

**LICENSING SUB-COMMITTEE**

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**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
TUESDAY, 27TH FEBRUARY, 2018 AT 10.00 AM**

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**MEMBERSHIP****Councillors**

M Harland  
G Hyde  
G Wilkinson

Kippax and Methley  
Killingbeck and Seacroft  
Wetherby

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**Agenda compiled by:  
Governance Services  
Civic Hall  
LEEDS LS1 1UR  
Tel No: 0113 3788662**

# A G E N D A

Item No	Ward	Item Not Open		Page No
2			<p><b><u>PRELIMINARY PROCEDURES</u></b></p> <p><b>ELECTION OF THE CHAIR</b></p> <p><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

Item No	Ward	Item Not Open		Page No
3			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></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><b>RESOLVED</b> – 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><b>LATE ITEMS</b></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><b>DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS</b></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 13-16 of the Members' Code of Conduct.</p> <p><b><u>HEARINGS</u></b></p>	
6	Armley		<p><b>REVIEW OF THE PREMISES LICENCE FOR KRAKOW MINI MARKET (FORMERLY CONTINENTAL FOODS), 35 TOWN STREET, ARMLEY, LEEDS, LS12 1UX</b></p> <p>To receive and consider the attached report of the Head of Elections, Licensing and Registration regarding an application for the review of a licence for Krakow Mini Market (formerly Continental Foods), 25 Town Street, Armley, Leeds, LS12 1UX</p> <p><b><u>Third Party Recording</u></b></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties – code of practice</p> <ul style="list-style-type: none"> <li>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</li> <li>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</li> </ul>	1 - 38

## Report of the Head of Elections, Licensing and Registration

### Report to the Licensing Sub Committee

**Date:** 27th February 2018

**Subject:** Review of the Premises Licence for Krakow Mini Market (formerly Continental Foods), 35 Town Street, Armley, Leeds, LS12 1UX

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

### 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 Trading Standards in respect of Krakow Mini Market (formerly Continental Foods), 35 Town Street, Armley, Leeds, LS12 1UX. 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 made by West Yorkshire Trading Standards (**Appendix A**). The report sets out the relevant law when reviewing licences under the Licensing Act 2003 ("the Act") and informs members of the options available to them when reviewing a premises licence.

#### 2.0 Background Information

- 2.1 A new application for a premises licence was received in March 2014 from a company known as Continental Foods. West Yorkshire Police submitted a representation but after reaching an agreement this was withdrawn and the licence granted.
- 2.2 Since May 2015 the licensing authority have received two further applications to transfer the licence holder and one to change the designated premises supervisor.

### **3.0 Premises Licence**

- 3.1 The premises licence holder is Mr Arman Solymani.
- 3.2 A copy of the premises licence can be found at **Appendix B** of this report. In summary, the premises licence permits sale by retail of alcohol everyday 09:00 - 21:00 for consumption off the premises.

### **4.0 Designated Premises Supervisor**

- 4.1 The Designated Premises Supervisor for the premises is Mr Arman Solymani.

### **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 application for review of the premises licence is made on the grounds of the prevention of crime and disorder, public safety and the protection of children from harm.
- 6.2 The grounds for this review centre on the premises in question dealing in illegal tobacco products.
- 6.3 On 30/03/2017 officers from West Yorkshire Trading Standards (WYTSS) carried out an inspection of the shop and found 3200 illegal cigarettes.
- 6.4 On 26/09/2017 an officer from WYTSS carried out a test purchase and was sold a 50g packet of Golden Virginia tobacco for £13 which was non-duty paid.
- 6.5 On 28/09/2017 officers from WYTSS carried out an inspection of the shop where 1220 illegal cigarettes were found concealed in the wall and in a bag in the bin outside the back of the shop.
- 6.6 All the tobacco products were examined, some were foreign labelled and non UK duty paid therefore it did not bear the statutory health warnings. Some were confirmed to be counterfeit in contravention to the Trade Marks Act 1994.
- 6.7 The street value of the total tobacco products seized is almost £3,000 based on £13 a packet of tobacco product which is far lower than the recommended retail price.
- 6.8 WYTSS, as a responsible authority, considers the matters outlined above to be extremely serious. In these circumstances WYTSS considers that they have no option other than to seek a review of the premises licence and would recommend a full revocation of the licence.
- 6.9 In addition to the application, West Yorkshire Trading Standards have provided supplementary evidence to support the review application.
- 6.10 Included are witness statements from WYTSS, copies of the seizures, copies of the Code B notice of power and rights and photographs of the seized tobacco. These are attached at **Appendix D**.

