



LICENSING SUB-COMMITTEE

**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON
MONDAY, 10TH MARCH, 2014 AT 10.00 AM**

MEMBERSHIP

Councillors

B Gettings - Morley North;
A Khan - Burmantofts and Richmond
Hill;
G Wilkinson - Wetherby;

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

**John Grieve
224 3836**

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 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>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	Cross Gates and Whinmoor	10.4(7)	<p>REVIEW OF THE PREMISES LICENCE FOR CHURCH LANE OFF LICENCE - 78 CHURCH LANE MANSTON LS15</p> <p>To consider a report of the Head of Licensing and Registration in respect 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 Church Lane Off Licence 78 Church Lane Manston LS15 8JE</p> <p>Appendix D is considered to contain exempt information under Access to Procedure Rule 10.4 (7) and Paragraph 14 of the Licensing Act 2003 (Hearings Regulations 2005)</p> <p>(report attached)</p>	1 - 92



Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 10th March 2014

Subject: Review of the Premises Licence for Church Lane Off Licence, 78 Church Lane, Manston, Leeds, LS15 8JE

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s): Crossgates & Whinmoor		
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, Access to Information Procedure Rule number: 10.4(7)		
Appendix D is 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, Church Lane Off Licence, 78 Church Lane, Manston, Leeds, LS15 8JE. 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 Police (**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 An application to convert the existing Justices’ Off Licence in to a premises licence was made by the current licence holder, Mr Parvinder Singh Kang, on the 6th August 2005.

2.2 The application did not attract representation from any parties and the licence was duly granted as requested with effect from 24th November 2005.

3.0 Premises Licence

3.1 The premises licence holder is Mr Parvinder Singh Kang.

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

Supply of Alcohol (for consumption off the premises only)
08:00 until 23:00 hours Monday to Saturday
10:00 until 22:30 hours Sunday

Non Standard Timings

No non standard timings for Bank Holidays or special occasions are stipulated on the licence.

4.0 Designated Premises Supervisor

4.1 The Designated Premises Supervisor for the premises is Mr Parvinder Singh Kang.

5.0 Location

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

6.0 Main Issues

6.1 The grounds for this review centre principally on the suspicion that these premises are supplying alcohol to children, or to adults for the consumption of children waiting outside the store.

6.2 Consequently the actions of the store have had a damaging impact on the local community.

6.3 The premises have failed to engage in any action plan process, along with failing to respond to three letters from West Yorkshire Police inviting them to meetings and notifying them of the impending review.

6.4 In addition to the review application, West Yorkshire Police have provided supplementary evidence which is attached at **Appendix D** for Members consideration. This includes a chronology of events leading up to the review, witness statements of police officers/local residents, and letters which have been sent to the licence holder regarding the above issues.

6.5 It should be noted that the contents of this appendix are potentially exempt information under Access to Information Procedure Rule 10.4(7) as these include information relating to any particular person and it may contain information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

7.0 Relevant Representations/Letters of Support

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

7.2 A representation opposing the manner in which the business is run has been received on behalf of a local resident. The author expresses concerns over the negative impact the premises is having in the local area, along with accounts of several incidents which have happened in the vicinity. Member's attention is drawn to **Appendix E** of this report.

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

9.0 Implications for Council Policy and Government

9.1 It is the stated licensing policy of the Council that when considering a review the authority will take into account all relevant circumstances, but will view the matters listed in paragraph 13.15 of the policy with particular seriousness.

10.0 Legal and Resource Implications

10.1 There are no resource implications in determining the review.

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

11.0 Recommendations

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

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

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

11.3 Members should note the guidance also suggests it is open to Members to issue an informal warning to the licence holder or to recommend improvement within a particular time. However the Guidance further provides that where responsible

authorities have already issued such warnings, the issuing of another warning should not be repeated.

