



Agenda for a meeting of the Bradford District Licensing Panel to be held on Tuesday, 17 September 2019 at 10.00 am in Committee Room 1 - City Hall, Bradford

Members of the Committee – Councillors

LABOUR
M Slater Godwin S Khan

Notes:

- This agenda can be made available in Braille, large print or tape format on request by contacting the Agenda contact shown below.
- The taking of photographs, filming and sound recording of the meeting is allowed except if Councillors vote to exclude the public to discuss confidential matters covered by Schedule 12A of the Local Government Act 1972. Recording activity should be respectful to the conduct of the meeting and behaviour that disrupts the meeting (such as oral commentary) will not be permitted. Anyone attending the meeting who wishes to record or film the meeting's proceedings is advised to liaise with the Agenda Contact who will provide guidance and ensure that any necessary arrangements are in place. Those present who are invited to make spoken contributions to the meeting should be aware that they may be filmed or sound recorded.
- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

From:

Parveen Akhtar

City Solicitor

Agenda Contact: Tracey Sugden

Phone: 01274 434287

E-Mail: tracey.sugden@bradford.gov.uk

To:

A. PROCEDURAL ITEMS

1. DISCLOSURES OF INTEREST

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

Notes:

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

2. INSPECTION OF REPORTS AND BACKGROUND PAPERS

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.

If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Tracey Sugden - 01274 434287)

B. BUSINESS ITEMS

3. WYKE ROSE, 435 HUDDERSFIELD ROAD, WYKE, BRADFORD, 1 - 38

The Assistant Director Waste, Fleet & Transport Services will present a report (**Document "F"**) which outlines an application for review of a premises licence authorising the sale of alcohol and provision of regulated entertainment.

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

(Tracy McLuckie – 01274 432240)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER

This page is intentionally left blank



Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of Bradford Area Licensing Panel to be held on 17 September 2019.

Subject:

F

Application for a Review of a Premises Licence for Wyke Rose, 435 Huddersfield Road, Wyke, Bradford, BD12 8NP

Summary statement:

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

Susan Spink
Interim Assistant Director
Waste, Fleet & Transport Services

Report Contact: Tracy McLuckie
Licensing & Land Charges Manager
Phone: (01274) 432240
E-mail: licensing@bradford.gov.uk

Portfolio:

Neighbourhoods & Community Safety

Overview & Scrutiny Area:

Corporate

1. SUMMARY

The application is for the review of a premises licence authorising the sale of alcohol and provision of regulated entertainment.

A copy of the Licence is attached at Appendix 1.

2. BACKGROUND

2.1 The Premises

Wyke Rose, 435 Huddersfield Road, Bradford

2.2 Premises Licence holder

Clifton Properties (Yorkshire) Ltd

2.3 Application Received asking for a Review of the Licence

Responsible Authority

The Environmental Health Service have applied for a review of the premises licence due to noise complaints, which have not been resolved despite action taken by a number of Responsible Authorities. There is also evidence of numerous breaches of premises licence conditions.

The Environmental Health Service are requesting consideration be given to revocation of the premises licence.

The application for review is attached at Appendix 2

2.4 Representations

Responsible Authorities

The West Yorkshire Police have submitted a representation in support of the review application, having witnessed breaches of the premises licence and taken action to try to resolve concerns regarding the management of the premises.

The representation from the West Yorkshire Police is attached at Appendix 3

The Licensing Service have submitted a representation in support of the review application, following a failure by the licence holders to address licence breaches.

The representation from the Licensing Service is attached at Appendix 4.



Individual, Body or Business

Ward Councillor

A letter of representation has been received from a local ward councillor on behalf of residents who live near the premises. Concerns raised include noise nuisance from loud music at the premises, operating beyond permitted hours and anti-social behaviour outside the premises.

The representation from the ward councillor is attached at Appendix 5.

Interested Party

A letter of representation has been received from the premises manager who believes noise occurs from outside the premises and states management work with the West Yorkshire Police to address any concerns. The premises manager wishes to run the business for the local community.

The representation from the premises manager is attached at Appendix 6.

3. OTHER CONSIDERATIONS

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 Home Office under Section 182 of the Licensing Act 2003. Paragraphs 11.1 to 11.29 of the Guidance specifically details how applications for review of licences should be determined. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Home Office Guidance is attached to this report at Appendix 7.

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” 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.

Statement of Policy Issues

- 3.6 The following parts of the licensing policy are of particular importance; Part 6 Prevention of Public Nuisance .
- 3.7 The annexes to the policy sets out various types of model condition that could be considered.

4. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

There are no apparent risk management implications.

6. LEGAL APPRAISAL

Referred to in part 3 of this report.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The Council has to comply with the public sector equality duty in S.149 Equality Act 2010.

7.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent implications.



7.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

7.5 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.

7.6 TRADE UNION

Not applicable.

7.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. OPTIONS

9.1 Members may:

- (a) Reject 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.

9.2 Should the applicant 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.

10. RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and, after hearing interested parties, determine the related application(s).

11. APPENDICES

1. Premises Licence.
2. Application for review received 23 July 2019
3. Letter of representation from West Yorkshire Police.
4. Letter of representation from Licensing Service.
5. Letter of representation from a local ward councillor.
6. Letter of representation from the premises manager
7. Extract from the Government Guidance.
8. Location plan of premises

12. BACKGROUND DOCUMENTS

Application form, plan etc.



Licensing Act 2003 - Premises Licence
Licence No: 072512

Date Issued: 21 June 2018

Part 1 - Premises Details

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

Wyke Rose
435 Huddersfield Road, Bradford, BD12 8NP

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

DATE FIRST GRANTED - ANNUAL FEE DATE

Licensing Act 2003 Fees Regulations 2005

19 September 2005

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

A Performance of Live Music
Any Playing of Recorded Music
The Supply of Alcohol

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

A Performance of Live Music
Indoors

Mon 10:00-22:00
Tue 10:00-22:00
Wed 10:00-22:00
Thu 10:00-22:00
Fri 10:00-22:00
Sat 10:00-22:00
Sun 10:00-22:00
Christmas Eve -
A further additional hour to those stated above.
Christmas Day 11.00-15.00
Christmas Day 19.00-23.00
Boxing Day -
A further additional hour to those stated above.
New Years Eve -
A further additional hour to those stated above.
Non Standard Timings: -
A further additional hour to those stated above on, Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.

Any Playing of Recorded Music Indoors	<p>Mon 10:00-22:00 Tue 10:00-22:00 Wed 10:00-22:00 Thu 10:00-22:00 Fri 10:00-22:00 Sat 10:00-22:00 Sun 10:00-22:00 Christmas Eve - A further additional hour to those stated above. Christmas Day 11.00-15.00 Christmas Day 19.00-23.00 Boxing Day - A further additional hour to those stated above. New Years Eve - A further additional hour to those stated above. Non Standard Timings: - A further additional hour to those stated above on, Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.</p>
The Supply of Alcohol	<p>Mon 10:00-00:00 Tue 10:00-00:00 Wed 10:00-00:00 Thu 10:00-00:00 Fri 10:00-01:00 Sat 10:00-01:00 Sun 10:00-00:00 Christmas Eve - A further additional hour to those stated above. Christmas Day 11.00-15.00 Christmas Day 19.00-23.00 Boxing Day - A further additional hour to those stated above. New Years Eve - 10.00 hours until the start of permitted hours the following day. Non Standard Timings: - A further additional hour into the morning following on, Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.</p>

THE OPENING HOURS OF THE PREMISES	
	<p>Mon 10:00-01:00 Tue 10:00-01:00 Wed 10:00-01:00 Thu 10:00-01:00 Fri 10:00-02:00 Sat 10:00-02:00 Sun 10:00-01:00 Christmas Eve - A further additional hour to those stated above. Christmas Day 11.00-16.00 Christmas Day 19.00-00.00 Boxing Day - A further additional hour to those stated above. New Years Eve - 10.00 hours until the start of permitted hours the following day. Non Standard Timings: - A further additional hour into the following morning on, Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.</p>

WHERE THE LICENCE AUTHORISES SUPPLY OF ALCOHOL WHETHER THIS IS ON AND/OR OFF SUPPLIES

The Supply of Alcohol On and Off Premises

Part 2

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

CLIFTON PROPERTIES (YORKSHIRE) LTD
59 Commercial Street, Batley, West Yorkshire, WF17 5EP

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

Ms Jacqueline Denise Kitson

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 Number: VEPERS1968

Issued By: Calderdale

ANNEXES

Annex 1 – Mandatory Conditions

REQUIREMENT FOR A DESIGNATED PREMISES SUPERVISOR

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.

