

Licensing Sub-Committee

28 February 2020



Time and venue:

10.00 am in the Ditchling & Telscombe Rooms - Southover House, Lewes

Membership:

Councillor ; Councillors Sam Adeniji, Liz Boorman and Christine Robinson

Quorum: 3

Published: Thursday, 20 February 2020

Agenda

- 1 Election of chair of the sub-committee for this meeting**
- 2 Apologies for absence/declaration of substitute members**
- 3 Declarations of interest**

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.
- 4 Premises Licence - Application to Review the Premises Licence for The Lamb, 10 Fisher Street, Lewes (Pages 3 - 100)**

Information for the public

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Information for councillors

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Report to:	Licensing Sub-Committee
Date:	28 February 2020
Title:	Application for Review to the Premises Licence for The Lamb, 10 Fisher Street, Lewes BN7 2DG
Report of:	Director of Service Delivery
Ward(s):	Lewes Castle
Purpose of report:	To consider representations made in support and against the Review Application to the Premises Licence under the Licensing Act 2003 and make a decision on the application
Officer recommendation(s):	To consider representations made in support and against the Review Application to the Premises Licence under the Licensing Act 2003 and make a decision on the application.
Reasons for recommendations:	To determine an outcome for the Review application submitted.
Contact Officer(s):	Name: Susan Lindsey Post title: Specialist Advisor - Licensing E-mail: sue.lindsey@lewes-eastbourne.gov.uk Telephone number: 01273 085210

1 Introduction

- 1.1 On 6th January 2020 a review application was submitted by Cllr Milly Manley on behalf of 5 local residents in relation to The Lamb, 10 Fisher Street, Lewes (**Appendix 1**)
- 1.2 The proceedings set out in the Licensing Act 2003 for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives occur after the grant of a premises licence.
- 1.3 At any stage, following the grant of a premises licence, a responsible authority, or any other person, 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.
- 1.4 The grounds for review are outlined by the applicant in **Appendix 2** with residents describing conditions caused by the mis-management of the premises caused by loud, abusive, intimidating and provocative language from customers towards residents on a regular basis. This causes a lack of sleep, leading on to stress and anxiety, with the addition of living in fear of either themselves or their

property being attacked. Residents are frequently kept awake by inebriated customers shouting, fighting, vomiting and stumbling in front of traffic. Staff are also reported to be heard shouting and behaving in a manner contributing to that of the customers. Residents also report music levels as high, but it is the behaviour of the staff and customers that is the primary cause of concern.

1.5 Statements from the 5 residents being represented by Cllr Milly Manley are at **(Appendix 3)**

1.6 4 audio recordings and 14 video recordings have been submitted in support of the application with documented dates. A list of the dates these videos relate to are in **Appendix 4**

1.7 For data protection reasons, these recordings will not be made available to the public either prior to the Review Hearing, or at the Review Hearing.

2. Licensing Objectives which are the subject of this Review

2.1 Public nuisance
Public safety
Prevention of crime and disorder

3. Review advertising

3.1 The application has been advertised in line with the Licensing Act 2003 (Premises Licence and Club Premises Certificates) Regulations 2005

4. Further additional representations

4.1 During the 28 day Review consultation period further representations were received from:

4.2 Sussex Police on the grounds of prevention of crime and disorder. This representation covers the habitual misuse of illegal substances within the premises and also identifies three separate incidents reported to police including a physical assault on the DPS, a noxious substance being let off within the premises, noise and aggression, and finally drug swab results taken following a routine and follow up visits. **(Appendix 5)** This representation is supported by an evidence bundle **(Appendix 6)**.

4.3 Mr Dino Morra on the grounds of public nuisance, and the prevention of crime and disorder. This representation covers his witnessing of disturbance and the fact his tenants have reported to him that they feel threatened, and have been verbally threatened and abused by the patrons from the premises. **(Appendix 7)**

4.4 Further representation from Resident 2 (represented by the applicant) on the grounds of public nuisance. This representation covers an incident that took place in the early hours of 11th January involving a man shouting obscenities and acting in an aggressive and threatening way, keeping 'resident 2' awake. **(Appendix 8)**. This further representation is supported by photographic

evidence (**Appendix 9**) and 5 video recordings.

- 4.5 A representation in support of the Premises was received from Mr John Frizell who lives 200m from the Lamb Public House. He comments that he has never felt intimidated or inconvenienced by the premises customers, and attends regular music evenings hosted at the premises. (**Appendix 10**)

5 Responsible Authorities

- 5.1 The following responsible authorities have been sent notification of the review application by Cllr Milly Manley and the response from authorities concerned is as follows:

5.2	Environmental Health	No comment
5.3	Fire Authority	No comment
5.4	ESCC Child Protection	No comment
5.5	Trading Standards	No comment
5.6	Health and Safety	No comment
5.7	Planning	No comment
5.8	Public Health	No comment
5.9	Home Office Immigration	No comment
5.10	Sussex Police	Representation made (see 4.2)

6. Reviewed Premises: The Lamb, 10 Fisher Street, Lewes

- 6.1 The Licensable Activities authorised at these premises are shown on the Premises Licence (**Appendix 11**)
- 6.2 Due to the fact a representation makes reference to music at the premises, attention is drawn to the fact that, due to the implementation of the Live Music Act, and the Legislative Reform (Entertainment Licensing) Order, amplified Live Music and Recorded Music are no longer licensable at these premises between the hours of 8am and 11pm.
- 6.3 Any existing licence conditions which relate to live or recorded music remain in place but are suspended between the hours of 8am and 11pm as long as the premises are open for the purposes of being used for the sale or supply of alcohol for consumption on the premises. (**Appendix 12**)
- 6.4 On a review of a premises licence, the 2003 Act permits a licensing authority to lift the suspension and give renewed effect to an existing condition relating to music. Similarly, a licensing authority may add a condition relating to music as if music were regulated entertainment, and as if that premises licence licensed the music. In both instances the condition should include a statement that Section 177A does not apply to the condition.
- 6.5 An application for a review in relation to relevant premises can be made by a licensing authority, any responsible authority or any other person. Applications for review must still be relevant to one or more of the licensing objectives and meet a number of further requirements.

7. Background information

7.1 Lewes District Council have records of this premises being a public house since the implementation of the Licensing Act in 2005.

7.2 No alterations to the hours or conditions have been made to the Premises Licence since it's conversion to the Licensing Act in 2005.

7.3 There have been 10 changes of Designated Premises Supervisor (DPS) in the last 14 years; the most recent change on 4th July 2019 when Greene King Retailing Limited (the Premises Licence Holder) applied for Mr Stephen Elliott to be named on the Licence as the DPS. To date Mr Stephen Elliott remains named on the Licence as DPS.

7.4 A location plan showing the premises and the surrounding area are attached at **(Appendix 13)**. The pictures are taken from 'google maps' and are to be used as an indicator of the premises location in association with other premises.

7.5 The premises are surrounded by a mixture of residential and business premises.

8. Licensing Sub Committee Considerations

8.1 In determining the Review application with a view to promoting the licensing objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The representations presented by all parties
- The Home Office Guidance issued under Section 182 of the 2003 Act
- The Lewes District Statement of Licensing Policy
- Any other relevant legislation including section 17 Crime and Disorder Act 1998 which imposes a duty on each local authority to exercise its various functions with due regard to the likely effect on the exercise of those functions and the need to do all it reasonably can to prevent crime and disorder in its area. The Sub Committee should also consider this application in light of the Human Rights Act 1998. It is unlawful for a public authority to act in a way which is incompatible with a human right.

9. Lewes District Council Statement of Licensing Policy

9.1 Lewes District Council has produced a Statement of Licensing Policy in order to comply with its duties and powers under the 2003 Act. It covers the licensable activities for retail sale of alcohol, regulated entertainment, the provision of late night refreshment, the exhibition of film and indoor sporting events; which are the activities authorised by the licence for The Lamb.

9.2 The aims of the Policy are to secure the safety and amenity of residential communities, help to ensure a sustainable environment, and to provide regulation of the cultural/entertainment industry and to promote the four Licensing Objectives of the 2003 Act. Namely:

- Prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

9.3 The three guiding principles (set out in Paragraph 4 of the Licensing Policy) adopted by the Council as the Licensing Authority serve as a general guide to the Council when it carries out its licensing functions.

9.4 In each case that arises following representations, the Policy states the Council will:

- Consider the potential for public nuisance, crime and disorder, and/or danger to public safety associated with the style, characteristics and activities of the business involved and the rights of local residents to peace and quiet.
- Examine the potential steps which could be taken to reduce the risk of public nuisance, crime and disorder, and/or danger to public safety, particularly in areas of dense residential accommodation.
- Consider restricting the hours of trading only in cases where there are good grounds for believing that the licensing objectives will be, or are being, undermined.

10. National Guidance

10.1 Relevant sections relating the April 2018 Home Office Guidance issued under section 182 of the Licensing Act 2003 are attached.

10.2 These sections cover:

- The Review Process (**Appendix 14**)
- The Licensing Objectives (**Appendix 15**)
- Conditions attached to premises licences (**Appendix 16**)

10.3 Members are asked to pay particular attention of:
9.26 to 9.30 (Disclosure of personal details of persons making representations)
 Local residents supplied the Authority with written reasons to remain anonymous throughout the review process which were accepted.
9.42 to 9.44 (Determining actions that are appropriate for the promotion of the licensing objectives)
 Both of the above parts of the Guidance are at **Appendix 17**

11. Options

11.1 Where the Sub-Committee considers that action under its statutory powers is appropriate, it must take any of the following steps:

- Modify the conditions of the premises licence temporarily for a period not exceeding three months, or permanently
- Exclude a licensable activity from the scope of the licence temporarily for a period not exceeding three months, or permanently

- Remove the Designated Premises Supervisor
- Suspend the licence for a period not exceeding three months
- Revoke the licence

11.2 The Sub-Committee may decide it is appropriate to take no action or to issue a formal warning.

12. Right of Appeal against review decision

12.1 An appeal against the review decision may be made to a magistrates' court within 21 days of the appellant being notified of the licensing authority's determination on the review. An appeal may be made by the premises licence holder, and any other person who made relevant representations.