## **7.0 Relevant Representations/Letters of Support**

- 7.1 Under the Act representations and letters of 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.
- 7.2 No representations or letters of support have been received by the licensing authority.

## **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 11.30 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**

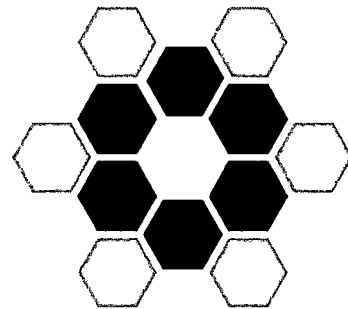
- 12.1 Guidance issued under s182 Licensing Act 2003
- 12.2 Leeds City Council Statement of Licensing Policy

## **Appendices**

Appendix A	Review application
Appendix B	Premises Licence
Appendix C	Map of premises
Appendix D	Supplementary Evidence
Appendix E	Extract from the s182 Guidance



Nepshaw Lane South, Morley, Leeds, LS27 7JQ  
t 0113 253 0241



**My Ref** 019483

**Date** 2<sup>nd</sup> January 2018

**Matter Dealt with by** [REDACTED]

**Tel** 0113 393 9816

Leeds City Council  
Entertainment Licensing  
Civic Hall  
Leeds  
LS1 1UR

Dear Sirs

**Licensing Act 2003 Premises Licence Review  
Krakow Mini Market, 35 Town Street, Armley, Leeds, LS12 1UX**

As a Responsible Authority under the Licensing Act 2003 West Yorkshire Trading Standards Service is seeking a review of the Premises Licence for the above premises

Details of the grounds for this application are set out in the attached documentation

Yours faithfully

[REDACTED]  
Regulatory Compliance Officer

Encs

**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 David Lodge acting on behalf of West Yorkshire Trading Standards Service

**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 (delete as applicable)**

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Krakow Mini Market, 35 Town Street,	
<b>Post town</b> Leeds	<b>Post code (if known)</b> LS12 1UX

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Arman Solymani
---

<b>Number of premises licence or club premises certificate (if known)</b>
---

**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- |   |                          |
|---|--------------------------|
| a) a person living in the vicinity of the premises                                  | <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) X
- 3) a member of the club to which this application relates (please complete (A) below) ☐

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

**Please tick**

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

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

☐

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**

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

Name and address West Yorkshire Trading Standards Service PO Box 5 Nepshaw Lane South Morley Leeds LS27 7JQ (Case Officer David Clutterbrook)
Telephone number (if any) 0113 3939874
E-mail address (optional) david.clutterbrook@wyjs.org.uk

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

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

The facts of the case are as follows

The retail premises, **Krakow Mini Market, 35 Town Street, Leeds, LS12 1UX** was known to West Yorkshire Trading Standards Service (WYTSS) Intelligence received by WYTSS indicated that the business was dealing in illegal tobacco. This risks the health of many local citizens whilst subsequently depriving the exchequer of duty.

On 30/03/2017 officers from WYTSS carried out an inspection of the shop and found 3200 illegal cigarettes.

On 26/09/2017 an officer from WYTSS carried out a test purchase and was sold a 50g packet of Golden Virginia for £13 which was non-duty paid.

On 28/09/2017 officers from WYTSS carried out an inspection of the shop where 1220 illegal cigarettes were found concealed in the wall and in a bag in the bin outside the back of the shop.

All the tobacco products were examined, some were foreign labelled and non UK duty paid therefore it did not bear the statutory health warnings. Some were confirmed to be counterfeit in contravention to the Trade Marks Act.

1994

The street value of the total tobacco products seized is almost **£3,000** based on £13 a packet of tobacco product which is far lower than the recommended retail price

The proceeds of course all going to the trader with no duty being paid

The owner of this store has supplied illegal tobacco products and has shown a blatant disregard for the law. The supply of illegal tobacco causes genuine businesses to lose income which in turn affects the local economy as genuine businesses pay rent, rates, employ local people and buy products and services from other local businesses.