AUTHORISATION OF PERSONAL LICENCE HOLDER

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

IRRESPONSIBLE PROMOTIONS

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-

- a) games or other activities which require or encourage, or are designed to require or encourage, individuals to,

(i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or (ii) drink as much alcohol as possible (whether within a time limit or otherwise)

b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective,

c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective,

d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner,

e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

DRINKING WATER

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

AGE VERIFICATION

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

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

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

- a) a holographic mark, or
- b) an ultraviolet feature.

DRINKS MEASURES

The responsible person must ensure that:

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

- (i) beer or cider: half pint
- (ii) gin, rum, vodka or whisky: 25ml or 35ml and
- (iii) still wine in a glass: 125 ml

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises, and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

DUTY & TAX

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1:

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979,

(b) 'permitted price' is the price found by applying the formula 'P' equals 'D' plus ('D' times 'V'), where-

(i) P is the permitted price,

(ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol,

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence-

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence,

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question, and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

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

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions Consistent with Operating Schedule

All Four Licensing Objectives

1. Staff shall be trained on the requirements of the Licensing Act 2003 with regard to the licensing objectives when they are recruited.

The Prevention Of Crime And Disorder

2. The Licensee shall at all times maintain a "zero tolerance" policy with regard to illegal drugs, including appropriate staff training in detection and prevention.
3. A CCTV system, of a standard approved in advance by the Licensing Authority and West Yorkshire Police shall be installed prior to any licensable events commencing at the premises to cover both the internal and external areas, and relevant recordings shall be kept for at least 30 days and be available on demand at the request of the Licensing Authority or a Responsible Authority.
4. No licensable activities or alcohol shall be allowed or customers be permitted to take out or consume alcohol in the external areas of the premises after 23.00.

Public Safety

None.

The Prevention Of Public Nuisance

5. Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.
6. All external outward opening doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment other than for normal access and egress.
7. The outdoor drinking areas are to be cleared of customers no later than 23.00 hours with prominent appropriate signage displayed encouraging patrons to co-operate with this requirement.
8. Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner.

The Protection Of Children From Harm

9. The Licensee shall enforce an efficient recognised "proof of age policy" at all times and ensure appropriate staffing training in its operation.

Annex 3 – Conditions attached after a hearing by the Licensing Authority

10. In the light of the compelling evidence of persistent nuisance from noise to neighbouring residents, anti-social behaviour related to the premises and breaches of licence conditions, the premises licence be suspended for a period of 30 days.
11. In the light of the above, the exemption under the Live Music Act 2012, in respect of live music provided between the hours of 8am to 11 pm shall be dis-applied.
12. On resumption of the licence the following additional conditions shall apply:
The hours of licensable activity for regulated entertainment shall be restricted on Monday to Sunday to 1000 to 2200 except statutory public holidays, which shall have an additional hour to those stated above.
13. The Licensee be warned that the Licensing Authority has serious concerns in relation to the breaches of the conditions of the premises licence, persistent anti social behaviour and noise nuisance to local residents that are associated with the premises and the Licensee is therefore put on notice that if any future breaches of the licence conditions or complaints of noise/disorder are brought to the attention of the Panel by way of review of the licence, serious consideration will be given to revocation of the licence, subject to giving due consideration to the evidence and representations received at the time.



Licensing Team, 3rd Floor Argus Chambers, Bradford

Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.
You may wish to keep a copy of the completed form for your records.

I Jeanette Howarth, Environmental Health Officer, Bradford Metropolitan District Council

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description	
Wyke Rose 435 Huddersfield Road Wyke	
Post town Bradford	Post code (if known) BD12 8NP

Name of premises licence holder or club holding club premises certificate (if known)
Clifton Properties (Yorkshire) Limited

Number of premises licence or club premises certificate (if known)
072512

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)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Jeanette Howarth – Environmental Health Officer Department of Health and Wellbeing Environmental Health 5 th Floor Britannia House Bradford BD1 1HX
Telephone number (if any)
E-mail address (optional)

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

- Please tick one or more boxes ✓
- | | |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input 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 type="checkbox"/> |

