

## Report of the Assistant Director Corporate Services to a Hearing before the Bradford Area Licensing Panel to be held on 25 August 2009.

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### Subject:

Application for a Review of a Premises Licence for Che Bar, Belfry House, 17 Chester Street, Bradford.

### Summary statement:

Application for review of a Premises Licence authorising the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment.

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Suzan Hemingway  
Assistant Director Corporate Services  
(City Solicitor)

Report Contact: Melanie McGurk  
Senior Licensing Officer  
Phone: (01274) 431873  
E-mail: [melanie.mcgurk@bradford.gov.uk](mailto:melanie.mcgurk@bradford.gov.uk)

### Portfolio:

**Corporate**

### Improvement Committee Area:

**Corporate Improvement Committee  
Safer and Stronger Communities**



2006-2007  
Improving Rural Services  
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



**1. Summary**

**1.1 Premises Licence Holder**

Town Centre Bars Ltd.

**1.2 Designated Premises Supervisor**

Anita Ingrid Gaitskell

**1.3 The Premises**

Che Bar, Belfry House, 17 Chester Street, Bradford.

**1.4 The Current Licence**

The premises have a Premises Licence allowing the sale by retail of alcohol for consumption on and off the premises, the provision of regulated entertainment and the provision of late night refreshment (23.00 to 05.00).

Hours of licensable activities:

Monday to Sunday: 11.00 to 06.00

New Years Eve: 10.00 hours until the start of permitted hours the following day

Non Standard Timings:

An additional hour is permitted on the day British Summertime commences.

**1.5 Steps agreed in the Operating Schedule by the Licensee to address the Licensing Objectives**

**a) Prevention of crime and disorder**

All existing external lighting shall be maintained in good working order and used, where appropriate, at all times the premises remain open to the public.

The Licensee and staff shall ensure that intoxicated persons shall not be allowed on to the premises.

The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.

Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.

A minimum of two SIA registered door staff shall be employed at the premises from 22.00 hours until close of business on Thursdays, Fridays and Saturdays when the premises are open for licensable activities.

In the event that the premises trade between 03.00 am and 06.00 am in the mornings following Thursdays, Fridays, Saturdays or statutory bank holidays, a

minimum of three SIA registered door staff shall be employed during those hours when the premises are open for licensable activities.

West Yorkshire Police shall be notified seven days in advance of dates when it is intended to operate the premises for licensable activities after 03.00 hours.

b) Public Safety

Free drinking water shall be available at all times on request from patrons.

c) Prevention of public nuisance

Patrons shall not be permitted to leave the premises with bottles or glasses.

d) Protection of children from harm

Children under 18 years of age shall not be allowed access into the premises and the Licensee shall enforce a recognised and effective proof of age policy in order to facilitate this.

e) General – all four licensing objectives

The Licensee shall ensure that any staff are trained in ensuring compliance with the licensing objectives at all times.

**1.6 Conditions Attached after Hearing**

Not applicable

A copy of the Licence is included at Appendix 1.

**2. Applications Received asking for a Review of the Licence**

**2.1 Responsible Authorities**

West Yorkshire Fire Service have submitted an application for review due to concerns that the premises evacuation policy was not followed, after a decorative flag caught fire. Although the fire alarm was activated, the Designated Premises Supervisor did not order the premises to be evacuated or call the fire brigade.

A copy of the application for review is attached at Appendix 2.

**3. Legal Appraisal**

**3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:**

- a) the prevention of crime and disorder
- b) public safety
- c) the prevention of public nuisance
- d) the protection of children from harm

- 3.2 The Council must also have regard to the Guidance issued by the Department of Culture Media and Sport under Section 182 of the Licensing Act 2003. Regard must also be taken of the Council's statement of Licensing Policy for the District. Paragraph 5.99 to 5.111 of the Guidance specifically details how applications for review of licences should be determined.

An extract of the Guidance is attached to this report at Appendix 3.

- 3.3 Where it is decided it is necessary to depart from the statutory guidance or the Licensing Policy on the merits of a particular case; then special reasons justifying this must be given that can be sustained.
- 3.4 Only "relevant representations" by or expressly on behalf of a defined "interested party" or "responsible authority" can be taken into account. In order to be "relevant" a representation must fairly relate to achieving a licensing objective. If it does not, it must be discounted.
- 3.5 Any licensing conditions that Members may propose attaching must also relate to achieving one of the licensing objectives; be tailored to the actual premises and style of licensable activity; must be reasonably achievable by the applicant and in his/her control.