12.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

13. Financial appraisal

13.1 There are no financial implications associated with this report.

14. Legal implications

14.1 Under section 51 2003 Act a responsible authority or any other person may apply for a review of a licence. Under section 52 of the Act, if the correct process under section 51 has been followed, the licensing authority before determining the application must hold a hearing to consider it and any relevant representations.

14.2 The Legal Section considered this Report on 18 February 2020 (IKEN-8987-MW)

15. Risk management implications

15.1 There are no risk implications connected to this report.

16. Equality analysis

16.1 An Equality Analysis is not constructive in this instance

17. Environmental sustainability implications

17.1 There are no environmental sustainability implications connected to this report

18. Appendices

- Appendix 1 – Review Application form
- Appendix 2 – Grounds for review supplied by applicant
- Appendix 3 – Statements from 5 x residents represented by applicant

- Appendix 4 – List of dated videos supplied as evidence
- Appendix 5 – Sussex Police representation covering letter
- Appendix 6 – Sussex Police evidence bundle in support of representation
- Appendix 7 – Representation : Mr Dino Morra
- Appendix 8 – Resident 2 further written representation
- Appendix 9 – Resident 2 supporting photographic evidence to representation
- Appendix 10 – Email in support of premises from Mr John Frizell
- Appendix 11 – Lamb Premises Licence
- Appendix 12 – Home Office Guidance : Overview of circumstances in which entertainment activities are not licensable
- Appendix 13 – Location plan – The Lamb
- Appendix 14 – Home Office Guidance : Review Process
- Appendix 15 – Home Office Guidance : The Licensing Objectives
- Appendix 16 – Home Office Guidance : Conditions
- Appendix 17 – Home Office Guidance : Disclosure of personal details and the determination of actions

19 Background papers

The background papers used in compiling this report were as follows:

- [Lewes District Council Statement of Licensing Policy](#)
- [Home Office Guidance issued under section 182 of the Licensing Act 2003](#)

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[Insert name and address of relevant licensing authority and its reference number (optional)]

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 MILLY MANLEY

(Insert name of applicant)

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, if none, ordnance survey map reference or description THE LAMB OF LEWES PUBLIC HOUSE 10 FISHER STREET LEWES BN7 2DG	
Post town LEWES	Post code (if known) BN7 2DG
Name of premises licence holder or club holding club premises certificate (if known) GREENE KING RETAILING LTD	
Number of premises licence or club premises certificate (if known) LN/2005/00411	

Part 2 - Applicant details

I am

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

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

Please tick ✓ yes

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

Surname

MANLEY

First names

MILLY

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

[Redacted]

Post town

LEWES

Post Code

[Redacted]

Daytime contact telephone number

07956 580533

E-mail address (optional)

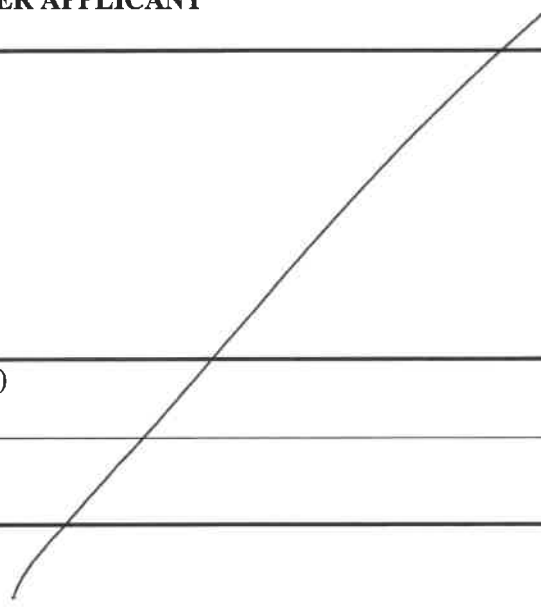
milly.manley@lewes.gov.uk

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)



(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail address (optional)

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

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

Please tick one or more boxes ✓

-
-
-
-

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

See attached doc.

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

See attached docs

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day		Month		Year		
┆	┆	┆	┆	┆	┆	┆

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

Please tick ✓

yes

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

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

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 6/1/2020

Capacity CASTLE WARD COUNCILLOR

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)	

Notes for Guidance

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

Grounds for Review – Councillor Milly Manley 03/01/2019

On behalf of residents living near to the Lamb who wish to remain anonymous, as the ward councillor I request a review of the licence in question.

Residents have made it clear to me over a matter of months that they are living through insufferable conditions caused by mismanagement of the Lamb.

In the words of the residents, customers are 'loud, abusive, intimidating, and provocative towards local residents' on a regular basis. Residents have not only sustained lack of sleep for a prolonged period of time, causing much stress and anxiety, but also live in fear of either themselves or their property being attacked.

Residents are frequently kept awake by inebriated customers shouting, fighting, vomiting and stumbling in front of traffic, causing issues on Fisher Street.

Staff at the Lamb are either unwilling or unable to control customers both in and outside of opening hours, and staff themselves are frequently heard shouting and behaving in a manner which only contributes to that of the customers.

Attempts from Lewes District Council to work with the Lamb to reduce this activity have not been affective.

The Lamb has previously been run successfully as a music venue without causing this level of nuisance. Now, while music levels remain high, it is the behaviour of the staff and customers, often after closing time, that is the primary cause of endless upset to neighbours, meaning their health and well-being is severely affected.

Please see attached videos and sound recordings, some from inside with windows closed, showing behaviour and the noise levels, , and statements from residents living on Market Street.

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Statement from Resident 1

I am writing this statement of behalf of myself and my teenage daughter who lives with me.

I have rented this flat very happily for the last almost 8 years , sadly I am now in the process of looking to move out of Lewes completely due to the noise, anti social behaviour, personal verbal attacks made against myself and my daughter from their customers, not only while I have been out minding my own business and walking my dog but also from people shouting up at our windows whilst inside our own home. We feel completely under siege and intimidated. I have been called various names to disgusting to write here.

The pub has loud music and rowdy customers 5 nights of the week, I have on several occasions called or messaged the landlord to ask politely he send staff out to move the customers along or at least point out that it is a residential area. He always responds by telling me that they do not have any responsibility legally to deal with their patrons outside of the pub and that maybe it is what I should expect living in the centre of town.

I work full time and my daughter has just started Uni, to say we are stressed and sleep deprived would be a massive understatement. I also have a chronic autoimmune condition that has never been as bad as it has been the last 6 months, due to lack of sleep and stress .I have had to have three courses of steriod treatments since may this year to get my symptoms under control ,more than I have had in the whole time since I got diagnosed.Due to this I have had to take more time off of work than i have ever done before in my whole working carear, and I am 53 years old.

I do not have a specific lists of dates and times the pub has opened over their opening times ,had loud bolshi crowds , fights , and general anti social behaviour, because quite frankly

its a regular thing each and every week, every night they are open.I do however have lots of video evidence.

I and my neighbours are tired, sad and desperate to get our neighbourhood back to a safe place, where we can go to our beds before 2am five nights a week, walk our dogs and our daughters can safely walk into their own homes in the evenings.

I also think it is important to point out they more often than not have 200 people plus in there with very young staff and no security whatsoever, this is a disaster waiting to happen , especially in light of the tear gas attack in there on Haloween, after which it was up to a neighbour of mine to report to the police the following morning as the pub staff had not done so.

Statement by Resident 2

I am writing this statement on behalf of myself and two children in the hope that you will understand how the re opening of The Lamb by the current Management has impacted on our lives.

For the past six months we have had to endure the relentless, ongoing and unacceptable anti social behaviour from the customers of The Lamb pub. We have been subjected to verbal abuse, excessively loud volumes of music, crowds of youths gathering on the streets below our bedroom windows. We've had to listen to foul language , arguing, shouting, vomiting on occasions and screaming sometimes till 2am in the morning.

The behaviour of the customers of the Lamb has become intolerable. The staff and Landlords attitude is once the customers leave the pub they are no longer their responsibility unlike the majority of Lewes pubs who respect their residential neighbours and believe that it is their responsibility to move drunk and unruly customers on well after closing. The Management and staff have total disregard, empathy and common decency towards the neighbouring residents.

I do understand that pubs with live music licenses generate certain amounts of noise but the levels of noise this premises generates is beyond acceptable.

Last weekend we watched a customer being thrown out of The Lamb when he was so drunk that he could barely walk at approx 930pm . He then threw himself in front of a DPD van whilst trying to cross Fisher St. The owner of the Fish and chip shop had to peel him off the bonnet of the van. Now, this is a customer who the staff of The Lamb had served so much alcohol to that he couldn't walk. They then threw him out of the pub and they then claim that they hold no responsibility for his safety or welfare once he has left the premises. This is shocking and unprofessional. I have video evidence of this incident which makes for disturbing viewing.

This exposure to prolonged and excessive noise has had an adverse effect on my health. I am constantly tired from the interrupted sleep or sometimes lack of it. I find myself falling asleep during the day. I have high blood pressure, headaches and for the first time in my life I have resorted to taking sleeping tablets and using ear plugs in the desperate attempt to get at least a few hours sleep in the early hours of the morning . I find myself feeling anxious knowing what we will have to endure from Wednesday night through to the early hours of Sunday morning week after week. I looked forward to my weekends in the past. Now I dread them!! My Sundays are often spent catching up on my sleep.