WYTSS, as a Responsible Authority, considers the matters outlined above to be extremely serious. In these circumstances WYTSS considers that they have no option other than to seek a review of the Premises Licence and would recommend a full revocation of the licence.

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

Please see attached package of papers to support this submission

Section 9 Statements from

Babul Hussain

Jason Bethell

Copy of seizure 30/03/2017

Copy of Code B Notice of Powers and Rights 30/03/2017

Copy of seizure 28/09/2017

Copy of Code B Notice of Powers and Rights 28/09/2017

Photographs of Seized Tobacco

**Please tick yes**

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

If yes please state the date of that application

Day Month Year

--	--	--	--	--	--	--	--

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

Please tick yes

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

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

**Part 3 – 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

03-01-18

Capacity

HEAD OF SERVICE.

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

David Lodge Head of Trading Standards  
Nepshaw Lane South  
Morley

**Post town**  
Leeds

**Post Code**  
LS27 7JQ

**Telephone number (if any)** 0113 3939704

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)** david.lodge@wyjs.org.uk

**Notes for Guidance**

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



application

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## Details of premises licence

**For: Krakow Mini Market (formerly Continental Foods)**



**Leeds**  
CITY COUNCIL

This document provides details of the premises licence issued to the stated premises and is not a licence itself.

**Licence number:** PREM/03453/005

**Premises the licence relates to:** Krakow Mini Market (formerly Continental Foods), 35 Town Street, Armley, Leeds, LS12 1UX

**Date licence first effective:** 15th April 2014

**Date current version effective from:**

**Licensable activities authorised by the licence:**

Sale by retail of alcohol	
Every Day	09:00 - 21:00

**Opening hours of the premises:**

Everyday	08:00 - 22:00
----------	---------------

**Premises licence holder(s):**

**Mr Arman Solymani, 5 Lowther Street, Harehills, Leeds, LS8 5PH**

**Designated premises supervisor:**

Mr Arman Solymani

**Access to the premises by children**

Access to the premises by children is unrestricted

## 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 premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- a. a holographic mark, or
  - b. an ultraviolet feature.
5. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1 of this condition -

- a. "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- b. "permitted price" is the price found by applying the formula  $P = D + (D \times V)$  where -
  - i. P is the permitted price,
  - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c. "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
  - i. the holder of the premises licence,
  - ii. the designated premises supervisor (if any) in respect of such a licence, or
  - iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises

in a capacity which enables the member or officer to prevent the supply in question;  
and

- e. "value added tax" mean value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

## **Annex 2 – Conditions consistent with the operating schedule**

### **Additional details in respect of licensable activities authorised by this licence**

#### **Conditions consistent with the operating schedule relating to the licensing objectives**

##### **General – All four licensing objectives**

- 6. There will be a personal licence holder on the premises at all times.

##### **The prevention of crime and disorder**

- 7. Notices indicating the existence and effect of an Alcohol Designated Public Order will be prominently displayed at the exits to the premises.
- 8. Entry will be refused to persons who are drunk threatening or violent. Offences will be reported to the police.
- 9. There will be signs for no sale of alcohol to under 25's
- 10. Staff will be trained on licensing issues.
- 11. There will be CCTV system installed. DVD available for 30 days to authorities on request.

##### **Public safety**

- 12. Ensure a personal licence holder at all times on premises when sale of alcohol is taking place.
- 13. Provide facilities for first aid.
- 14. Sufficient light in both exits will be provided.
- 15. Floor will be kept dry and clear at all times.
- 16. There will be fire extinguishers and fire alarm systems installed.

##### **Protection of children from harm**

- 17. Children under 12 will not be admitted unless accompanied by an adult
- 18. Under 18's will not be sold cigarettes.