<p>Please state the ground(s) for review (please read guidance note 2)</p> <p>The premises licence for the Wyke Rose, 435 Huddersfield Road, Bradford, has been held by Clifton Properties (Yorkshire) Limited since July 2011. There is a history of noise complaints relating to the premises. In October 2012 Environmental Health requested a review of the Premises Licence due to noise complaints.</p> <p>At the time of the review, the premises licence was already subject to the following conditions:</p> <ul style="list-style-type: none">- Noise from amplified and non-amplified music, singing and speech arising from regulated entertainment at the premises shall not be audible at the nearest noise sensitive premises.- All external outward opening doors and windows to the licensed premises where regulated entertainment is being provided shall remain closed during the course of the entertainment other than for normal access and egress.- The outdoor drinking areas are to be cleared of customers no later than 23:00 hours with prominent appropriate signage displayed encouraging patrons to co-operate with this requirement.- Notices shall be displayed in prominent positions near exits reminding patrons to leave in a quiet and orderly manner. <p>Following the licence review in October 2012, the following additional conditions were added to the premises licence under the prevention of public nuisance objective:</p> <ul style="list-style-type: none">- In the light of compelling evidence of persistent nuisance from noise to neighbouring residents, anti-social behavior related to the premises and breaches of licence conditions, the premises licence be suspended for a period of 30 days.- The exemption under the Live Music Act 2012, in respect of live music provided between the hours of 8am to 11pm shall be dis-applied.

- On resumption of the licence the following additional conditions shall apply: The hours of licensable activity for regulated entertainment shall be restricted on Monday to Sunday to 10:00 to 22:00 except statutory public holidays, which shall have an additional hour to those stated above.
- The Licensee be warned that the Licensing Authority has serious concerns in relation to the breaches of the conditions on the premises licence, persistent anti-social behaviour and noise nuisance to local residents that are associated with the premises and the Licensee if therefore put on notice that if any future breaches of the licence conditions of complaints of noise/disorder are brought to the attention of the Panel by way of review of the licence, serious condition will be given to revocation of the licence, subject to giving due consideration to the evidence and representations received at the time.

I believe that the Wyke Rose was then closed for a period of time.

The current Premises Licence permits:

A Performance of Live Music Indoors and any Playing of Recorded Music Indoors during the following times:

Monday to Sunday: 10:00 – 22:00

Christmas Eve, Boxing Day & New Years Eve - A further additional hour.

Christmas Day 11:00 – 15:00 & 19:00 -23:00

A further additional hour on Friday, Saturday, Sunday and Monday of every statutory Bank Holiday weekend.

In February 2015 one of the original complainants contacted Environmental Health stating that the pub was under new ownership and advertising live music. They had concerns that noise issues could begin to re-occur.

On 10 April 2015 a complaint was received regarding loud music and windows and doors being left open. Further complaints were also received on 10 July 2015, 10 August 2015 and 3 June 2016 relating to noise from amplified music and windows and doors being left open, as well as noise from customers shouting and swearing and vehicles pulling up with loud music.

On 2 June 2017 a complaint was received alleging loud music, shouting and fighting was occurring at the pub most days of the week from 14:00 hours onwards into the late hours of the night.

A further complaint was received on 30 June 2017 reporting loud music from external speakers for large amounts of the day and evening. On 25 July 2017 a complaint was received from the landlord of a property who reported that he had lost 2 x sets of tenants due to the early morning and late night shouting, drunken violence and arguing, particularly following installation of benches outside the pub.

On 8 May 2018 a local resident reported further noise nuisance from the premises. It was alleged that the premises had been playing music until 03:00 – 04:00 hours in the morning regardless of the day of the week and that it was so loud in the complainants home they could not hear the television. It was also alleged that the premises had regular 'lock-ins', during which music can be heard.

On 27 June 2018 Timothy Brook, Licensing Enforcement Officer, and I visited the Wyke Rose to discuss the allegations. As we approached the pub from Perseverance Street we could hear the music coming from within the premises. We noted that the doors and windows were open.

On 4 July 2018, warning letters and Community Protection Warnings were sent to the Premises Licence Holders, the Designated Premises Supervisor and the pub manager.

The Community Protection Warnings also placed requirements on each of them to prevent further noise nuisance to local residents and were the same as required by the Premises Licence. They were required to take steps immediately and made them aware that a Community Protection Notice could be issued if they did not comply within the timescales given.

Complaints continued to be received and evidence was sent to me on 3 September 2018 showing karaoke in the premises at 23:55 hours, which was audible in the home of a local resident. It was evident that the Community Protection Warnings were being ignored and that the premises licence continued to be breached.

On 12 September 2018, PC Lord and I visited the Wyke Rose and met with the Secretary and Director of Clifton Properties, the Designated Premises Supervisor and the premises Manager. I advised them of the complaints we were receiving about noise from the premises particularly from karaoke on Sunday nights and that they were breaching the premises licence.