#### **4. Statement of Policy Issues**

- 4.1 The following parts of the Licensing Policy are of particular importance; Part 5 (Public Safety).
- 4.2 The Annexes to the Policy sets out various types of model condition that could be considered.

#### **5. Legal Options**

- 5.1 Members may:
- (a) Refuse the application for review of the licence; or
  - (b) Decide not to impose any further restrictions on the licence; or
  - (c) Decide to impose additional restrictions or remove any licensable activities on the licence, where necessary in order to address the licensing objectives; or
  - (d) Suspend the licence for a period not exceeding 3 months; or
  - (e) Revoke the premises licence; or
  - (f) Remove the named Designated Premises Supervisor from the Licence.
- 5.2 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members they may appeal to the Magistrates Court within 21 days of being notified of the decision.

**6. Financial and resource appraisal**

6.1 There are no apparent finance or resource implications.

**7. Other implications**

**7.1 Equal Rights**

There are no apparent equal rights implications.

**7.2 Community safety implications**

There are no apparent community safety implications.

**7.3 Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state's right to control the use of property in accordance with the general interest.

The Council's powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant's rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels' usual procedure of affording a hearing to the applicant is very important. The applicant should also be able to examine the requirements of the fire authority. If the decision is to refuse then reasons should be given.

**8. Not for publication documents**

8.1 None

**9. The Role of the Panel**

9.1 Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application for review of the premises licence.

**10. Appendices**

1. Premises Licence.
2. Application for Review.
3. Extract from the Government Guidance.

**12. Background documents**

Licence, representations etc

## Licensing Act 2003 Premises Licence

BD/PRA0243

### Part 1 - Premises Details

#### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

##### Che Bar

Belfry House, 17 Chester Street, Bradford, West Yorkshire, BD5 0AR.

Telephone 01274 726714

#### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

#### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- entertainment of a similar description to that falling within entertainment facilities for making music or dancing
- provision of late night refreshment
- the sale by retail of alcohol

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
B. Exhibition of films (Indoors)	Monday to Sunday New Years Eve 10.00 hours until the start of permitted hours the following day. Non Standard Timings: An additional hour is permitted on the day British Summertime commences.	11:00am	6:00am
E. Performance of live music (Indoors)	Monday to Sunday New Years Eve 10.00 hours until the start of permitted hours the following day. Non Standard Timings: An additional hour is permitted on the day British Summertime commences.	11:00am	6:00am
F. Playing of recorded music (Indoors)	Monday to Sunday New Years Eve 10.00 hours until the start of permitted hours the following day. Non Standard Timings: An additional hour is permitted on the day British Summertime commences.	11:00am	6:00am
G. Performance of dance (Indoors)	Monday to Sunday New Years Eve 10.00 hours until the start of permitted hours the following day. Non Standard Timings: An additional hour is permitted on the day British Summertime commences.	11:00am	6:00am

Original Issue Date: 29/08/2005

(Annual Fee Date under Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

Page 1 of 7

## Licensing Act 2003 Premises Licence

BD/PRA0243

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
G. Performance of dance (Indoors) continued ...	An additional hour is permitted on the day British Summertime commences.		
I. Provision of facilities for making music (Indoors)	Monday to Sunday	11:00am	6:00am
	New Years Eve	10.00 hours until the start of permitted hours the following day.	
	Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	
J. Provision of facilities for dancing (Indoors)	Monday to Sunday	11:00am	6:00am
	New Years Eve	10.00 hours until the start of permitted hours the following day.	
	Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	
K. Provision of facilities for entertainment of a similar description to that falling within I or J (Indoors)	Monday to Sunday	11:00am	6:00am
	New Years Eve	10.00 hours until the start of permitted hours the following day.	
	Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	
L. Late night refreshment (Indoors)	Monday to Sunday	11:00pm	5:00am
	Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday	11:00am	6:00am
	New Years Eve	10.00 hours until the start of permitted hours the following day.	
	Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	

### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday	11:00am	6:00am
New Years Eve	10.00 hours until the start of permitted hours the following day.	
Non Standard Timings:	An additional hour is permitted on the day British Summertime commences.	