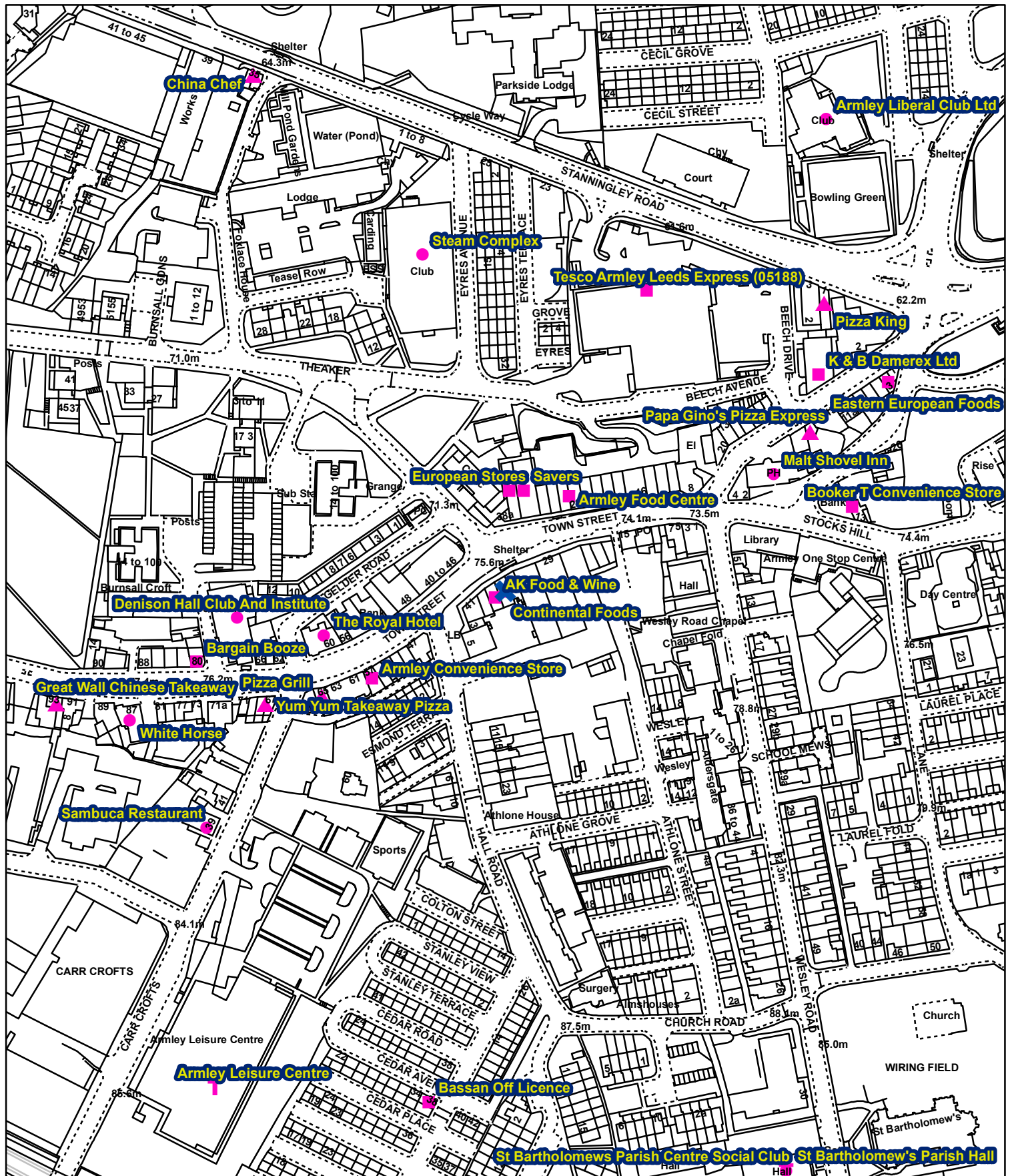
19. Under 25s will not be sold alcohol. Prove it scheme will be deployed and a record of attempts will be kept.

**The prevention of public nuisance**

20. Ensure all deliveries are between 07:00 and 19:00
21. The surrounding area will be free from rubbish.

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

None





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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## Key

 On licence

 Late night refreshment

 Off licence

 Other

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# West Yorkshire Trading Standards

## WITNESS STATEMENT

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

**Statement of** Babul Hussain

**Age of witness** (if over 18 enter 'over 18')

Over 18

**Occupation**

Regulatory Compliance Officer

This statement (consisting of 1 pages 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

**Dated**

10/11/2017

**Signature**

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987 and the Tobacco and Related Products Regulations 2016.