I have an 18yr old daughter who feels anxious and uncomfortable walking past the Lamb on her way home late at night after work.

I would also like to point how incensed we were by the article in the Sussex Express. [REDACTED] comments were in no way accurate. The Lamb is run by an absent Landlord and a group of very young irresponsible bar staff. The comment made by [REDACTED] on the Facebook website, Present Lewes that the police were called after the CS gas incident in the pub on 31st October was again not true. I went into the pub myself after that incident to confront the bar staff about the noise on the streets. They admitted to me that they did not call the police because they did not want police involvement but did agree that in hindsight perhaps they should have done. The staff were totally irresponsible that night, several were under the influence of alcohol themselves. They did not manage that incident correctly or responsibly. Customers were suffering adverse effects of the gas and no ambulance was called.

I called the police and Informed them of this incident myself the following morning.

I am exhausted. Please take my concerns seriously

Statement by Resident 3

From the time the Lamb was taken over by the present management in June 2019 I have been unable to use my house to socialise from Thursday - Sunday of every week due to shouting, swearing and aggressive behaviour from the customers of the Lamb.

Initially the manager, [REDACTED], could be contacted and was willing to negotiate with residents regarding the noise; the garden area was even fenced in and, following a meeting with the Council, customers were cleared from the garden at 10.30pm (11.30pm on Fridays and Saturdays). This lasted a few days. [REDACTED] no longer listens or negotiates with us. This appeared to happen after I pointed out to him that his CCTV didn't show everything as there had been a young child in the bar until closing time on several evenings. He told me I was being aggressive and suggested I delete his number.

I cannot tell you how intimidating this has become. As a single female, to have to regularly feel under siege in my own home is becoming intolerable. These customers are not people to be reasoned with, especially once they are intoxicated. That is why pubs employ security staff. The Lamb has no security staff whatsoever and the bar staff are young and inexperienced. I also understand the Lamb is about the only pub that does not belong to Pub Watch.

Last Thursday a canister of CS(?) was let off in the pub. Customers were coughing and spluttering with swollen tongues and breathing difficulties. The bar staff admitted to my friend [REDACTED] that they did not call the police as they did not want bad

publicity. The Sussex Express interviewed [REDACTED], Managing Director of Revived Inns who is reported as saying: 'The pub always takes the security and health and safety of our guests very seriously'.

At your meeting on Thursday would you please ascertain exactly how [REDACTED] or maybe even Greene King ensures the security of their guests when they do not employ a single security officer in a premises that can hold 200 people?

Had a knife been involved we could have been looking at fatalities. The Lamb is an accident waiting to happen.

We are requesting that the late music licence be withdrawn from the venue because every time the premises changes hands we residents have to undergo yet another bout of antisocial behaviour and our health is being adversely affected. Should the licence not be revoked we request that certain provisos be put in place:

1) two paid and trained Security staff be employed (not just one of the customers walking round in a high viz jacket with Security written on it); security staff to remain until all customers have left the surrounding area;

2) the door to the garden be closed at 10pm;

3) Evidence of antisocial behaviour result in an immediate closure of the pub until a meeting is held with the Management of the Lamb and local residents.

NOISE DIARY

Fri 5 July - loud live band, door opening and banging shut all night till 11.55pm.

Sat 6 July - large group of men in back garden from 2-6pm, so loud I could not hear

tennis commentary on tv or speak to my sister when she rang me - had to walk down the

road to get away from noise. Fight broke out. Called police but because I hadn't seen a

weapon they couldn't help.

Sun 7 July - loud again. Feel exhausted. Have had no rest this weekend since

Wed. Complained to manager, [REDACTED], who said he will not be bullied by the

neighbours??!! Is this some kind of weird joke??!

July - August - loud music on Fridays and Saturdays, customers screaming and shouting

in the garden till all hours. Miserable, tired and run down. On sleeping pills to help me

sleep hence no diary.

06 Sept - late night lock-in at pub drinking with the lights out, one punter friend of

barmaid [REDACTED] shouting Fuck the Neighbours and making V signs, left at 1220am. I'm

SICK OF BEING ABUSED IN MY OWN HOME WHEN I HAVE DONE NOTHING

TO PROVOKE IT.

14 September - [REDACTED] got everyone in at 10.30pm. Fab! Made all the difference. Texted

[REDACTED] to say thanks. (was this following a visit by Sue Lindsey?) and asked him to thank

[REDACTED]. Never heard back.

15 Sept - Everyone went in by 11.30pm. Brilliant,

19 Sept - noisy again, door banging, shouting, garden not cleared of customers, all

shouting.

20 Sept - rowdy gang outside till 1.40pm

23 Sept - crowd in street effing and blinding till 1.10am.

26 Sept - another fight

4 Oct - people shouting in Lamb garden, effing and blinding. Screechy barmaid shouting in street at 12.05.

Fri 11 Oct - loud music, crowd hanging round in street, aggressive shouting till 12.35pm.

Fri 18 Oct - /loud customers in garden, drunk and shouting. Texted [REDACTED], who ignores me since I pointed out that [REDACTED] barmaid had her young son in the pub till closing time on several nights in Sept.

Sat 19 Oct - unbelievable. Crowd of 8 youngsters, drunk and shouting loudly on corner of Lamb till 1.20am. Impossible to sleep. Discussing whose car they are going to 'shag' in.

Delightful. I'VE HAD ENOUGH!

Wed 23 Oct - argument in garden. [REDACTED] screaming at top of voice. Another girl reeling drunk and crying. Total mayhem. As usual, no bar staff around to do anything.

Sat 26 Oct - the usual crowd ([REDACTED]) screaming at top of their voices till 1.30am.

Sun 29 Oct - I went to Lamb with a friend to see the Contenders. Two drunken men reeling around with legs like jelly, bumping into people, spilling drinks etc. Bar staff

totally oblivious. I spoke to [REDACTED], the Sound Manager and asked him if there was any procedure to move on customers so that they do not hang around after closing

time. He told me that the barmaid is a problem as she invites all her mates and treats the place like her own and also everyone is well aware that Security is needed but because the

Lamb does not make enough profit the brewery are too tight to provide it. We both agreed it was an accident waiting to happen.

Wed 30 Oct - book club held at my house. Friends could not believe the noise and vile behaviour from the Lamb's customers - asked if I regret having moved to Market Lane. Embarrassed.

Thr 31 Oct - ?? CS gas or some noxious substance let off in the Lamb. Customers coughing and choking. Police NOT called as the barmaid didn't want the bad publicity. At least it wasn't a knife!

As detailed in our conversation this morning, the local resident group is in the process of applying to have the licence of the Lamb revoked, having been left with no choice in the matter.

Statement from Resident 4

Myself and my partner are writing this statement because we feel that we can no longer continue to live in our home in Lewes due to the consistently unacceptable level of noise and disruption we experience due to the activities of 'The Lamb'. We both work and have important schedules and commitments and it is simply not possible or acceptable to stay up till 1am half of every week, unable to sleep in our own home. Ear plugs make little difference and sleeping on the floor in the spare room also does not solve the problem. This is not an occasional issue or a minor inconvenience. It is a guarantee that 3 to 4 nights a week loud music will play until midnight or later. On a few occasions I've heard music playing past 1am. The door is always opening and letting the music and singing out into the street at full volume. Additionally the customers of the pub stand outside our homes in the street

and in the pub garden shouting and screaming every night, long past the curfew for noise and in many cases past their licensed hours and on till 2am most weekends.

No attempt is made to get the customers to be quiet, to get them move on or to keep them inside with the door shut to prevent noise pollution. There is no security and nothing to prevent large groups of people drinking, arguing and shouting outside our homes until the police are called. This problem is only getting worse and on top of our daily work and personal lives being impacted, we are now finding ourselves affected by a growing anxiety; the knowledge that we will have to endure a series of long sleepless nights when we have work in the morning, including at the weekend, makes us want to not live in our home. We feel we have no choice but to start looking to move. We love our house and our town but this is too much and there appears to be no efforts made by The Lamb to consider us as their neighbours. This is our last action before we have to leave the town. Below I have detailed a number of recent occurrences that have impacted us:

Fri 27th Sept - At 01:05am loud music was still playing and the venue was in full swing despite being past it's licensed hours.

Sat 28th Sept - Unable to sleep before an early start at work with loud music and shouting outside long past midnight.

Wednesday 2nd October - Loud Live Karaoke still playing at 23:07 with the door regularly open so music played through amps at full volume impacts everyone in

the street. Then at 23:37 this same evening a large group of drinkers were in the beer garden screaming and shouting and this continued on late.

Sat 5th October - Loud music and shouting long past midnight -

Friday 18th - Loud music playing past 1am and screaming all night long from beer garden

Sat 19th - Unable to sleep till gone 3am due to the loud music and the customers in the beer garden of the pub screaming outside long after the venue seemed to be closed.

Friday 25th Oct - Very loud music playing after 11pm and had no choice but to not sleep in our bedroom and make up a bed on the floor as we had work first thing the next morning and we knew we would not get enough sleep due to the consistent pattern of activity from The Lamb each weekend.

Wed 30th October - Woken at 23:20 with ear plugs in from the shouting outside and the music still playing in the venue.

Statement by Resident 5

I have seen the submission to you from Resident 3 and i am writing to you to endorse her views and to encourage you to work with Environmental Health, Lewes DC (EH) on appropriate action to solve this situation.

Also i wish to confirm that hers is not a single person view but represent the feelings of the 9 or 10 residences involved and suffering this noise pollution.

