363/004

Initial licence from:

9th January 2007

Public Register Copy

Current Licence effective from:

17th August 2012

Appendix B

Premises Address Phono, 174 Lower Briggate, Leeds, LS1 6DT

Licensable activities authorised by this licence

Sale by retail of alcohol, Provision of late night refreshment, Performance of live music, Performance of recorded music, Performance of dance, Provision of facilities for making music, Provision of facilities for dancing,

Times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

Provision of late night refreshment

Every Day 23:00 - 05:00

Performance of live music

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

Performance of recorded music

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

Performance of dance

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

Provision of facilities for making music

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

Provision of facilities for dancing

Friday & Saturday 11:00 - 08:00

Sunday to Thursday 11:00 - 06:00

The opening hours of the premises

Friday & Saturday 11:00 - 09:00

Sunday to Thursday 11:00 - 07:00

Alcohol is sold for consumption on and off the premises

Premises licence holder(s):

Ravenpine Limited, 4 Harewood Yard, The North Range, Harewood, Leeds, LS17 9LF,

Registered number of holder(s):

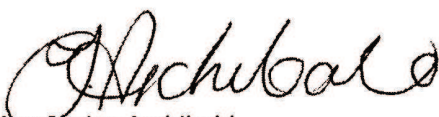
2316059

Designated premises supervisor:

Mr Martin Andrew Baxter

Access to the premises by children is prohibited.

Licence Issued under the authority of Leeds City Council



Miss Janice Archibald
Licensing Officer
Entertainment Licensing
Licensing and Registration

Licence produced on 06/09/2012 at 07:28
by Miss Janice Archibald

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

Annex 2 – Conditions consistent with the operating schedule

Additional details in respect of licensable activities authorised by this licence

Provision of late night refreshment

Location of activity: Indoors

Performance of live music

Location of activity: Indoors

Performance of recorded music

Location of activity: Indoors

Performance of dance

Location of activity: Indoors

Provision of facilities for dancing

Location of activity: Indoors

All activities

Non standard timings: On 31st December each year to 06:00 hours on 2nd January the following year unless 2nd is a Friday or Saturday then it will be 08:00 hours.

Concerns in respect of children: None defined

Conditions consistent with the operating schedule relating to the licensing objectives

The prevention of crime and disorder

9. Adopt the Check 21 proof of age scheme in accordance with guidance issued by West Yorkshire Police.
10. Participate in a local pub watch scheme or licensing association which is recognised by West Yorkshire Police.
11. Implement a dispersal policy agreed with West Yorkshire Police.
12. Agree protocols and call priorities with local taxi firms. Ensure transport options are suitably advertised at the venue and staff are aware.
13. Participate in a radio or other communications system in accordance with guidance issued by West Yorkshire Police and the service providers instructions.
14. Operate an effective CCTV system to be maintained in accordance with guidelines issued by West Yorkshire Police. Security footage will be made secure and retained for a period of not less than 31 days.
15. Provide a suitable receptacle (ie drugs safe) for the safe retention of any illegal substances. The method of safe disposal to be agreed with West Yorkshire Police.
16. Implement a policy that no glasses or bottles will be allowed to be taken by customers from the premises.
17. Maintain an incident report register, recording incidents such as anti-social behaviour and ejections from the premises. The incident report register will contain consecutively numbered pages, the date, the time and location of the incident, to whom reported and badge numbers of any door staff involved. It will be produced for inspection on the request of a police officer or council licensing enforcement officer.
18. The company constantly monitor the premises and door staff will be employed at the premises.

Public safety

19. 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.
20. A suitably trained and competent person must ensure regular safety checks of the premises including decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer.
21. Electrical installations will be inspected on a periodic basis (at least every 3 years, or at a frequency specified in writing) by a suitably qualified and competent person. If used, any temporary electrical wiring and distributions will also be inspected. Inspection records/certificates will be kept. These will be made available at the request of an authorised officer.
22. A written spillage policy will be kept to ensure spillages are dealt with in a timely and safe manner.
23. A suitably trained First Aider or appointed person will be provided at all times when the premises are open.
24. Adequate and appropriate First Aid equipment and materials will be available on the premises.

