



LICENSING SUB-COMMITTEE

MEETING TO BE HELD IN CIVIC HALL, LEEDS ON

MONDAY, 29TH APRIL, 2013 AT 10.00 AM

MEMBERSHIP

Councillors

N Buckley - Alwoodley;

J Dunn - Ardsley and Robin Hood;

G Hussain - Roundhay;

**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 | | | <p><u>PRELIMINARY PROCEDURES</u></p> <p>ELECTION OF THE CHAIR</p> | |
| 2 | | | <p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>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)</p> <p>(*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)</p> | |

| 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 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 13-16 of the Members' Code of Conduct.</p> <p><u>HEARINGS</u></p> | |
| 6 | Middleton Park | 10.4(7) (Append C and D refers) | <p>REVIEW OF THE PREMISES LICENCE FOR SHOKAR MINI MARKET, 277 MIDDLETON ROAD, BELLE ISLE, LEEDS, LS10 3JB</p> <p>To consider a report of the Head of Licensing and Registration on an application for the review of a Premises Licence for Shokar Mini Market, 277 Middleton Road, Belle Isle, Leeds, LS10 3JB.</p> <p>(Report attached)</p> | 1 - 32 |



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| Report Author: Mr Matthew Nelson |
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| Tel: 0113 247 4095 |
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Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 29th April 2013

Subject: Review of the Premises Licence for Shokar Mini Market, 277 Middleton Road, Belle Isle, Leeds, LS10 3JB

| | | |
|--|---|--|
| Are specific electoral Wards affected? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If relevant, name(s) of Ward(s): Middleton Park | | |
| 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) | | |
| Appendices C and D are considered exempt under the provision 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 Shokar Mini Market, 277 Middleton Road, Belle Isle, Leeds, LS10 3JB. 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.
- 1.2 It should be noted that certain information submitted within the application and additional information is potentially exempt information under access to information Rule 10.4 (7), as it includes information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime. Such information is attached at Appendix C and Appendix D respectively.

2.0 Background Information

- 2.1 The licence from which these premises benefit was granted by way of an application to convert the existing Justices' Off Licence, effective from 24th November 2005.

Since the initial grant on the above date, there have been no subsequent applications to vary the Designated Premises Supervisor or transfer the premises licence. The licence has therefore always remained in the hands of the current licence holder.

It should also be noted that there has not been any enforcement action taken on behalf of the Entertainment Licensing's Local Liaison and Enforcement Team.

3.0 Premises Licence

- 3.1 The premises licence is jointly held by Mr Sukhjit Singh Shokar & Mrs Komal Shokar.

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

Sale by Retail of Alcohol (for consumption off the premises)

08:00 until 23:00 hours Monday to Saturday

10:00 until 22:30 hours Sunday

Non Standard Timings:

As per the Embedded Restrictions attached to the premises licence in respect of Christmas Day.

4.0 Designated Premises Supervisor

- 4.1 The Designated Premises Supervisor is Mr Sukhjit Singh Shokar.

5.0 Location

- 5.1 A map which identifies the location of these premises is attached at **Appendix B**.

6.0 Main Issues

- 6.1 This application is sought by West Yorkshire Police on the grounds of the prevention of crime and disorder, public safety and the prevention of public nuisance.

In summary, these premises and the premises licence holder have been the subject of an investigation by West Yorkshire Police over a sustained period of time.

Since January 2012, corroborated information has been received by the above authority in relation to issues surrounding controlled substances linked to the premises, the premises licence holders and other properties owned by those persons.

Member's attention is drawn towards a copy of the review application at **Appendix C** of this report. The application contains more in-depth information on the grounds for review.

7.0 Additional Information

West Yorkshire Police

7.1 In accompaniment of the application, West Yorkshire Police have submitted supplementary information. This includes witness statements of police officers and a chronology of incidents/offences, attributable to these premises from January 2012 onwards.

A copy of this documentation can be found at **Appendix D**.

8.0 Relevant Representations/Letters of Support

8.1 The Licensing Authority in this instance is not in receipt of any representations supporting the application, or correspondence on behalf of the licence holder.