I live further down the road away from the Lamb so receive less of the abusive noise but it still spreads down the road especially as they come and go, frequently late at night and often with glasses of beer in their hands. My main concern is the music and the intrusive noise pollution which occurs in the garden in summer and

frequently inside the house in the evenings. I would assume that the granting of a music licence carries with it conditions that the music shall not cause offence or annoyance by the type and volume of the sound. The Lamb has been consistently breaking this condition and despite appeals to EH - to which no reply is received - they continue to do so - twice within the last week; this pollution inside the house seriously affects our right to the peaceful enjoyment of our homes, is stressful and in the long term affects our health through the tensions involved.

The argument that the lamb has been a music venue for a while is not relevant, as the type of music has changed to a modern thumping electronic beat but without any commensurate change to the acoustic insulation of the premises producing the noise. Also the previous tenant had music for their guests over a significant period and we never had cause for any complaint as they had careful control of the volume.

If the music licence for the Lamb does not include the conditions indicated we would like a submission made to the licensing magistrates for such conditions to be attached with the proviso that flouting them will bring a suspension of the licence. EH say they will only receive complaints on a proforma to allow them, from the volume received to assess priorities - this seems an odd process as all complainants will send in heaps of forms in the hope of getting priority whereas they already know of the problems we face and presumably have been to judge the situation for themselves.

However we will shower them with complaint forms if that is what it takes, we will get professional sound and noise pollution tests carried out if needed for an independent submission to the magistrates, in fact any action to gain some meaningful action and reduce this invasion of our privacy with the attendant stress and health and welfare implications I already see in some of my neighbours



Appendix 4

The dates relating to the videos are as follows:

Resident 1

Video 1: 5 September
Video 2: 13 September
Video 3: 13 September
Video 4: 13 September
Video 5: 14 September
Video 6: 27 September
Video 7: 2 November
Video 8: 2 November

Resident 2

Video 1: 7 September
Video 2: 19 September
Video 3: 19 October
Video 4: 22 October
Video 5: 31 October
Video 6: 31 October

Resident 3

Audio recordings

Recording 1: 4 August
Recording 2: 13 September
Recording 3: 24 October
Recording 4: 2 November

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Local Policing Support Team

January 2020

Miss Susan Lindsey,
Specialist Advisor (Licensing)
Southover House,
Southover Road
Lewes, East Sussex BN7 1AB

Dear Miss Lindsey,

RE: APPLICATION FOR THE REVIEW OF THE PREMISES LICENCE FOR THE LAMB, 10 FISHER STREET, LEWES, EAST SUSSEX BN7 2DG UNDER THE LICENSING ACT 2003 REF: WK202000279

With reference to the Review application dated 6th January 2020 made by Councillor Milly Manley on behalf of local residents, I write on behalf of the Chief Officer of Police for Sussex to make a representation on the grounds of the Licensing Objective of the Prevention of Crime & Disorder.

Since Mr. Stephen Elliott took over as Designated Premises Supervisor (DPS) on 4th July 2019 there have been a number of complaints from local residents about excessive noise emanating from the premises, some of these made to police. However, Sussex Police wish to address the matter of principle concern to them, namely the habitual misuse of illegal substances within the premises as shown from recent drug swabbing carried out by PC Buck a member of East Sussex Licensing Team. Prior to the drug swab results there follows three incidents reported to police in relation to the premises.

1. On Saturday 6th July 2019 at 22:58hrs police received a call from staff reporting that an aggressive male had hit the DPS and five customers. The caller went on to say that the male had just assaulted another three customers and that he was being restrained by two male customers. When officers attended the offender had already left the premises. An area search was conducted but the male was not located. Despite being punched a number of times and his glasses being damaged the DPS declined to support police in relation to a prosecution and signed an officer's pocket note book to that effect. It is Sussex Police expectation that if staff and in particular a DPS is assaulted they will support of police prosecution. To fail to do so is unacceptable. After a lengthy investigation during which no witnesses were identified nor any indication as to who the male was, the matter was filed undetected. The investigation was hampered by the lack of CCTV even though there is a condition on the premises licence that states, CCTV throughout the premises. A further call at 23:01hrs was received by a local resident reporting that there was a fight at the premises.
2. On Friday 1st November 2019 at 00:24hrs a member of staff called police to report that a number of customers in the main area of the premises were coughing and suffering a burning sensation. She believed that some kind of pepper spray may have been used to cause the symptoms but no one had seen anything. She further stated that she had evacuated the premises and no one required medical assistance. She did not require police attendance but merely wanted the matter logged. The incident was passed to the Licensing Team to make enquiries.
3. On Friday 1st November 2019 at 10:15hrs police received a call from a local resident reporting that on the previous evening there was a large congregation of customers outside the premises who were being very loud. She went to the premises just after midnight and found that four members of staff were verbally quite aggressive when she confronted them.

She further stated that there had been an incident in the premises where someone had let off a pepper spray or similar. The caller then went on to complain about the noise from the premises which was taking place on a regular basis which was affecting her sleep and that of other nearby residents. PC Buck did look into the incident but as the complaint was predominately that of noise it was decided that Lewes District Council should take the lead.

4. On Friday 15th November 2019 a routine visit was paid to the premises by PC Buck who, whilst there took a number of Ion Trak drug swabs from various areas within the premises. The results of these drug swabs were as follows:-

Mens Toilet Seat = 5.97 Cocaine & 3.89 Amphetamine
Left Ladies Cubicle Window Ledge = 5.84 Cocaine
Mens Window Ledge = 5.74 Cocaine & 4.17 Amphetamine
Right Ladies Cubicle Toilet Seat = 5.14 Cocaine
Mens Hand Dryer = 4.77 Cocaine
Ladies Hand Dryer = 3.87 Cocaine
Ladies Sanitary Bin = 3.11 Cocaine
Mens Sink = 2.91 Cocaine
Bar = 2.76 Cocaine

GE Security, the Ion Trak Itemiser manufacturer, in their Technology Statement gives the following guidance about interpreting swab results.

Readings of between 1 & 2 can be classed as 'low' attributed to cross contamination of the surface tested, background contamination or greatly degraded historic contamination.

Between 2 & 3 can be classed as a 'medium' response attributed to cross contamination of the surface tested or recent historic contamination that may have been left a number of days prior to the sample being taken.

Between 3 & 4 can be classed as 'high' that would not be attributed to cross contamination and is indicative of recent and direct contact with measurable quantities of the narcotic identified by the machine.

Readings of 4 and above are estimated to relate to microgram amounts of contamination being transferred to the swab. This level of contamination is not generally experienced in any other environment than somewhere that has been in direct contact with a bulk amount of the source narcotic.'

Whilst taking the drug swabs Mr. Elliott stated to PC Buck that he knew drugs were being used at the premises. As a result of these high drug readings on Wednesday 20th November 2019 an Action Plan Letter was sent to Mr. Elliott. He was given ten days from the date of the letter to provide the measures he would be putting in place to combat the misuse of illegal substances within his premises. A copy of this letter is included in the evidence bundle.

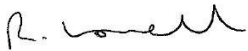
5. On Monday 2nd December 2019 Sussex Police received the measures Mr. Elliott would be taking to eliminate drug use within his premises. A copy of these measures are included within the evidence bundle.
6. On Friday 3rd January 2020 PC Buck returned to the premises to carry out further drug swabbing and make enquiries in relation to a missing person. He had been told by the officer leading the missing person investigation that the premises staff had not assisted the enquiry in providing CCTV footage despite numerous requests to do so. The CCTV footage had been promised for that afternoon but on PC Buck's arrival it still was not ready so he seized the premises hard drive. He then took further drug swabs, the results of which are as follows:-

Ladies Left Cubicle Window Ledge = 5.63 Cocaine
Mens Window Ledge = 5.43 Cocaine
Mens Toilet Seat = 5.11 Cocaine
Ladies Toilet Seat = 5.03 Cocaine
Mens Hand Dryer = 4.11 Cocaine
Ladies Hand Dryer = 3.03 Cocaine
Bar = 3.01 Cocaine
Ladies Sanitary Bin = 2.74 Cocaine

As shown there was little improvement in these drug readings compared with those taken on 15th November 2019. When a premises is on an Action Plan Sussex Police expects to see a significant reduction in the drug swab readings indicating that any measures put in place at the premises are proving effective. This is not the case here. Whilst at the premises PC Buck spoke to a member of staff who had worked there since the beginning of December 2019. He said that he had not received any training in relation to illegal substances despite this being one of the measures offered by the DPS.

Given the high drug readings and Mr. Elliott's failure to implement the measures he offered to significantly reduce drug misuse within the premises Sussex Police have no hesitation in supporting the Review brought by Councillor Milly Manley on behalf of local residents.

Yours sincerely,



Insp Rob Lovell
Force Licensing Inspector
Sussex Police

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Sussex Police
Supporting Evidence for Representation
The Lamb, 10 Fisher Street, Lewes

Document Index:

Overarching statement from PC 860 Buck: This relates to his dealings with the premises since **15th November 2019**.

Interaction No: 1 (Assault)

1. Pocket Note Book Entry: PC CD001 Durant
This relates to interaction on **Saturday 6th July 2019 at 22:58hrs** in Supporting Letter.
-

Interaction No: 4 (Drugs)

1. Copy Action Plan Letter dated **Wednesday 20th November 2019**
This relates to an interaction on **Friday 15th November 2019** in Supporting Letter.
Covered in PC Buck's Statement.
-

Interaction No: 5 (Drugs))

1. Copy Drug Abuse Action Plan from Stephen Elliott (DPS)
This relates to interaction on **Monday 2nd December 2019** in Supporting Letter.
Covered in PC Buck's Statement.
-

Interaction No: 6 (Drugs)

1. This relates to interaction on **Friday 3rd January 2020** in Supporting Letter.
Covered in PC Buck's Statement.

Evidence relating to
PC CB860 Buck's
statement

dated:

2nd February 2020

1 x Police Statement



WITNESS STATEMENT

Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s.9

URN

--	--	--	--

Statement of: PC DAREN BUCK

Age if under 18: 0/18 (if over 18 insert 'over 18') Occupation: POLICE OFFICER

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false or do not believe to be true.