- 11.4 Where the Committee decide that a modification of conditions or exclusion of licensable activities may be imposed, this can either be permanently or for a temporary period of up to three months.
- 11.5 Members are directed to paragraphs 11.25 to 11.31 of the Statutory Guidance which related to reviews arising in connection with crime.
- 11.6 Members of the Licensing Committee are asked to note that they may not take any of the steps outlined above merely because they consider it desirable to do so. It must be appropriate for the promotion of the licensing objectives.

12.0 Background Papers

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

Appendices

- Appendix A Review Application
- Appendix B Premises Licence
- Appendix C Location of Premises
- Appendix D Supplementary Information
- Appendix E Public Representation
- Appendix F Extract from the S182 Guidance



REV1

Entertainment Licensing, Leeds City Council, Civic Hall, Leeds, LS1 1UR

**Application for a 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 your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I PC 5783 Dobson – North East Leeds Licensing Officer for West Yorkshire Police apply for the review of a premises licence under section 51

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description	
78 Church Lane	
Leeds	LS15 8JE

Name of premises licence holder or club holding club premises certificate (if known)
Mr Parvinder Singh Kang

Number of premises licence or club premises certificate (if known)
PREM/01590

Part 2 – Applicant details

- I am
- Please tick ✓ yes
- 1 An individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)
 - 2 A responsible authority (please complete (C) below)
 - 3 A member of the club to which this application relates (please complete (A) below)

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

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

Please tick Yes

I am 18 years old or over

Current postal address
if different from
premises address

Post Town

Postcode

Daytime contact telephone number

Email address (optional)

(B) DETAILS OF OTHER APPLICANT

Name

Address

Telephone number (if any)

E-mail (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name West Yorkshire Police
Address Millgarth Police Station Millgarth Street Leeds LS2 7HX
Telephone number (if any) 0113 2414111
E-mail (optional) lynn.dobson@westyorkshire.pnn.police.uk

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

Please tick one or more boxes ✓

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

Please state the ground(s) for review (please read guidance note 2)

78 Church Lane have been considered a problem premises for a number of years and have been strongly suspected of selling alcohol to children or to adults for the consumption of children waiting outside the store.

Consequently, the actions of the store have had an impact on the community and residents report drunken, abusive and intimidating youths in the vicinity of their homes. The youths instinctively congregate in time for opening at approximately 1900hrs. The residents then observe whilst their behaviour deteriorates, fuelled by alcohol and impacts on their lives. Some residents have explained how they dread the summer months and the warmer lighter nights because of the youths congregating near to the store, waiting for their purchases. They describe how it is common knowledge in the area that alcohol can be obtained by under eighteens 'no questions asked'.

Contained within the package of evidence are statements from residents who feel strongly enough to now provide written accounts of what they have had to endure. The store have failed to engage in the action planning process and have failed to respond to three letters from West Yorkshire Police inviting to them to meetings and notifying them of the impending review application.

Telephone contact has been made with the PLH, but only after some difficulties. The PLH disputes what the residents have reported, claiming that all the necessary measures are in place to prevent underage sales or alcohol.

Please provide as much information as possible to support the application (please read guidance note 3)

Have you made an application for review relating to this premises before? Please tick ✓ yes

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

No

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 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

Date

Capacity

Contact Name (where not previously given) and address for correspondence associated with this application (please read guidance note 6)	
Post town	Post code
Telephone number (if any)	
If you would prefer us to correspond with you by e-mail your e-mail address (optional)	

Notes for guidance

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



**Schedule 12
Part A**

**Premises Licence
Leeds City Council**

Licence Issued By:	On: 2nd September 2005
<p>N 25 Jackson. <i>[Signature]</i> Nicole Jackson Director of Legal and Democratic Services</p>	

Premises Licence Number	PREM/01590
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Part 1 – Premises Details

Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code	
Church Lane Off Licence 78 Church Lane Manston Leeds LS15 8JE	
Telephone number	N/A

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	
Sunday	10:00 - 22:30
Monday to Saturday	08:00 - 23:00

The opening hours of the premises

Sunday	10:00 - 22:30
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

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 Parvinder Singh Kang
78 Church Lane
Manston
Leeds
LS15 8JE