25. A procedure for dealing with unwell members of the public will be in place, including those who appear to be affected by alcohol and drugs. Staff will be appropriately trained in such procedures.
26. Where strobes, lasers, smoke machines or any other special effects equipment may be used, a written health and safety policy covering all aspects of their use will be provided, and staff will be appropriately trained.
27. No strobes, lasers, smoke machines or any other special effects, will be used at the premises unless there is a clearly displayed warning at the entrance to the premises that such equipment is used.

The prevention of public nuisance

28. Ensure that no nuisance is caused by noise and vibration emanating from the premises.
29. Noise from the premises shall be inaudible at the nearest noise sensitive premises (i) after 23:00 hours and (ii) at any time when entertainment, as defined by paragraph 2 of schedule 1 of the Licensing Act 2003, takes place on more than 30 occasions per year.
30. Ensure all licensable activities are conducted and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.
31. No bottles shall be placed in the external receptacle after 23:00 hours to minimise noise disturbance to adjoining properties.
32. Ensure that the rating level of noise from plant and machinery is no higher than 5dB below the lowest background level at the most affected noise sensitive premises during the operation of the plant. Plant and machinery shall be regularly serviced and maintained to continue to meet the rating level.
33. There shall be no external loud speakers.
34. Queues shall be restricted to cordoned areas to prevent them obstructing footpaths and spilling out onto roads, and to keep noise and obstructions away from residential property. Staff shall be trained to intercept and manage any incidents and sufficient staff shall be employed to properly manage queues to prevent noise and aggression.
35. A cooling down period with reduced music volume shall be operated before the premises close.
36. Ensure that lighting provided for the purpose of customer and staff safety, for the security of the premises, and lighting associated with activities of entertainment and advertising is of such an intensity, suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining properties.
37. Ensure that the premises are operated so as to prevent the emission of odours which are a nuisance at nearby premises or to persons in the immediate area.
38. 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.
39. Noise and vibration from the premises will be maintained at a level that will not cause a nuisance to neighbouring premises.
40. Doors and windows will be kept closed whenever necessary.
41. Staff pick up litter outside the premises.