The retail premises, **Krakow Mini Market, 35 Town Street, Leeds, LS12 1UX** was known to West Yorkshire Trading Standards Service (WYTSS).

On 30/03/2017 I carried out an inspection of the shop and found 3200 illegal cigarettes.

The cigarettes were hidden in a false ceiling in the upstairs store room.

I inspected the premises as there had been complaints stating that the business was dealing in illegal tobacco.

Some of the tobacco was counterfeit and some of them were foreign labelled and non-duty paid.

**NOTE** If statements are typed double spacing should be used  
One side only of this paper should be used

(Signed)

**Dated**

[Redacted Signature]

Page 1 of 1

010911

**WITNESS STATEMENT**

Criminal Procedure Rules, r 27.2  
Criminal Justice Act 1967, s 9  
Magistrates Courts Act 1980, 5B

**Statement of** Jason Lee BETHELL

**Age of witness** (if over 18 enter 'over 18') Over 18

**Occupation** Regulatory Compliance Officer

This statement (consisting of 2 pages 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

**Dated** 13/11/2017

**Signature** 

I am a Regulatory Compliance Officer employed by West Yorkshire Trading Standards Service (WYTSS). I am an authorised officer for the purposes of the Trade Marks Act 1994, Consumer Protection Act 1987 and the Tobacco and Related Products Regulations 2016.

On Tuesday 26<sup>th</sup> September 2017 I took part in a test purchase operation to buy illicit/counterfeit tobacco from shops where information had been received they were selling such products. On this day I attended **Krakow Mini Market, 35 Town Street, Armley, Leeds, LS12 1UX** and was able to purchase a 50g pouch of Amber Leaf Tobacco for £13.00. The tobacco did not have a 'UK Duty Paid Mark' and did not comply with Standardised Packaging Regulations, it was illegal tobacco. When I asked for the item it was brought from the rear of the store to the sales counter.

**NOTE** If statements are typed double spacing should be used  
One side only of this paper should be used

(Signed) 

Dated

13/11/17


Page 1 of 2

010911

**WITNESS STATEMENT**

**Criminal Procedure Rules, r 27.2  
Criminal Justice Act 1967, S. 9  
Magistrates Courts Act 1980, 5B**

On Thursday 28<sup>th</sup> September 2017 I again attended at **Krakow Mini Market, 35 Town Street, Armley, Leeds, LS12 1UX** to carry out an inspection. I approached the store from the rear and saw the rear door was open and staff from the store were stood outside by the waste bins. I conducted a search of the waste bins and in the bin next to the rear door of the shop I recovered a carrier bag of illegal tobacco. The bag contained 44 packets of 20 cigarettes which did not have the 'UK Duty Paid Mark' and did not comply with Standardised Packaging Regulations.




**NOTE** *If statements are typed double spacing should be used  
One side only of this paper should be used*

**B4 0 9a**

**(Signed)**

**Dated**



13/11/17

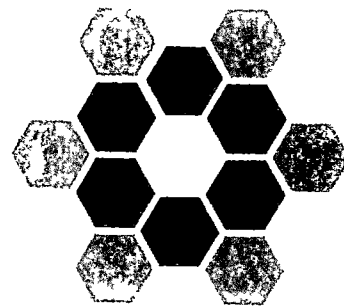
**Page 2 of 2**

**010911**



# West Yorkshire Trading Standards

Nepshaw Lane South, Morley, Leeds, LS27 7JQ  
t 0113 253 0241  
www.wyjs.org.uk/tradingstandards



This matter is being dealt with by Babul Hussain

Email Babul.Hussain@wyjs.org.uk

Tel 0113 393 9816

## Consumer Rights Act 2015 - Entry Notice

To *SATAC MC HAMMO*

Date 30<sup>th</sup> March 2017

Address **Krakow Mini Market**  
35 Town Street Armley Leeds LS12 3AB

This notice is given in compliance with

Paragraph 23(6) of Schedule 5 to the Consumer Rights Act 2015 which requires written notice to the occupier (if present) when entering commercial premises

### Purpose of entry Inspection of products, equipment and documentation

Details of why entry is necessary to carry out an inspection to check compliance with consumer legislation the officer (stated below) is authorised to enforce as detailed in schedule 5 of the Consumer Rights Act 2015 or to ascertain compliance with an undertaking or to ascertain whether goods are liable to be forfeit