Signature: Date 02/02/20

Tick if witness evidence is visually recorded (supply witness details on rear)

I am the above named person, a Police licensing officer within Sussex Police licensing. I am the holder of the ABII qualification for licensing practitioners. One of my many roles is to visit and inspect premises to ensure compliance within licensing law and that the individual premises are operating within the conditions of their premises licence and ensuring they are achieving the for licensing objectives being the prevention of crime and disorder, public safety, prevention of public nuisance and protection of children from harm.

This statement is in relation to a premises called The Lamb Inn, Fisher Street, Lewes.

On the 15th November 2019, I attended the above named premises to carry out a licensing check. At the time of my arrival the premises was open to the public and I immediately met by Mr Steven Elliot, the designated premises supervisor of the premises. I informed Mr Elliott of the purpose of my visit and informed him that I would be carrying out drug swabs of the premises and invited him to accompany myself. To my surprise Mr Elliot stated words to the effect of 'I'll show you where they'll be' and led the way to the men's toilets. Once within the toilets he stated that drugs will be present on the toilet seats and the hand dryers yet appeared to show no concern regarding this. I questioned why he had not done anything to deal with the issue which he was clearly aware of to which he replied words to the effect of 'it's everywhere, what can you do?'. Throughout my visit Mr Elliott showed no concern despite the evidence being physically shown to him of the positive drugs readings indicated via a Nark cocaine ID swab which turn blue on the presence of cocaine. His attitude was one of acceptance and shockingly uninterested. Prior to leaving the premises advice was offered to remove toilet lids and consider the treating of all flat surfaces to remove the opportunity of drug use, again his response was somewhat dismissive.

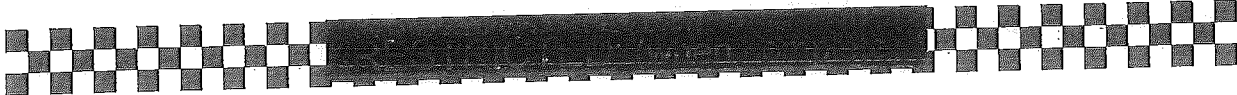
Following the taking of evidential swabs within the premises they were tested via an ion track atomiser device.

GE Security, the Ion Trak Itemiser manufacturer, in their Technology Statement gives the following guidance about interpreting swab results.

Readings of between 1 & 2 can be classed as 'low' attributed to cross contamination of the surface tested, background contamination or greatly degraded historic contamination.

Signature: Signature witnessed by: _____





Between 2 & 3 can be classed as a 'medium' response attributed to cross contamination of the surface tested or recent historic contamination that may have been left a number of days prior to the sample being taken.

Between 3 & 4 can be classed as 'high' that would not be attributed to cross contamination and is indicative of recent and direct contact with measurable quantities of the narcotic identified by the machine.

Readings of 4 and above are estimated to relate to microgram amounts of contamination being transferred to the swab. This level of contamination is not generally experienced in any other environment than somewhere that has been in direct contact with a bulk amount of the source narcotic.'

GE Security, the Ion Trak Itemiser manufacturer, in their Technology Statement gives the following guidance about interpreting swab results.

The results of these drug swabs are as follows:-

Mens Toilet Seat = 5.97 Cocaine & 3.89 Amphetamine

Left Ladies Cubicle Window Ledge = 5.84 Cocaine

Mens Window Ledge = 5.74 Cocaine & 4.17 Amphetamine

Right Ladies Cubicle Toilet Seat = 5.14 Cocaine

Mens Hand Dryer = 4.77 Cocaine

Ladies Hand Dryer = 3.87 Cocaine

Ladies Sanitary Bin = 3.11 Cocaine

Mens Sink = 2.91 Cocaine

Bar = 2.76 Cocaine

Following these results a letter was sent to Mr Elliot by my colleague Catherine Daniel informing him that the premises would be placed on a one month action plan, a copy of which is within this file.

On 2nd of December 2019 the action plan was received from Mr Elliot, a copy of which is within this file.

On the 3rd of January 2020 I attended the premises for two reasons. I had been informed by the senior investigating officer dealing with a missing person that the premises had offered them no assistance in providing CCTV and were generally being evasive. I had been informed the two PCSo's had attended the premises previously that day and spoken with a male that identified himself as Stephen Parsons. He had informed them to return at 4pm at which time the DPS would be present and able to assist. I arrived at the premises at 17:10 and on entering the premises was met by Mr Parsons who immediately stated 'if your her3e for the CCTV its not done' in what I would describe as a belligerent tone. I

Continuation of statement of informed who I was and asked if Mr Elliot was within the premises. He stated he was not and attempted to call him. Having seized the CCTV hard drive I carried further drugs swabs of the premises the results of which are as follows:-

Mens Toilet seat 5.11 Cocaine

Mens window ledge 5.43 Cocaine

Bar 3.01 Cocaine

Mens hand dryer 4.11 Cocaine

Ladies Hand dryer 3.03 Cocaine

Ladies L window ledge 5.63 Cocaine

Ladies sanitary bin 2.74 Cocaine

Mens hand dryer 4.01 Cocaine

Mens sink 1.43 Cocaine

Ladies toilet seat 5.03 Cocaine

Whilst taking the swabs it was very apparent that Mr Elliot had done absolutely nothing to reduce or prevent drug use and as can be seen some of the readings were actually higher on the return visit.

As well as not assisting Police in an investigation in relation to the CCTV, showing a total disregard in relation to drug use within his premises Mr Elliot has failed to communicate with Police as requested following the seizure of his CCTV hard drive. Mr Elliot has proved to be a difficult individual to deal with, clearly has a disregard for the licensing objectives and indeed the law.

On the 6th January I obtained video evidence of two males within the men's toilets of the premises snorting cocaine off of the window ledge in full view of anyone passing the premises. This video was taken from outside and the concerned member of the public who knew Mr Elliot informed him there and then of what they had seen and recorded. Mr Elliot's response was to place cardboard against the window to obscure any view from outside. Again, this belligerent response indicates an acceptance of the use of drugs within the premises and a total disregard of his obligations as a designated premises supervisor. I am of the opinion that Mr Elliot has a total disregard to the law and positively permits the illegal activity to take place within his premises. [REDACTED]

Signature [REDACTED] Signature witnessed by: _____ PTO

Evidence relating to Interaction (No. 1)

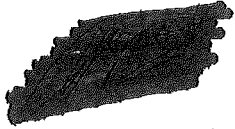
dated:

6th July 2019

1 x Pocket Notebook
Entry

Text Entry

I am Steve Elliott and the licensee of The Lamb Inn which is on Market Street, Lewes. Tonight there was an incident in the pub with a Male. He told me his name was John Lyon or Lion. He became aggressive to his girlfriend and assaulted her. I intervened with a colleague and the Male assaulted us. I was punched a number of times and my glasses damaged but I did not sustain any serious injuries that are visible to the eye,(currently). I do not wish to pursue a prosecution at this moment in time.

Title of Entry	
Entry Created	06/07/2019 23:26
Officer FIN	CD001
Name	Steven Elliott
Signature	
Signed on	06/07/2019 23:32
Add Appropriate Adult Signature?	No

Incident Details

Incident date	
GPS	
Entered by	CD001, PC WILLIAM DURANT

Evidence relating to
Interaction (No. 4)

dated:

15th November 2019

1 x Copy Letter
dated 20th November
2019



Sussex Police
Serving Sussex

www.sussex.police.uk

Local Policing Support Team

20th November 2019

Mr. Stephen Elliott,
The Lamb,
10 Fisher Street,
Lewes,
East Sussex BN7 2DG

Dear Mr Elliott,

The Lamb, 10 Fisher Street, Lewes BN7 2DG

ACTION PLAN LETTER

I am writing to you in your capacity as the Designated Premises Supervisor (DPS) of the above premises. The premises licence has been issued, Premises licence number LN/2005/00411, by Lewes District Council, authorising the licensable activities, Films, Indoor Sporting Events, Live Music, Recorded Music, Anything of a Similar description, Provision of Late Night Refreshment and the Sale by Retail of Alcohol. These activities are subject to a number of Conditions, all of which are attached to the premises licence.

On Friday 15th November 2019 your premises was visited by PC Buck a Prevention Licensing Officer, who took a number of Ion Trak drug swabs from various areas within the premises. When he told you that he would be carrying out these tests you said that you knew that drugs were being used at the premises.

The results of these drug swabs are as follows:-

Mens Toilet Seat = 5.97 Cocaine & 3.89 Amphetamine
Left Ladies Cubicle Window Ledge = 5.84 Cocaine
Mens Window Ledge = 5.74 Cocaine & 4.17 Amphetamine
Right Ladies Cubicle Toilet Seat = 5.14 Cocaine
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Ladies Hand Dryer = 3.87 Cocaine
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Mens Sink = 2.91 Cocaine
Bar = 2.76 Cocaine

GE Security, the Ion Trak Itemiser manufacturer, in their Technology Statement gives the following guidance about interpreting swab results.

Readings of between 1 & 2 can be classed as 'low' attributed to cross contamination of the surface tested, background contamination or greatly degraded historic contamination.