**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 Parvinder Singh Kang
78 Church Lane
Manston
Leeds
LS15 8JE

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: PERL/01366/05 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

Not applicable

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

Not applicable



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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The Entertainment Licensing Section

Leeds City Council

Civic Hall

Leeds

LS1 1UR

30th January 2014

Dear Sir or Madam

Re. Review of Premises Licence: Church Lane Off-licence, 78 Church Lane, Leeds LS15 8JE

I have lived [REDACTED] from this shop since July 1993. The street in which I live is a mixed community of families, older people, couples and single people and is a great place to live except for one thing: the off-licence. I am not objecting to the existence of the shop itself but to the way in which the business has been run and the resulting negative impact on the surrounding community. Unfortunately this has gone on throughout the time I have lived in [REDACTED]. Examples of problems are:

- Groups of young people regularly gathering outside the shop from about 6.45p.m waiting for the shop to open. This particularly happens on Friday and Saturday evenings during the spring and summer. It is a relief when it is winter or it is raining as the “gatherings” do not tend to happen then. These groups can be quite large, up to 10 in number. I would say that there are always young people under 18 in these groups (see point 3 below). Frequently last summer these groups were very loud, often swearing or shrieking at one another. On several occasions there was at least one staffie-type dog as well. On several occasions I saw people climbing on the wall between the shop’s yard and my neighbour’s. The groups often mill across the top of our street, meaning that you have to walk through them or wait for them to move so you can drive your car down the street. This can be intimidating.
- Damage to property/fear of damage to property – on several occasions I have seen young people waiting outside the shop wander down our street and look through car windows, including my own. On other occasions my neighbours and I have caught people from these “shop groups” urinating in the house yards opposite. We feel unable to leave cars parked at the top of the street near the shop for fear of damage. The shop has been a target for graffiti on several occasions – the current graffiti has been on the wall for several years, the owner having made no attempt to remove it.

- Litter – I frequently find beer bottles scattered across the grass and under hedges in areas around the shop, particularly along the path leading towards Sandbed Lane. Often these bottles are broken with jagged pieces scattered around, posing a potential risk to children going to St. James' Primary Academy and pet dogs and cats.
- Children under 18 buying/consuming alcohol from the shop. I have seen young people who I would put as under 18 going into the shop and coming out with alcohol. I have seen others waiting outside the shop and then walking away with someone who has bought alcohol from the shop.
- Inconsiderate parking by customers – on numerous occasions throughout the years I have driven home to find my street blocked by someone who has parked across it to go into the shop. I had a very unpleasant experience last year when I asked one such person very politely to move his car so that people could get down the street. I then walked back to my house and heard him shout to his friend "She's not even f*****g going out". I found his behaviour and manner very aggressive. I saw the same car and man on several occasions afterwards and felt very wary of going out of my own house.

Reading this back, I am not sure that I have adequately conveyed the negative impact that this business has on our street. It has quite accurately been described to me as a "blight" by people visiting me. The problems detailed above have gone on all the time I have lived here and are a constant source of concern.

My neighbours and I have reported problems many times to the Police, our local councillors and Leeds City Council but up until now with seemingly little effect. Finally in P.C. Dobson we seem to have a person who understands the damaging, corrosive impact of the low-level but constant problems emanating from this business. I wholeheartedly support her in her efforts to have this business' licence removed.

I would be grateful if you could send me details of the hearing for this review as I would like to attend in person.

Yours faithfully,



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 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 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. 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 13 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 written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 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). 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 promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 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.
- 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);
 - 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.
- 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. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 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, 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. 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 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 Class A drugs and the laundering of the proceeds of drugs crime;
 - for the sale and distribution of illegal firearms;
 - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
 - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;
 - for the organisation of racist activity or the promotion of racist attacks;
 - for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
 - for unlawful gambling; and
 - for the sale of smuggled tobacco and alcohol.
- 11.28 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.

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