**Obstruction offence** Obstructing a duly authorised officer is an offence. Obstruction includes where a person intentionally obstructs an officer, intentionally fails to comply with instructions given by an officer, without good reason fails to give an officer assistance or information reasonably required, makes a statement or a reckless statement which they know is false or misleading

Signed   
(Authorised officer)

Print Name **BABUL HUSSAIN**

**Trading Standards Enforcement Officer**



Certificate Number 125  
ISO 9001



West Yorkshire  
Trading  
Standards Service

W Y T S J 1 0 1

West Yorkshire Trading Standards Service  
PO Box 5 Nephshaw Lane South Morley Leeds LS27 0QP  
Tel Leeds (0113) 253 0241 Fax Leeds (0113) 253 0311  
info@wys.org.uk  
www.ts.wys.org.uk  
Chief Officer Graham Hebblethwaite

0817

## FORFEITURE

NAME

DATE

ADDRESS

DATE OF BIRTH

The following items have been forfeited under the provision of The Trade Marks Act 1994 / or

1. X B. 1911 11/10/11 11/10/11  
2. 203 11/10/11 11/10/11  
3. 11/10/11 11/10/11  
4. 11/10/11 11/10/11

Signed  
(Authorised Officer)

I hereby declare that I give up my rights to the property listed above and agree to the West Yorkshire Trading Standards Service taking possession of the said property and disposing of it as they think fit

Signed

West Yorkshire Trading Standards Service are part  
of the Metropolitan Districts of Bradford Calderdale  
Kirklees Leeds and Wakefield





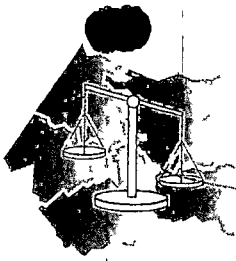












# West Yorkshire Trading Standards Service

PO Box 5 Nephshaw Lane South Morley Leeds LS27 0QP  
**Telephone** Leeds 0113 253 0241  
**Fax** 0113 253 0311  
**Email** info@wyjs.org.uk  
G Hebblethwaite MTSI Chief Officer

## NOTICE OF POWERS AND RIGHTS

**ISSUED IN ACCORDANCE WITH PARAGRAPH 5.7 OF CODE B UNDER THE  
POLICE AND CRIMINAL EVIDENCE ACT 1984**

Premise Krakow Mini Market  
Address 35 TOWN STREET  
ARMLEY LS12 3AB  
Name of Person Receiving Notice JAFAAR MOHAMMED

### INSPECTION USING STATUTORY POWERS

Under the Acts of Parliament listed below, an authorised Officer may, at all reasonable times and on production of his/her credentials if requested, enter any business premises and inspect any goods, and, if so authorised, inspect any weighing and measuring equipment

This inspection visit is being carried out using statutory powers contained within the Acts indicated below  
The Powers may vary between each Act

- |  |  |
|--|--|
| <input type="checkbox"/> Agriculture Act 1970                    | <input type="checkbox"/> Prices Act 1974                 |
| <input type="checkbox"/> Consumer Credit Act 1974                | <input type="checkbox"/> Trade Descriptions Act 1968     |
| <input checked="" type="checkbox"/> Consumer Protection Act 1987 | <input checked="" type="checkbox"/> Trade Marks Act 1994 |
| <input type="checkbox"/> Fair Trading Act 1973                   | <input type="checkbox"/> Video Recordings Act 1984       |
| <input type="checkbox"/> Food Safety Act 1990                    | <input type="checkbox"/> Weights and Measures Act 1985   |
| <input type="checkbox"/> Hallmarking Act 1973                    | <input type="checkbox"/>                                 |

The Officer is also authorised under the other statutes listed on his/her warrant card

If during the inspection the Officer has reason to suspect that an offence may have been committed, then (s)he may wish to exercise additional statutory powers. Some of these additional powers have been summarised, as far as practicable, on the reverse of this Notice, together with a summary of your rights