At the meeting I served Community Protection Notices on the Licence Holder, the Designated Premises Supervisor and Manager. I explained that they were legal documents and that they were required to comply with the Notices and the requirements were broadly in line with that of the Premises Licence. I directed them to the 2nd page of the Notice and made them aware that failure to comply was an offence and that I would look at getting a warrant to enter the premises and seize the equipment if they failed to comply with the Notices. I also told them this would lead to a prosecution and I would review the Premises Licence also.

A further complaint was received on 18 February 2019 alleging music had been played exceptionally loud on Friday 15 February 2019 after 22:00 hours and that people had been arguing in the street.

A complaint was received reporting the pub being rowdy on 23 February 2019, with music audible until 02:00 hours. I was also made aware that a fund raising party was being advertised for 9 March 2019. The advertisement included a DJ from 10pm until closing.

On Thursday 7 March 2019, I wrote to the Licence Holders, the Designated Premises Supervisor and premises manager to make them aware of the on-going complaints. I made them aware that it had been brought to my attention that they were advertising a DJ from 22:00 hours and that it would be a contravention of their premises licence.

On Saturday 9 March 2019, I received a telephone call from the complainant regarding excessively loud music in the complainant's home, with music being exceptionally loud the previous two weekends.

A further complaint was received on 7 May 2019 and the complainant informed me it had been loud on Friday 3 May 2019 and that they are having lock ins until 02:00 – 03:00 hours in the morning then the customers carry on outside. As complaints were continuing I added the case to the Environmental Health Departments Noise Witnessing Service for 4 weeks from 20 May 2019.

On Friday 24 May 2019, I received a complaint at 22:37 stating music had been playing since 20:30 hours and was 'bouncing'. An Environmental Health Officer from Noise Witnessing attended the home of the complainant at 00.05 hours. Music from the Wyke Rose was clearly audible in the complainant's property and the bass was audible throughout the house. The Officer was satisfied that it was exceptionally loud and contravened the premises licence conditions and Community Protection Notices.

On Friday 31 May 2019, a colleague working on the Noise Witnessing Service attended following a complaint and witnessed noise from music at the premises at 23:35 hours, which amounted to a Statutory Nuisance. This was a further contravention of the Community Protection Notices that had been served as well as contravention of the premises licence.

On 18 June 2019, a Warrant to enter and seize noise making equipment at the Wyke Rose was granted by Bradford and Keighley Magistrates' Court.

The Warrant was executed on 22 June 2019 when items of noise making equipment were seized. A prosecution is pending for failure to comply with the Community Protection Notices served under the Anti-social Behaviour, Crime and Policing Act 2014 and also section 136 of the Licensing Act 2003, for breach of licence conditions.

Unfortunately, complaints of noise have continued and the most recent incident of noise occurred on Friday 19 July 2019. I received a telephone call at 20:03 hours reporting that loud music was being emitted from the pub. I arrived at 21:05 hours and on exiting my car I could hear the bass of the music. I entered the home of a local resident and amplified music could be clearly heard from the Wyke Rose. I could see the premises manager stood in the entrance to the pub at 21:16 hours. He was present for a couple of minutes stood looking around.

At 21:52 hours a group of 10 people were stood outside the pub shouting and 3 x vehicles were parked up outside. I noticed a land rover discovery which kept coming and going to the pub and screeching of tyres as it accelerated at speed away from the premises. No attempt was made by the premises manager to address the noise from the people outside who were coming in and out of the pub.

At 22:00 hours, I heard the premises manager say 'Close the doors, can you hear it now'. The doors to the pub were then closed and the window and curtains closed. The music went down in volume but when the side door was open to let people in I could hear the music continuing in the pub after the permitted hours.

Justified complaints continue to be received regarding noise and disturbance from the Wyke Rose. This is despite a previous licence review, the imposition of a number of premises licence conditions and action taken under other community protection legislation. Noise as a result of licensable activities at the premises is clearly undermining the prevention of public nuisance objective. Therefore Environmental Health request that consideration is given to revocation of the premises licence.

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

See earlier comments – Environmental Health applied for a review the premises licence in October 2012 following noise complaints and failure to comply with an Abatement Notice that had been served on a previous Designated Premises Supervisor. This resulted in additional conditions being placed on the licence under the prevention of public nuisance objective.

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
- 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 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature

.....

Date 23rd July 2019

.....

Capacity Environmental Health Officer

.....