9.0 Matters Relevant to the Application

9.1 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.

9.2 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.

10.0 Implications for Council Policy and Government

10.1 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.

11.0 Legal and Resource Implications

11.1 There are no resource implications in determining the review.

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

12.0 Recommendations

12.1 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);
- to remove the Designated Premises Supervisor;

- to suspend the licence for a period not exceeding 3 months; and/or
- to revoke the licence.

- 12.2 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.
- 12.3 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.
- 12.4 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.
- 12.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 12.6 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.

13.0 Background Papers

- 13.1 Guidance issued under s182 Licensing Act 2003
- 13.2 Leeds City Council Statement of Licensing Policy

Appendices

| | |
|------------|--------------------------|
| Appendix A | Premises Licence |
| Appendix B | Location of the Premises |
| Appendix C | Review Application |
| Appendix D | WYP Additional Info |
| Appendix E | Section 182 Guidance |



**Schedule 12
Part A**

**Premises Licence
Leeds City Council**

Licence Issued By:

On: 24th November 2005

N
25 Jackson.
Nicole Jackson
Director of Legal and Democratic Services

Premises Licence Number

PREM/00855

Part 1 – Premises Details

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

Shokar Mini Market
277 Middleton Road
Belle Isle
Leeds
LS10 3JB

Telephone number 0113 270 1312

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities

Sale by Retail of Alcohol
Monday to Saturday 08:00 - 23:00
Sunday 10:00 - 22:30

The opening hours of the premises

| | |
|-----------|---------------|
| Monday | 08:00 - 23:00 |
| Tuesday | 08:00 - 23:00 |
| Wednesday | 08:00 - 23:00 |
| Thursday | 08:00 - 23:00 |
| Friday | 08:00 - 23:00 |
| Saturday | 08:00 - 23:00 |
| Sunday | 10:00 - 22:30 |

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

Alcohol is supplied for consumption off the Premise

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Sukhjot Singh Shokar
Shokar Mini Market
277 Middleton Road
Belle Isle
Leeds
LS10 3JB

Mrs Komal Shokar
Shokar Mini Market
277 Middleton Road
Belle Isle
Leeds
LS10 3JB

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

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Sukhjot Singh Shokar
Shokar Mini Market
277 Middleton Road
Belle Isle
Leeds
LS10 3JB

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

Personal Licence Number: LEEDS/PERL/01924/05

Licensing Authority: Leeds City Council

Annex 1 – Mandatory conditions

No supply of alcohol may be made under this licence

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

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

Alcohol shall not be sold or supplied except during permitted hours.

In this condition, permitted hours means:

- a. On weekdays, other than Christmas Day, 8 a.m. to 11 p.m.
- b. On Sundays, other than Christmas Day, 10 a.m. to 10.30 p.m.
- c. On Christmas Day, 12 noon to 3 p.m. and 7 p.m. to 10.30 p.m.

The above restrictions do not prohibit:

- a) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
- b) the sale of alcohol to a trader or club for the purposes of the trade or club;

Alcohol shall not be sold in an open container or be consumed in, the licensed premises.