East Sussex Local Policing Support team
Police Station, Terminus Road, Bexhill-on-Sea,
East Sussex TN39 3NR

Telephone: 101: 564241 / 564605

Between 2 & 3 can be classed as a 'medium' response attributed to cross contamination of the surface tested or recent historic contamination that may have been left a number of days prior to the sample being taken.

Between 3 & 4 can be classed as 'high' that would not be attributed to cross contamination and is indicative of recent and direct contact with measurable quantities of the narcotic identified by the machine.

Readings of 4 and above are estimated to relate to microgram amounts of contamination being transferred to the swab. This level of contamination is not generally experienced in any other environment than somewhere that has been in direct contact with a bulk amount of the source narcotic.'

There were four readings above five, two above four and three above three out of the nine drug swabs taken; therefore the only conclusion that can be drawn from these results is that there is widespread, habitual use of illegal substances within your premises.

Following taking the drug swabs PC Buck invited you to accompany him to the toilets in order that he could give you an indication of where controlled substances were present using a Nark cocaine ID swab. You showed him areas where there were likely to be high drug readings and you were proved to be correct.

Overall the drug swab results are unacceptably high and therefore immediate action is required to significantly reduce the illegal use of narcotics within your premises.

As the DPS you will be fully aware of the following licensing objectives under the Licensing Act 2003 and your obligation to promote them:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance
- Protection of Children from Harm

I must point out that as the Designated Premises Supervisor you are in day-to-day control of the premises. The high results from the drug swabs indicate that neither you nor your staff have control of the premises and are therefore failing to promote the four licensing objectives.

You are now placed on an Action Plan in relation to the misuse of drugs in your premises. You are expected to send an email to catherine.daniel@sussex.pnn.police.uk no later than ten days of the date of this letter giving details of the measures you will be taking to combat the use of illegal substances within your premises.

Further high drug readings may place the premises licence at risk. Further observations of the premises will be carried out by officers of the Sussex Police.

A copy of this letter has been sent to the Premises Licence Holder.

Yours sincerely,

Inspector Rob Lovell CL740
Force Licensing & Response | Local Policing Support Team
Sussex Police HQ | Lewes | BN7 2DZ
Tel No: 01273 404535 ext 544169
Mobile No: 07912896012

East Sussex Local Policing Support team
Police Station, Terminus Road, Bexhill-on-Sea,
East Sussex TN39 3NR

Telephone: 101: 564241 / 564605

Evidence relating to
Interaction (No. 5)

dated:

2nd December 2019

1 x Copy Drug
Abuse Action Plan

Lamb of Lewes

10, Fisher Street, Lewes

DRUG ABUSE ACTION PLAN

		BY	DONE
1	STAFF TRAINING A robust drug policy is to be implemented, and all staff trained to identify potential and actual abusers and how to deal appropriately within our policy.	10 th Dec	
2	ZERO TOLERANCE A zero-tolerance attitude will be adopted by management and all staff towards drug use and the signs of drug use	1 st Dec	
3	CCTV Additional CCTV cameras are to be added to cover the main entrance doors and toilet entrance areas. 90 ay digital DVR	15 th Jan	
4	SEARCH The premises will implement a search policy that will be clearly displayed, and admission refused to anybody not willing to abide	2 nd Dec	
5	NOTICES Clear notices will be displayed at all entrance doors and in the toilets warning of our zero-tolerance approach. Notices will be displayed throughout the premises and particularly in the WC cubicles	6 th Dec	
6	CONFISCATION Any illegal substances found on patrons will be confiscated, recorded in a log and securely stored and handed over to Sussex Police	6 th Dec	
7	CLEANING REGIME The cleaning regime will be enhanced to make surfaces less attractive to drug users	1 st Dec	
8	REMOVAL Any person suspected of bringing any illegal substance onto the premises will be asked to leave immediately and not allowed to return	1 st Dec	
9	PATROL A member of staff will regularly patrol the premises, including the patio & WC's to identify any potential illegal substance user or carrier. Any suspect will be removed from the premises.	1 st Dec	
Prepared by DPS: Stephen Elliott			

Dear Sir/Madam,

I would like to lodge a strong objection to the renewal of the Premises Licence at The Lamb Pub, 10 Fisher Street, Lewes, BN7 2DG. My interest lies in our (mine and my wife's) ownership of the building opposite which comprises my wife's commercial premises (Langtons Hair & Beauty) on the ground floor and basement on the corner of Fisher Street and Market Lane as well as two 2-bedroom flats above it. We rent out one of these flats to a mother and teenage daughter who have been our tenants for many years now.

Our property is situated directly opposite The Lamb pub, approximately 10 yards away. I have witnessed first hand the evening disturbances as well as a number of pieces of video footage from my tenant and was simply appalled by what I witnessed. Both my tenant and daughter feel very threatened by the rowdy and aggressive crowds that gather outside and inside the pub and have been verbally threatened and abused on a number of occasions by the pub's patrons. Consequently, I have had an anti-arson letterbox installed at their flat to ensure that nothing untoward could be posted through their letterbox.

Nobody should feel threatened in their own home. Everyone has a legal right to quiet enjoyment of their property, free from nuisance. The current licensee of the pub is clearly not abiding by, and has continually not abided by the licensing regulations and duties owed to others. I strongly urge you to revoke their license indefinitely. This pub is an absolute menace to the local community.

Regards

Mr Dino Morra
1 Western Esplanade
Brighton
BN41 1WE

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Appendix 8

From: Cllr Milly Manley
Sent: 03 February 2020 15:04
To: Susan.lindsey@lewes-eastbourne.gov.uk
Subject: FW: Statement

From:
Sent: 02 February 2020 21:35
To: Cllr Milly Manley
Subject: Statement

I was awakened at 0050hrs on the morning of 11/01/20 by the man in the video screaming obscenities and banging on the door of The Lamb Pub outside the Fisher St entrance. He was threatening to smash the windows and doors of the pub if the staff, who were inside enjoying a 'lock in' with customers and friends did not let him back in. The residents of Fisher St and Market Lane had to endure this mans loud foul mouthed ranting and threatening behaviour for 50 minutes while the staff inside the pub ignored him. He moved from the entrance on Fisher St to the pub garden on Market Lane where he continued his ranting. The staff made no attempt to ask him to leave the premises nor did they make any attempt to call the police.

I work both Saturdays and Sundays

I did not fall back to sleep that night. This mans threatening and drunken behaviour was extremely upsetting and distressing. I had no sleep at all that night. I was exhausted at work on Saturday and barely recovered for work on Sunday.

This incident could have been managed by the bar staff at the Lamb but they chose to ignore what was going on outside the pub and continued to party inside the pub giving absolutely no consideration to the neighbouring residents.

The staff and customers finally left the pub at 0140 hrs shouting their farewells and banging car doors on Market Lane as they left.

Resident No 2

Sent from my iPhone

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To: Licensing Officer

I write to oppose the application to review the Premises Licence (LN/200500411) of the Lamb public house, 10 Fisher Street, Lewes.

I live about 200 m from the Lamb and pass it frequently, including in the evenings when it is active. I have never felt intimidated, or even inconvenienced, by its customers.

The Lamb hosts regular music evenings and I have attended several of them recently. They were all well run. There was a door security operative in attendance who also circulated through the crowd inside but he had nothing to do because the crowd was well behaved.

I see no need for the Lamb's licence to be reviewed.

Best Regards

John Frizell

17 St John's Terrace
Lewes
BN7 2DL

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Lewes District Council

PREMISES LICENCE SUMMARY

Premises Licence No: LN/2005/00411

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

The Lamb, 10 Fisher Street, Lewes, East Sussex BN7 2DG

Telephone number: 01273 470950

Licensable activities authorised by the licence:

- (i) Sale by retail of alcohol**
- (ii) Films**
- (iii) Indoor sporting events**
- (iv) Live music**
- (v) Recorded music**
- (vi) Anything of a similar description to that falling within (iv)(v)**
- (vii) Provision of late night refreshment**

Times authorised for the carrying out of licensable activities:

Opening Hours

Sunday to Thursday	9am to 12.30am (the following morning)
Friday and Saturday	9am to 1.30am (the following morning)

Non standard timings: 9am New Years Eve until close New Years Day. 9am to 1.30am (the following morning) on Friday, Saturday, Sunday and Monday on Bank Holiday weekends, Christmas Eve and Boxing Day. 9am to 1.30am (the following morning) on up to 12 other events days per annum with written permission from the Police.

Sale by retail of alcohol

Sunday to Thursday	9am to 12 midnight
Friday and Saturday	9am to 1am (the following morning)

Non standard timings: 9am New Years Eve until close New Years Day. 9am to 1am (the following morning) on Friday, Saturday, Sunday and Monday on Bank Holiday weekends, Christmas Eve and Boxing Day. 9am to 1am (the following morning) on up to 12 other events days per annum with written permission from the Police.

Films (indoors)

Sunday to Thursday 9am to 12 midnight
Friday and Saturday 9am to 1am (the following morning)

Non standard timings: When hours for sale of alcohol are extended on Bank Holidays and 'Event Days' these hours follow the opening hours.

Indoor sporting events

Sunday to Thursday 9am to 12 midnight
Friday and Saturday 9am to 1am (the following morning)

Non standard timings: When hours for sale of alcohol are extended on Bank Holidays and 'Event Days' these hours follow the opening hours.

Live music (indoors)

Monday to Sunday 9am to 11.30pm

Recorded music (indoors)

Sunday to Thursday 9am to 12 midnight
Friday and Saturday 9am to 1am (the following morning)

Non standard timings: When hours for sale of alcohol are extended on Bank Holidays and 'Event Days' these hours follow the opening hours.