Contact name (where not previously given) and postal 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 using an e-mail address your e-mail address (optional)



**WEST YORKSHIRE
POLICE**

Licensing

Licensing Department
Trafagar House
Nelson Street
Bradford
BD5 0DX

Tel: 01274 376267

Mobile: 07713708359

Email:

Your ref:

Our ref: 13180275019

13 August 2019

Licensing Team
City of Bradford Metropolitan District Council
Britannia House
Bradford

Premises review in respect of Premises Licence for premises known as Wyke Rose, 435 Huddersfield Road, Bradford.

Dear Sir/Madam

West Yorkshire Police wish to make a representation in regards to the above premises review, which has been requested by Bradford Metropolitan District Council Environmental Health Officer.

The basis of the representation is as follows:

On 12 September 2018 PC Lord (Bradford District Licensing Officer) in company with Jeanette Howarth (Environmental Health Officer) attended at the premises in order to speak with the DPS (Jackie Kitson), the licence holder (Clifton Properties) and the premises manager. At this meeting, issues regarding noise were raised and PC Lord reminded all present of the licensing conditions in full, relating to all four licensing objectives. They were informed that the Police would be conducting a compliance check sometime in the future and that they should ensure, given that they had been given advance warning, that they are fully compliant.

On 17 May 2019 a call was made to the Police by the premises manager to report that there had been an incident at the premises whereby someone had thrown a flammable substance at the window of the premises and caused damage to the same. On the call to the Police the premises manager states that he does not believe that the CCTV system was currently working. Once officers had begun to investigate the offence, the premises manager explained that he switches the CCTV system off on an evening.

On 28 May 2019 the premises manager was contacted by PC Lord and advised that a compliance visit would be carried out the next day. The Police were concerned that the CCTV at the premises was not operational and wished to check.

On 29 May 2019 PC Lord and I attended at the premises to undertake a compliance visit (Licensing Inspection) in line with the Licensing Act 2003.

We were met at the premises by the premises manager. We were joined a short time later by a member of the bar staff. During the visit it was clear that neither the premises manager nor the staff member could name any of the four Licensing Objectives and there was no evidence of any staff training on this (**contrary to Annex 2, section 1 of the premises licence**).

There was also no evidence of staff training in the detection and prevention of drugs (**contrary to section 2**).

The premises manager admitted that he had been switching off the CCTV at night in order to save electricity and that it was currently broken and not recording at all (**contrary to section 3**) - **A CCTV system, of a standard approved by the Licensing Authority and The West Yorkshire Police shall be installed prior to any licensable events commencing at the premises to cover both the internal and external areas, and relevant recordings shall be kept for at least 30 days and be available on demand at the request of the Licensing Authority or a Responsible Authority.**

There was no signage in the outdoors to encourage patrons to leave by 2300hrs (**contrary to section 7**).

There were no signs reminding customers to leave the premises quietly and orderly (**contrary to section 8**).

There was no evidence of a proof of age policy or staff training in this (**contrary to section 9**).

The premises manager agreed to these points and being in breach of his licence conditions and signed the Licensing Inspection form to confirm this. The premises manager made comments to the effect that he had simply been handed the keys and asked to run the pub which is why he didn't really know the full conditions of his licence. He was also reminded of annex 3 of his conditions regarding noise and that the premises had already been previously brought before the licensing panel.

On the same date, at 1155hrs, I issued a Closure Notice under Section 19 of the Criminal Justice and Police Act 2001 due to these breaches. Steps to be taken were outlined and agreed with the premises manager in order to rectify these matters. This, again, was agreed and signed by the premises manager. These breaches are contrary to the following Licensing Objectives:

The Prevention of Crime and Disorder
The Prevention of Public Nuisance
And
The Protection of Children from Harm

On 13 June 2019 I revisited the premises in respect to the closure notice issued and met with the premises manager. The issues identified had been rectified and the closure notice was rescinded. The premises manager was again reminded of the licensing conditions and the need to adhere to these.

Until issued with a closure notice there is evidence that the premises manager, the licence holders Clifton Properties and the DPS Kitson have shown a blatant disregard for the Licensing objectives in general. This is shown in that the conditions were read to them in September 2018 but they had taken no steps to comply with them.

A crime has then been reported in May 2019 and it is clear that the CCTV system was not working at that time. There is no evidence that either party has taken steps to rectify this prior to the Licensing visit on 29 May 2019.

Worryingly, the premises manager himself was given advance notice of the visit yet did not take any steps to ensure compliance prior to the visit being undertaken. It would appear, on the balance of the evidence, that the premises manager and/or Clifton Properties and the DPS have only seen fit to rectify any breaches following the threat of closure/further action. This would not be, in my opinion, the actions of a responsible person or company. There is no evidence on our visits that the DPS plays any active role in the management of the premises.