OFFICER IN CHARGE OF INSPECTION

OTHER OFFICERS OR PERSONS PRESENT

DATE 30/3/17 TIME 12.15 am/pm

### CONSENT TO USE EQUIPMENT

With your permission, I wish to make use of equipment held on the premises, namely a till, scanner or other similar equipment, for the purpose of checking prices. You are not obliged to give consent and you must understand that any information produced may be used in evidence in any court proceedings

I HEREBY CONSENT TO THE OFFICERS NAMED ABOVE USING EQUIPMENT HELD ON THESE PREMISES. I HAVE READ AND UNDERSTOOD THE WARNING ABOVE

SIGNATURE

NAME (CAPITALS)

STATUS RELATIVE TO PREMISES

Page 29

AGE

104126

06-

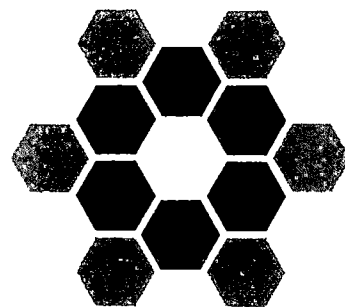
[illegible]

**Should you have any queries in relation to the above please contact the Investigating Officer on 0113 253 0241 or write to PO Box 5, Nepshaw Lane South, Morley, Leeds, LS27 0QP • e-mail [info@wyjs.org.uk](mailto:info@wyjs.org.uk) • Fax 0113 253 0311**



# West Yorkshire Trading Standards

epshaw Lane South, Morley, Leeds, LS27 7JQ  
Email [dutyofficer@wyjs.org.uk](mailto:dutyofficer@wyjs.org.uk)  
Website [www.wyjs.org.uk/tradingstandards](http://www.wyjs.org.uk/tradingstandards)



## Notice of Powers and Rights

Issued in accordance with paragraph 6 7 of Code B under the Police and Criminal Evidence Act 1984

Premises/Limited Company Name **KRAKOW**  
Address **37 TOWN STREET, ARMLEY, LEEDS, LS12 1UX**  
Name of Person Receiving the Notice **ROSTAMPOOR HASSAN**  
Officer in Charge **B HUSSAIN**  
Date of Search **28/09/2017** Time Commenced **15:00** Time Concluded

**Purpose of Search** Consent / Exercise of Powers/ Warrant

### Legislation

- |  |   |
|--|---|
| <input type="checkbox"/> Agriculture Act 1970                | <input checked="" type="checkbox"/> Trade Marks Act 1994                          |
| <input type="checkbox"/> Consumer Credit Act 1974            | <input type="checkbox"/> Video Recordings Act 1984                                |
| <input checked="" type="checkbox"/> Consumer Protection 1987 | <input type="checkbox"/> Weights and Measures Act 1985                            |
| <input type="checkbox"/> Fair Trading Act 1973               | <input checked="" type="checkbox"/> Consumer Rights Act 2015                      |
| <input type="checkbox"/> Food Safety Act 1990                | <input type="checkbox"/> Consumer Protection from Unfair Trading Regulations 2008 |
| <input type="checkbox"/> Hallmarking Act 1973                | <input type="checkbox"/> Other  |
| <input type="checkbox"/> Prices Act 1974                     |   |

### Consumer Rights Act 2015

Entry is necessary to carry out an inspection to check compliance with consumer legislation the officer stated is authorised to enforce as detailed in schedule 5 of the Consumer Rights Act 2015 or to ascertain compliance with an undertaking or to ascertain whether goods are liable to be forfeited

### Search by Consent – Searches not included in statutory powers

Areas Officers are consented to search

I confirm that I am consenting to the search for the purpose of

I am aware that I am not obliged to consent, that I can withdraw my consent at any time Anything that Officers discover can be seized in evidence

Name of person

Designation

Signature

Time

Reason consent withdrawn

Time

### Consent to Use Equipment

I consent to the above named Officer making use of equipment held on the premises, namely a till, scanner or other similar equipment, for the purpose of checking prices I am aware that I am not obliged to give consent and understand that any information produced may be used in evidence in court proceedings

Name of person

Designation

Signature

Time

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# 11. Reviews

## The review process

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

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
  - representations considered by the licensing authority when the premises licence or certificate was granted; or
  - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

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

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.



## Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered.

## **Review of a premises licence following closure order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

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