The protection of children from harm

42. Children will not be allowed on the premises.

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

None

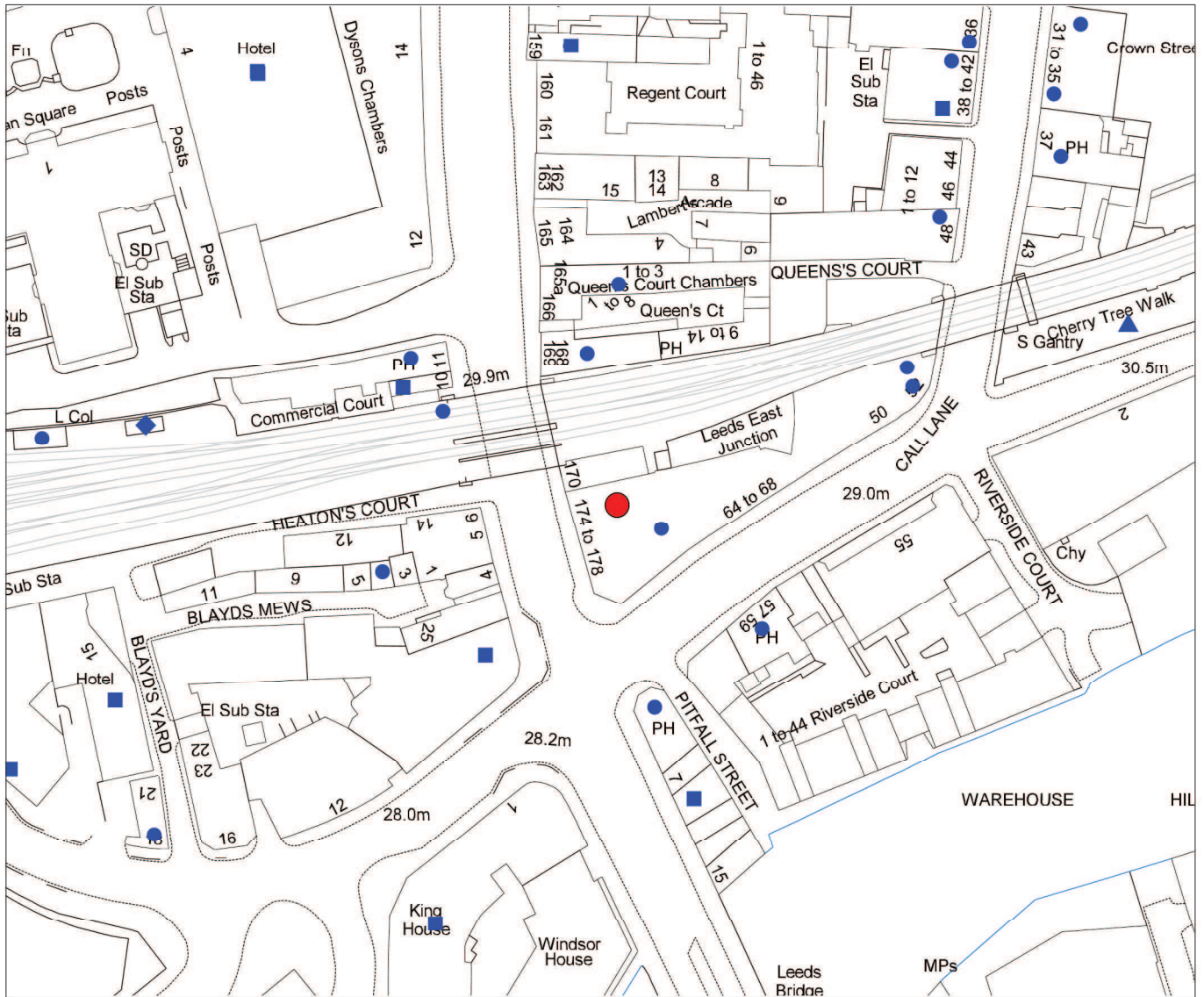
Annex 4 – Plans

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/02363/003

Phono, 174 Lower Briggate, Leeds, LS1 6DT



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

© Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings

Leeds City Council O.S. Licence No 100019567
© Crown Copyright all rights reserved

Date:	07 September 2012
Scale:	1:1250

This page is intentionally left blank

Document is Restricted

This page is intentionally left blank

THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided 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 Business Link or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at a premises and wants to intervene early without waiting for representations from other parties. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this

separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 Any application for a review received by the licensing authority from responsible authorities and any other persons should be given due consideration and treated by the authority in precisely the same way, regardless of the body or individual which made it. This includes an application made by the local authority acting in a separate capacity (for example, environmental health or child protection).
- 11.8 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.9 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.10 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 11.11 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, responsible authorities and any other persons in pursuit of common aims. Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.12 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

REPETITIOUS GROUNDS OF REVIEW

11.13 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.14 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.15 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.16 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.17 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

11.18 The licensing authority may decide that the review does not require it to take any further steps appropriate 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 informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.19 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 address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.20 Where the licensing authority considers that action under its statutory powers is appropriate, 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.

11.21 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

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

REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.25 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, 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 licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.26 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 beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

- 11.27 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.
- 11.28 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.
- 11.29 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of 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 illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.30 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 Community Safety Partnership.

11.31 As noted below (Chapter 13, paragraph 13.59), it is unlawful to discriminate or to refuse service on grounds of race, disability, gender reassignment, pregnancy and maternity, religion and belief, sex and sexual orientation or by displaying discriminatory signs on the premises. Representations made about such activity from responsible authorities or other persons 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

11.32 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).

REVIEW OF A PREMISES LICENCE FOLLOWING PERSISTENT SALES OF ALCOHOL TO CHILDREN

11.33 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.

This page is intentionally left blank