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

## Part 2

## Licensing Act 2003 Premises Licence

**BD/PRA0243**

### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Town Centre Bars Ltd

Brook House, Barnsley Rd, Dodworth, Barnsley, West Yorkshire, S75 3JT.  
Telephone 01226 211000

### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Anita Ingrid GAITSKELL

9 Ester Grove, Wakefield, West Yorkshire, WF2 8EX.

### PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. PA0803

Issued by Wakefield

### ANNEXES

#### Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises 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.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. The Licensee must ensure that any film which has received a Classification Certificate from the British Board of Film Classification is viewed only by persons as specified in the suitability category of this Certificate.
4. Films which have not received a Classification Certificate from the British Board of Film Classification must not be exhibited (subject to the proviso in Condition 5 below) unless, if taken as a whole, they are exempted works within Section 2 of the Video Recordings Act, 1984 or are:
  - (a) an event of local interest; or
  - (b) a programme lawfully recorded for public viewing from a television broadcast exhibited by the television broadcasting authorities;
  - (c) have been specifically approved by the Licensing Authority in writing.
5. Notwithstanding the conditions above, a film may be exhibited, or person, or any class of persons, may be admitted thereto if the permission in writing of the Licensing Authority is first obtained and any conditions of any such permission are complied with.
6. No advertisement displayed at the premises of a film to be exhibited at the premises shall depict as a scene or incident in the film any scene or incident which is not included in the film as certified by the British Board of Film Classification or approved for exhibition by the Licensing Authority, as the case may be.
7. All persons primarily engaged under or employed on the premises to vet, regulate and control persons entering

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## Licensing Act 2003 Premises Licence

BD/PRA0243

### ANNEXES continued

the premises; or engaged, used or employed in the supervision of patrons once inside in order to ensure the maintenance of good order, public safety and internal security shall -

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

### Annex 2 - Conditions Consistent with Operating Schedule

#### All four Licensing Objectives:

- 8. The Licensee shall ensure that any staff are trained in ensuring compliance with the licensing objectives at all times.

#### The Prevention of Crime & Disorder:

- 9. All existing external lighting shall be maintained in good working order and used, where appropriate, at all times the premises remain open to the public.
- 10. The Licensee and staff shall ensure that intoxicated persons shall not be allowed on to the premises.
- 11. The Licensee will ensure close liaison with other licensees in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Licensees.
- 12. Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.
- 13. A minimum of two SIA registered door staff shall be employed at the premises from 22.00 hours until close of business on Thursdays, Fridays and Saturdays when the premises are open for licensable activities.
- 14. In the event that the premises trade between 03.00 am and 06.00 am in the mornings following Thursdays, Fridays, Saturdays or statutory bank holidays, a minimum of three SIA registered door staff shall be employed during those hours when the premises are open for licensable activities.
- 15. West Yorkshire Police shall be notified seven days in advance of dates when it is intended to operate the premises for licensable activities after 03.00 hours.

#### Public Safety:

- 16. Free drinking water shall be available at all times on request from patrons.

#### The Prevention of Public Nuisance:

- 17. Patrons shall not be permitted to leave the premises with bottles or glasses.

#### The Protection of Children from Harm:

- 18. Children under 18 years of age shall not be allowed access into the premises and the Licensee shall enforce a recognised and effective proof of age policy in order to facilitate this.

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## Licensing Act 2003

### Premises Licence Summary

**BD/PRA0243**

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### Premises Licence Summary

BD/PRA0243

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued...

Activity (and Area if applicable)	Description	Time From	Time To
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	Non Standard Timings:		
	An additional hour is permitted on the day British Summertime commences.		

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New Years Eve		
10.00 hours until the start of permitted hours the following day.		
Non Standard Timings:		
An additional hour is permitted on the day British Summertime commences.		

#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL, WHETHER THESE ARE ON AND/OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

Licensing Act 2003

## Premises Licence Summary

BD/PRA0243

NAME (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

Town Centre Bars Ltd

Brook House, Barnsley Rd, Dodworth, Barnsley, West Yorkshire, S75 3JT.

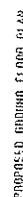
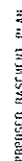
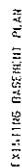
REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Anita Ingrid GAITSKELL

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

No children under 18 years of age shall be allowed access into the Premises.



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CHE 642

BLUEPRINT  
INTERIOR DESIGN ASSOCIATES LIMITED

TEL: 0191 232 3289 FAX: 0191 232 3339

date	place	done by	no.
1945	...	...	...