Following the compliance visits, the Police have been presented with evidence, from our colleagues in Environmental Health that further breaches of the licence conditions are continuing at the premises in terms of noise nuisance and the Police Licensing attended with Environmental health on 22nd June 2019 to remove equipment under a warrant.

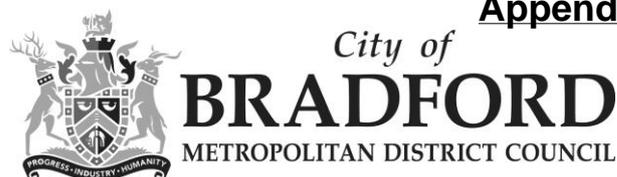
The Licensing Act encourages Police Licensing and other responsible authorities to actively work with premises to resolve issues at premises, which we have tried to do. However, it is clear that the point has been reached where the only option available has been a review of the premises licence.

Bradford District Police therefore support Bradford Council Environmental Health in their request to have the Premises Licence revoked.

Yours faithfully

PC3607 Tony Brown
Licensing Officer
Bradford District

This page is intentionally left blank

**Department of Place
Licensing Team**

3rd Argus Chambers, Hall Ings
Bradford, West Yorkshire
BD1 1HX

Tel: (01274) 432240
My Ref: LIC/TMB
E-Mail: Timothy.brook@bradford.gov.uk

Date:

Senior Licensing Officer
Licensing Team
Argus Chambers
Bradford
BD1 1HX

REPRESENTATION**Wyke Rose, 435 Huddersfield Road, Bradford, BD12 8NP**

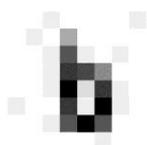
I am a Licensing Enforcement Officer employed by Bradford Council. Part of my role is to ensure premises within the Bradford District, licensed under the Licensing Act 2003, comply with requirements of the Act.

In June 2019, the Council's Environmental Health Service made the Licensing Department aware of multiple complaints regarding excessive noise from the Wyke Rose, 453 Huddersfield Road, Bradford and possible breaches of licence conditions.

On 27th June 2018 Jeanette Howarth, Environmental Health Officer and myself made a visit to the Wyke Rose. On arrival we could hear music emitted from the premises on the opposite side of a busy road. We could also see windows and doors open, which is a breach of the premises licence conditions. During our visit I conducted a compliance inspection and there were a total of five breaches of premises licence conditions.

On the 6th of July 2018 I met with the premises manager, to ensure persons managing the premises on a day to day basis had a clear understanding of the licensing requirements. I informed the premises manager of previous licence breaches and the steps required to ensure compliance with licence conditions, including no regulated entertainment after 22:00 hours.

On 7th March 2019 Environmental Health contacted the Licensing Department regarding the playing of recorded music after 22.00 hours. I wrote to the licence holder, Clifton Properties (Yorkshire) Ltd and the premises manager reminding them of the licence conditions and permitted hours for regulated entertainment.



The licence holders have failed to implement the advice offered by both the Environmental Health and Licensing Services. The way in which the premises are being operated by the licence holders and management of the premises shows disregard for the requirements of the Licensing Act and the licensing objectives.

Environmental Health and Licensing Enforcement Officers have taken a number of steps to try and resolve the issues at the Wyke Rose with no success. The Licensing Service supports the application for review of the licence and requests consideration is given to revocation of the licence, in order to prevent continued licence breaches and noise nuisance.

Yours faithfully

Timothy Brook

Licensing Enforcement Officer

Appendix 5

Cllr Rosie Watson
City Hall
Bradford
BD1 1HY

18th August 2019

Department of Place
Licensing Team
3rd Floor Argus Chambers
Bradford
BD1 1HX

Application for review of licence : Wyke Rose Public House 435 Huddersfield Road

Dear Sir or Madam

I am making a representation, as requested, on behalf of several residents of Huddersfield Road and Perseverance St ,who live near the Wyke Rose and have suffered from anti social behaviour, verbal abuse, noise and drug related issues from the pub premises for a long time.

Their concerns are: **Noise nuisance:** Music is played loudly until 10pm with doors and windows open. This means children are woken up and residents are disturbed all evening. The noise often spills outside especially in summer when customers drink outside. The Landlord is unwilling to do anything about the noise and late night drinking by playing music and serving drinks far after his licensing hours .

License abuse: The music licence is up to 22.00 so after this the volume is reduced and confined to inside the pub. The music is still played and the problem is worse at weekends when customers exit the building in the early morning usually between 2-4 am, but can be as late as 5am.