Anything of a similar description to that falling within (iv)(v) (indoors)

Sunday to Thursday 9am to 12 midnight
Friday and Saturday 9am to 1am (the following morning)

Non standard timings: When hours for sale of alcohol are extended on Bank Holidays and 'Event Days' these hours follow the opening hours.

Provision of late night refreshment (indoors)

Sunday to Thursday 11pm to 12.30am (the following morning)
Friday and Saturday 11pm to 1.30am (the following morning)

Non standard timings: When hours for sale of alcohol are extended on Bank Holidays and 'Event Days' these hours follow the opening hours.

Authorised supplies of alcohol: **On and Off the Premises**

Holder of Premises Licence:

Name: Greene King Retailing Limited

Designated Premises Supervisor:

Name: Stephen Elliott
Personal licence number: WEA/LN/00002633
Issuing authority: Wealden District Council

State whether access to the premises by children is restricted or prohibited:
See Conditions attached to Licence

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 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:

- games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (a) 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
 - (b) drink as much alcohol as possible (whether within a time limit or otherwise).
- 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 significant risk of undermining a licensing objective.
- 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.
- 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.

- 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)
- (4) The responsible person must ensure that free potable water is provided on request to customers where it is reasonable available.
- (5) 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.

- (6) 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: ½ pint
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml, and
 - (iii) still wine in a glass: 125 ml, and
 - (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.
- (7) 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.
- (8) For the purposes of the condition set on in (7):
- (a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
 - (b) 'permitted price' is the price found by applying the formula:

$$P=D+(D \times V)$$

where:

- (i) P is the permitted price
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol
- (c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence:
- (i) the holder of the premises licence,
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
- (d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question, and
- (e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.
- (9) Where the permitted price given by Paragraph (b) of paragraph 8 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.
- (10) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 8 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

11. Exhibition of films

(a) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring the admission of children to the exhibition of any film to be restricted in accordance with this section.

(b) Where the film classification body is specified in the licence, unless subsection (3)(b) applies, admission of children must be restricted in accordance with any recommendation made by that body.

(c) Where-

(a) the film classification body is not specified in the licence, or

(b) the relevant licensing authority has notified the holder of the licence that this subsection applies to the film in question, admission of children must be restricted in accordance with any recommendation made by that licensing authority.

(d) In this section-

"children" means persons aged under 18; and

"film classification body" means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

CONDITIONS CONSISTENT WITH OPERATING SCHEDULE

12. General

- (a) The variation is not a substantial change to the way the premises operates at present.
- (b) Join local Pub Watch Scheme.
- (c) CCTV throughout the premises.

13. The prevention of crime and disorder

- (a) No one who is drunk and/or disorderly or showing signs of aggression will be admitted to the premises.
- (b) Drinks promotions that encourage 'binge' drinking will not take place.
- (c) Providing a 30 minute extension of opening hours after the end of the sale of alcohol will promote this objective as the last drink will be consumed less quickly, with access to the pubs toilet facilities.
- (d) Not less than five working days written notice will be provided to Police when 'Events Days' are planned.
- (e) CCTV throughout the premises.

14. Public safety

- (a) Staff will be trained in all aspects of Licensing Law and records of training will be kept.
- (b) Risk assessment identifies no other risk of crowding.

15. The prevention of public nuisance

- (a) Live music will end at 11.30pm.
- (b) All windows will be kept closed after 11.30pm.
- (c) No amplified music will be played such that it causes a nuisance to premises in the vicinity.
- (d) Customers of the premises will be encouraged to leave quietly.

16. The protection of children from harm

- (a) Persons under 18 will only be admitted if accompanied by an adult.
- (b) No children under 16 will be allowed on the premises after midnight.
- (c) Proof of age will be required from anyone who appears to be under 18.
- (d) The restrictions set out in the Licensing Act 2003 will apply.
- (e) No unusual risks of harm to children have been identified.
- (f) Adoption of PASS scheme of Portman Group.

PLANS: As approved and attached.

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16. Regulated entertainment

Types of regulated entertainment

- 16.1 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable and those activities which are not and therefore exempt from the regulated entertainment regime. Changes to regulated entertainment are due to take effect on 6 April 2015. Therefore, up until that date you should refer to chapter 16 of the guidance published in October 2014.
- 16.2 The descriptions of entertainment activities licensable under the 2003 Act are:
- a performance of a play;
 - an exhibition of a film;
 - an indoor sporting event;
 - a boxing or wrestling entertainment;
 - a performance of live music;
 - any playing of recorded music;
 - a performance of dance; and
 - entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.
- 16.3 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:
- take place in the presence of a public audience, or
 - where that activity takes place in private, be the subject of a charge made with a view to profit.
- 16.4 Guidance around what constitutes audiences and private events is at paragraphs 16.11-16.14.

Overview of circumstances in which entertainment activities are not licensable

- 16.5 There are a number of exemptions that mean that a licence (or other authorisation¹⁸) under the 2003 Act is not required. This Guidance cannot give examples of every eventuality or possible entertainment activity that is not licensable. However, the following activities are examples of entertainment which are not licensable:
- activities which involve participation as acts of worship in a religious context;
 - activities in places of public religious worship;
 - education – teaching students to perform music or to dance;
 - the demonstration of a product – for example, a guitar – in a music shop;
 - the rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;

¹⁸ The word 'licence' is typically used as a reference to all forms of authorisation

- Morris dancing (or similar)¹⁹;
- Incidental music – the performance of live music or the playing of recorded music if it is incidental to some other activity²⁰;
- Incidental film – an exhibition of moving pictures if it is incidental to some other activity²¹;
- A spontaneous performance of music, singing or dancing;
- Garden fetes – or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts – as long as the programme is live and simultaneous;
- Vehicles in motion – at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc. (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors)²².

16.6 As a result of deregulatory changes that have amended the 2003 Act²³, no licence is required for the following activities:

- Plays: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500.
- Dance: no licence is required for performances between 08.00 and 23.00 on any day, provided that the audience does not exceed 500²⁴.
- Films: no licence is required for 'not-for-profit' film exhibition held in community premises between 08.00 and 23.00 on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that each such screening abides by age classification ratings.
- Indoor sporting events: no licence is required for an event between 08.00 and 23.00 on any day, provided that those present do not exceed 1000.
- Boxing or wrestling entertainment: no licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08.00 and 23.00 on any day, provided that the audience does not exceed 1000.
- Live music: no licence permission is required for:
 - a performance of unamplified live music between 08.00 and 23.00 on any day, on any premises.
 - a performance of amplified live music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises,

¹⁹ Including any live music or playing of recorded music as an integral part of a performance of Morris dancing, or similar activity.

²⁰ See paragraphs 16.57-16.61

²¹ See paragraphs 16.65-16.68

²² This was previously licensable under the 2003 Act until the commencement of the Live Music Act 2012.

²³ The Live Music Act 2012 ("2012 Act") <http://www.legislation.gov.uk/ukpga/2012/2>; Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 ("2013 Order") <http://www.legislation.gov.uk/uksi/2013/1578/contents/made>; The Legislative Reform (Entertainment Licensing) Order 2014 ("2014 Order") <http://www.legislation.gov.uk/uksi/2014/3253/introduction/made>; and the Deregulation Act 2015 ("2015 Act").

²⁴ But see paragraphs 16.47 -16.48 in relation to dance that is adult entertainment and remains licensable.

provided that the audience does not exceed 500²⁵.

- a performance of amplified live music between 08.00 and 23.00 on any day, in a workplace²⁶ that does not have a licence, provided that the audience does not exceed 500.
- a performance of amplified live music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- a performance of amplified live music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.
- Recorded Music: no licence permission is required for:
 - any playing of recorded music between 08.00 and 23.00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500²⁷.
 - any playing of recorded music between 08.00 and 23.00 on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
 - any playing of recorded music between 08.00 and 23.00 on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.
- Cross activity exemptions: no licence is required between 08.00 and 23.00 on any day, with no limit on audience size for:
 - any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
 - any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by or on behalf of the health care provider;
 - any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
 - any entertainment (excluding films and a boxing or wrestling entertainment)

²⁵ Provided that a number of other important conditions are satisfied (see paragraphs 16.38-16.43).

²⁶ The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purpose of the 2012 Act.