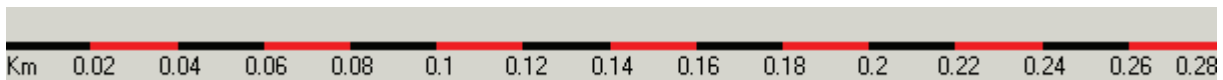
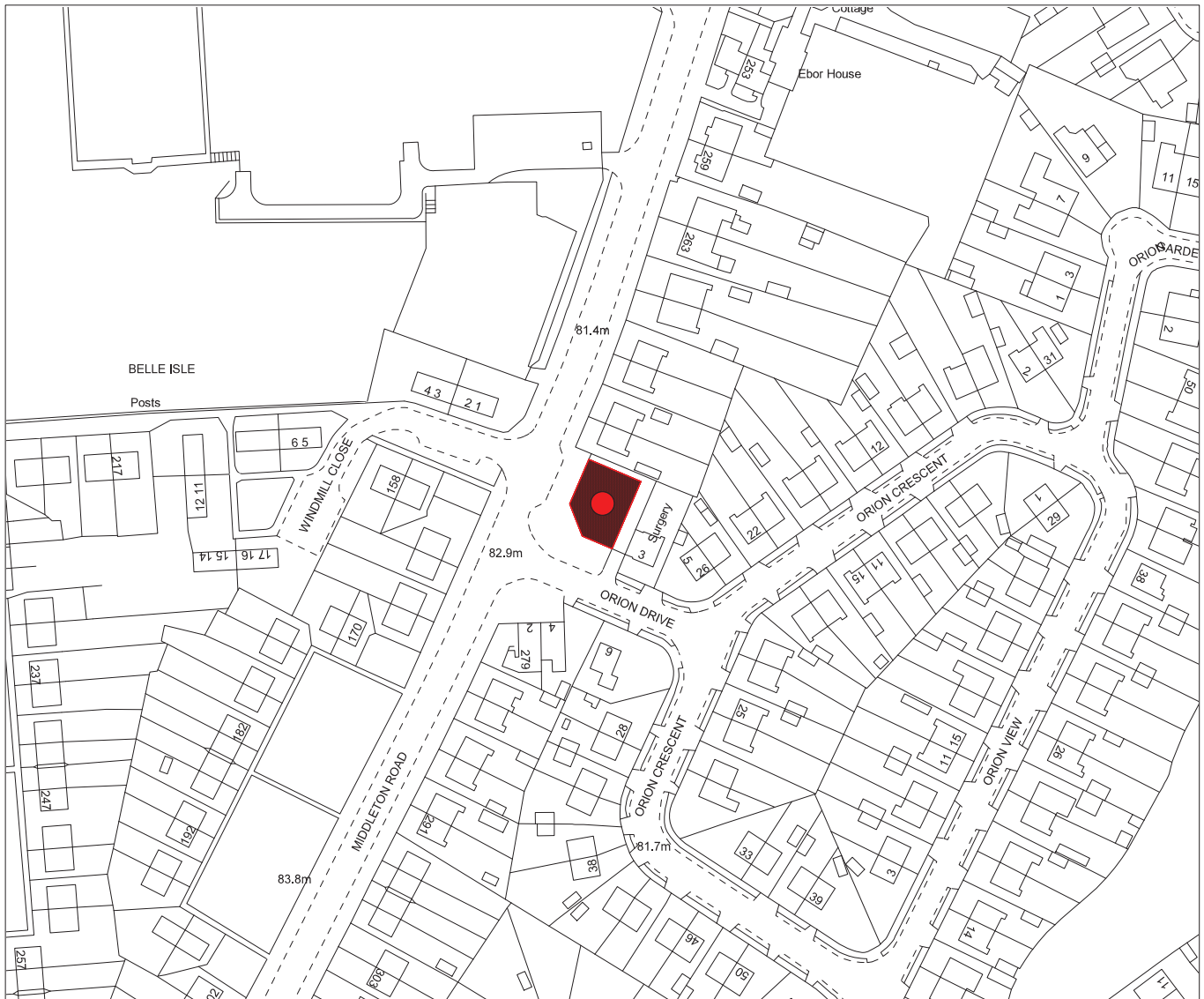
Annex 2 – Conditions consistent with the Operating Schedule

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



PREM/00855/002

Shokar Mini Market, 277 Middleton Road, LS10 3JB



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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11. Reviews

THE REVIEW PROCESS

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

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

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

REPETITIOUS REPRESENTATIONS

- 11.12 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
 - representations considered by the licensing authority when the premises licence was first granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;
- and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.
- 11.15 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

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

11.17 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

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

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

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

11.20 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.21 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.22 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

REVIEWS ARISING IN CONNECTION WITH CRIME

11.23 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority

to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the

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

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

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being

undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

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

REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review. The determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than 5 working days before the first hearing day. There must be five clear working days between the giving of the notice and the start of the hearing.

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