Anti social behaviour:

There is regular drug dealing in the vicinity of the pub, often by the door or inside the building. It causes a problem all down Huddersfield Road and onto Towngate. Residents find bottles and litter in their gardens most days.

There have been complaints to the police, to councillors and council officers. Environmental Health have been involved for nearly a year with little success, even though enforcement notices have been issued. This non compliance has resulted in court action in September as behaviours have not altered.

I am personally aware of noise nuisance issues going back over two years coming from inside the premises or in the early hours of the morning when customers are leaving the premises.

I am very concerned that these residents feel unable to put their names to this representation for fear of intimidation and reprisals from staff and customers.

I request this representation be considered by the panel.

Thank you, yours faithfully
Rosie Watson
Wyke Ward Councillor

This page is intentionally left blank

Wyke Rose Public House
435 Huddersfield Road
Wyke
BRADFORD
BD12 8NP

By Signed For Delivery
Bradford MDC
Licensing Team
Department of Place
3rd Floor Argus Chambers
Hall Ings
Bradford
BD1 1HX

26.7.19



Dear Sirs

Re: Notice to Review the Premises Licence for Wyke Rose Public House Dated 23 July 2019

I wish to submit a representation in respect of a Notice of the Council's intention to review the premises licence which is not signed but dated 23 July 2018 and was attached to the lamp post outside of the Wyke Rose Public House, Wyke, Bradford on 25 July 2019.

As the Manager of the above premises, I wrote to the Environmental Health Department of Bradford Council, by Signed For Delivery and that letter was dated 11 July 2019 specifically for the attention of Ms Jeanette Howarth – Environmental Health Officer. The content of that letter was regarding all speakers and televisions which were removed from the above premises under, in my opinion, a defective Warrant dated 18 June 2019 and a Court date which was to be advised.

In that letter I attempted to find a solution to the alleged noise nuisance but am sad to say I have yet to receive a response from Jeanette Howarth or indeed, from any of her colleagues in that Department. I also asked for a copy of any file appertaining to the premises under the Freedom of Information Act. (Copy attached for ease of reference)

In mitigation, please can I assure you that I always work with West Yorkshire Police and they have been most supportive to me. I try my utmost to ensure the music is kept at an acceptable level and that it is switched off at 10.00pm in accordance with the licensing hours, as agreed.

However, it seems apparent to me that the premises is being blamed for a lot of noise nuisance that is actually outside of the premises, although in my opinion this is very rare and all such situations, if they occur are documented in a record book kept by me as instructed.

I always ask my customers to respect the neighbourhood and leave the premises in a quiet and respectful manner.

I understand from an historical Manager of the Wyke Rose Public House, that he had a lot of issues with Bradford Council's Environmental Health Department and it is more than apparent in my opinion that certain representatives of the Council's Environmental Health Team appear to want to close the public house down by any means possible. This is very unfair in my opinion. I am just trying to make a living and provide a safe, happy environment for my patrons old and new.

Please can you note the record that the historical manager is prepared to make a statement, if required, to support my representation in this matter.

Can I also state for the record, I have lost quite a bit of business due to the sound equipment being seized, albeit it was seized, in my opinion, under a defective Warrant and would seek to have my sound equipment to be released back to the premises, without further unnecessary delay or, at least to be given an explanation of what is going to happen next. My financial losses are mounting on a daily basis due to this issue.

I am all too aware that complaints from members of the public have to be investigated and would comply with any noise abatement measures such as a noise restrictor being fitted and indeed if any members of the public with an issue regarding noise would like to contact me directly with their complaints, I would take these very seriously and deal with theses in the most appropriate and helpful manner. I also propose to put up signs asking my patrons to respect the neighbours and leave the premises in a respectful and quiet manner.

Hopefully you can see that I am a reasonable person and all I want is to continue to run my business for the local community, including a lot of elderly patrons, who have started to come back into the public house and who really appreciate what I am doing.

I look forward to hearing from you in due course with date on which the proposed meeting has been arranged to discuss matters with the relevant parties in due course.

Please acknowledge safe receipt of my representation.

Yours faithfully


Manager – Wyke Rose Public House

11. Reviews

The review process

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

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

Repetitious grounds of review

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

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

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

Powers of a licensing authority on the determination of a review

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

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

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

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

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

11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

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

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

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

Review of a premises licence following closure order or illegal working compliance order

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

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

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

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



This page is intentionally left blank