**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, **Michael Edward David Riley** 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**

**Postal address of premises or club premises, or if none, ordnance survey map reference or description**

Che Bar  
Belfry House  
17 Chester Street

**Post town**  
Bradford

**Post code (if known)**  
BD 5 0AR

**Name of premises licence holder or club holding club premises certificate (if known)**

Town Centre Bars

**Number of premises licence or club premises certificate (if known)**  
BD/PRA0243

**Part 2 – Applicant details**

I am

Please tick ✓

1) An interested party:

a) A person living in the vicinity of the premises

☐

please complete (A) or (B) below

b) A body representing persons living in the vicinity of the premises

☐

please complete (A) or (B) below

c) A person involved in business in the vicinity of the premises

☐

please complete (A) or (B) below

d) A body representing persons involved in business in the vicinity of the premises

☐

please 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 ☒

I am over 18 years old or over

☐

Current 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)

**DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name	West Yorkshire Fire & Rescue Service
Address	Oakroyd Hall Bradford Road Birkenshaw Bradford BD11 2DY
Telephone number (if any)	01274 682311

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

**Please tick one or more boxes ✓**

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

✓

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

Further to a complaint received from a member of the public, Officers from the Fire Safety department had occasion to call at these premises on Tuesday 26<sup>th</sup> May 2009 at approximately 1330 hours, where we met the DPS Anita Gaitskell who introduced herself as the Manager. The basis of the complaint which was explained to Ms. Gaitskell was that on Saturday/Sunday 24/25<sup>th</sup> May 2009 the aforementioned complainant had been in the bar at or around midnight. At that time the complainant witnessed a floor show which included various forms of cabaret which included fire eating.

The act involved female artists who were working on a raised platform in the centre of the premises. At or around midnight the complainant stated that the artists performed the fire eating display. The result of the display was that a flag suspended from the ceiling above the stage area caught fire. The complainant stated that the flag was on fire first this gave off smoke which actuated the fire alarm and then the flag created flaming droplets which fell onto the stage area and surrounding licensed area.

At this point Ms. Gaitskell's attention was drawn to this matter by the resident DJ. A water fire extinguisher was obtained from the main entrance door and a member of staff proceeded to extinguish the flag and the various seats of fire caused by the burning droplets. During these operations the fire alarm was sounding but no evacuation of the premises took place and the fire service were not called.

When questioned as to why this course of action was taken, Ms. Gaitskell replied that she believed to evacuate then premises may have caused more problems.

When questioned about the occupancy at the time of the fire Ms. Gaitskell checked her records and stated that there may have been approx 150 persons inside the premises with a further 100 persons in the external seating area.

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

**Please tick ✓**

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

☐

If yes please state the date of that application

Day	Month	Year

**Please tick ✓**

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

✓
✓

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE UNDER SECTION 158 OF THE LICENSING ACT 2003**



**TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION.**

**Part 3 – Signatures** (please read guidance note 3)

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

Signature .....

Date 7.7.09

Capacity DISTRICT FIRE SAFETY MANAGER

<b>Contact Name (where not previously given) and address for correspondence associated with this application</b> (please read guidance note 5) <u>BRADFORD FIRE SAFETY OFFICE, 540 LEEDS Rd</u>	
<b>Post town</b> <u>BRADFORD</u>	<b>Post code</b> <u>BD3 9SB</u>
<b>Telephone number (if any)</b> <u>01274 385450</u>	
<b>If you would prefer us to correspond with you by e-mail your e-mail address (optional)</b> <u>michael.riley@westyorkshire.gov.uk</u>	

**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.

Information on the Licensing Act 2003 is available on the website of the Department of Culture, Media and Sport ([http://www.culture.gov.uk/alcohol\\_and\\_entertainment](http://www.culture.gov.uk/alcohol_and_entertainment)) or from Bradford Metropolitan District Council (<http://www.bradford.gov.uk/council/licensing>), your local licensing authority.

# 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 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.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 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.
- 11.6 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.
- 11.7 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.
- 11.8 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.
- 11.9 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.

- 11.10 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

- 11.11 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.

- 11.12 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.

- 11.13 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.

- 11.14 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

- 11.15 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.
- 11.16 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.

11.17 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.

11.18 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.

11.19 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.

11.20 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.

11.21 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

- 11.22 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.
- 11.23 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.
- 11.24 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.
- 11.25 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.

11.26 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.

11.27 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

11.28 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.