²⁷ Provided that a number of other important conditions are satisfied, see paragraphs 16.38-16.43.

taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

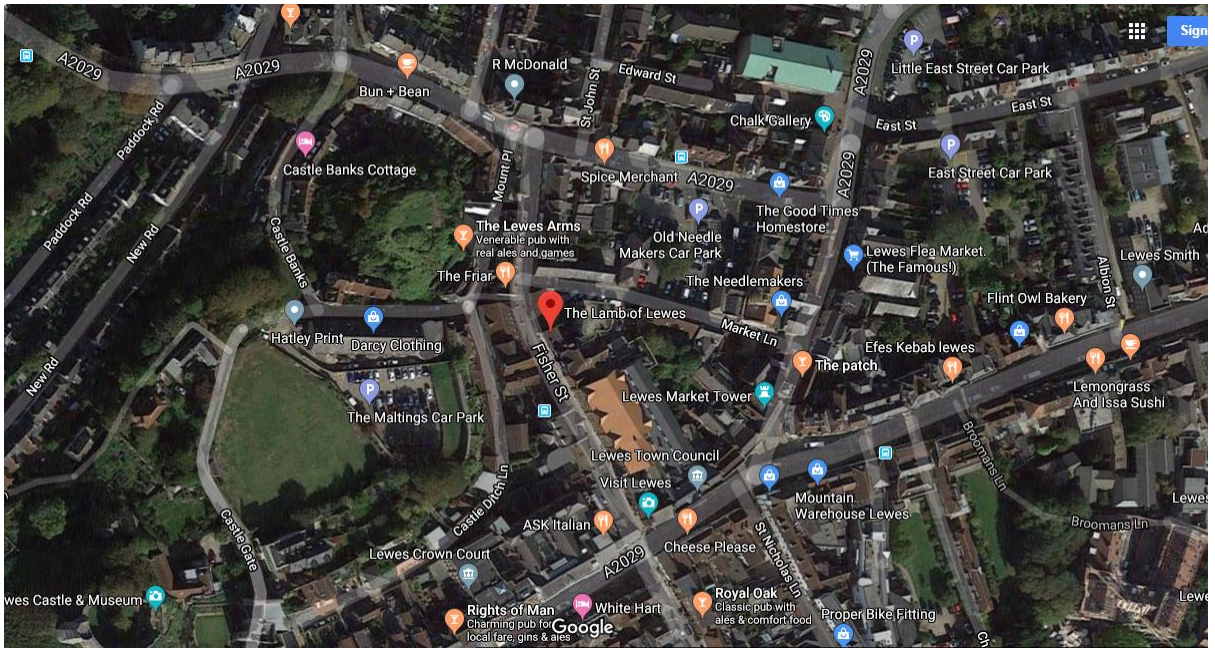
- 16.7 The deregulatory changes mean that, for example, an indoor sporting event that takes place between 07.00 and 23.30 on a particular day is licensable in respect of activities taking place between 07.00-08.00 and 23.00-23.30. Similarly, where the audience for a performance of dance fluctuates, those activities are licensable if, and for so long as, the number of people in the audience exceeds 500. If organisers are uncertain as to audience sizes or if audience migration is likely²⁸, it might be easier and more flexible to secure an appropriate authorisation. Examples of where a Temporary Event Notice (TEN)²⁹ could still be required include if the activity is the playing of recorded music or the exhibition of a film that requires an authorisation; or if the entertainment is not authorised by an existing licence or certificate and its conditions.
- 16.8 Of course, anyone involved in the organisation or provision of entertainment activities – whether or not any such activity is licensable under the 2003 Act – must comply with any applicable duties that may be imposed by other legislation relevant to the event (e.g. in areas such as crime and disorder, fire, health and safety, noise, nuisance and planning).³⁰ Any such person should take steps to be aware of relevant best practice, and may find responsible authorities a useful source of expert support and advice.
- 16.9 The various effects of the changes made to entertainment licensing by the set of deregulatory changes between 2012 and 2015³¹ are described in greater detail in subsequent paragraphs:
- Music entertainment, see in particular paragraphs: 16.20-16.21; 16.26-16.33; and 16.36-16.44;
 - Plays, dance, and indoor sporting events, see in particular paragraphs: 16.34-16.35 and 16.45-16.48;
 - Local authority, hospital and school premises, see in particular paragraphs: 16.16-16.20
 - Community premises, see in particular paragraphs: 16.21-16.24 and 16.34-16.35
 - Circuses, see in particular paragraph 16.25
 - Boxing or wrestling entertainment, see in particular paragraphs: 16.49-16.51.

²⁸ See paragraph 16.12

²⁹ See chapter 7

³⁰ See paragraphs 16.70-16.72 in relation to other licensing regimes

³¹ An entertainment activity may meet the conditions of more than one exemption



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11. Reviews

The review process

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

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

Repetitious grounds of review

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

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

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

2. The licensing objectives

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the

early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Protection of children from harm

- 2.22 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.23 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.24 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible

authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.25 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.26 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.27 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
 - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.28 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.
- 2.29 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.30 The 2003 Act provides that, where a premises licence or club premises certificate

authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.

- 2.31 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

- 2.32 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

10. Conditions attached to premises licences and club premises certificates

General

- 10.1 This chapter provides further guidance in relation to conditions attached to premises licences and club premises certificates. General principles on licence conditions are set out in Chapter 1 (see paragraph 1.16).
- 10.2 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. Failure to comply with any condition attached to a licence or certificate is a criminal offence, which on conviction is punishable by an unlimited fine or up to six months' imprisonment. The courts have made clear that it is particularly important that conditions which are imprecise or difficult for a licence holder to observe should be avoided.
- 10.3 There are three types of condition that may be attached to a licence or certificate: proposed, imposed and mandatory. Each of these categories is described in more detail below.

Proposed conditions

- 10.4 The conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should carry out before making their application for a premises licence or club premises certificate. This would be translated into the steps recorded in the operating schedule or club operating schedule, which must also set out the proposed hours during which licensable activities will be conducted and any other hours during which the premises will be open to the public.
- 10.5 It is not acceptable for licensing authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

Consistency with steps described in operating schedule

- 10.6 The 2003 Act provides that where an operating schedule or club operating schedule has been submitted with an application and there have been no relevant representations made by responsible authorities or any other person, the licence or certificate must be granted subject only to such conditions as are consistent with the schedule accompanying the application and any mandatory conditions required under the 2003 Act.
- 10.7 Consistency means that the effect of the condition should be substantially the same as that intended by the terms of the operating schedule. If conditions are broken, this may lead to a criminal prosecution or an application for a review and it is extremely important therefore that they should be expressed on the licence or certificate in unequivocal and unambiguous terms. The duty imposed by conditions on the licence holder or club must be clear to the licence holder, club, enforcement officers and the courts.

Imposed conditions

- 10.8 The licensing authority may not impose any conditions unless its discretion has been exercised following receipt of relevant representations and it is satisfied as a result of a hearing (unless all parties agree a hearing is not necessary) that it is appropriate to impose conditions to promote one or more of the four licensing objectives. In order to promote the crime prevention licensing objective conditions may be included that are aimed at preventing illegal working in licensed premises. This provision also applies to minor variations.
- 10.9 It is possible that in some cases no additional conditions will be appropriate to promote the licensing objectives.

Proportionality

- 10.10 The 2003 Act requires that licensing conditions should be tailored to the size, type, location and characteristics and activities taking place at the premises concerned. Conditions should be determined on a case-by-case basis and standardised conditions which ignore these individual aspects should be avoided. For example, conditions should not be used to implement a general policy in a given area such as the use of CCTV, polycarbonate drinking vessels or identity scanners where they would not be appropriate to the specific premises. Conditions that are considered appropriate for the prevention of illegal working in premises licensed to sell alcohol or late night refreshment might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check is retained at the licensed premises. Licensing authorities and other responsible authorities should be alive to the indirect costs that can arise because of conditions. These could be a deterrent to holding events that are valuable to the community or for the funding of good and important causes. Licensing authorities should therefore ensure that any conditions they impose are only those which are appropriate for the promotion of the licensing objectives.

Naming, packing and promotion in retail premises

- 10.11 The Government acknowledges that the irresponsible naming, packing or promotion of alcoholic drinks may contribute to alcohol related harms. Where there is direct evidence of specific incidents of irresponsible naming, packing or promotion of alcoholic drinks linked to the undermining of one of the licensing objectives, licensing authorities should, in the exercise of their licensing functions (in particular, in relation to an application for the grant, variation or review of a premises licence), consider whether it is appropriate to impose conditions on licences that require the licence holder to comply with the Portman Group's Retailer Alert Bulletins. This condition should be considered on a case by case basis and in the context of the promotion of the licensing objectives.
- 10.12 The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code,

the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until there has been compliance with the decision.

Hours of trading

- 10.13 The Government acknowledges that different licensing strategies may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the licensing authority power to make decisions about the hours during which premises can conduct licensable activities as part of the implementation of its licensing policy statement. Licensing authorities are best placed to make decisions about appropriate opening hours in their areas based on their local knowledge and in consultation with responsible authorities. However, licensing authorities must always consider each application and must not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.
- 10.14 Where there are objections to an application to extend the hours during which licensable activities are to be carried on and the licensing authority determines that this would undermine the licensing objectives, it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 10.15 Shops, stores and supermarkets should normally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours.

The performance of plays

- 10.16 The 2003 Act provides that other than for the purposes of public safety, conditions must not be attached to premises licences or club premises certificates authorising the performance of a play⁷ which attempt to censor or modify the content of plays in any way. Any such condition would be ultra vires the 2003 Act.

Censorship

- 10.17 In general, other than in the context of film classification for film exhibitions, licensing authorities should not use their powers under the 2003 Act to seek to impose conditions which censor the content of any form of regulated entertainment. This is not a proper function of licensing law and cannot be properly related to the licensing objectives. The content of regulated entertainment is a matter which is addressed by existing laws governing indecency and obscenity. Where the concern is about protecting children, their access should be restricted where appropriate. But no other limitation should normally be imposed.

Major festivals and carnivals

- 10.18 Licensing authorities should publicise the need for the organisers of major festivals and carnivals to approach them at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations

⁷ See chapter 15 for when a performance of a play is licensable.

within the premises. This would involve the preparation of a substantial operating schedule, and licensing authorities should offer advice and assistance about its preparation.

- 10.19 For other events, applications for many connected premises licences may be made which in combination will represent a single festival. It is important that licensing authorities should publicise the need for proper co-ordination of such arrangements and will need to ensure that responsible authorities are aware of the connected nature of the individual applications.
- 10.20 Local authorities should bear in mind their ability to seek premises licences from the licensing authority for land or buildings under public ownership within the community in their own name.⁸ This could include, for example, village greens, market squares, promenades, community halls, local authority owned art centres and similar public areas where festivals and carnivals might take place.⁹ Performers and entertainers would then have no need to obtain a licence or give a temporary event notice themselves to enable them to give performances in these places, although they would need the permission of the local authority to put on the event.

Fixed prices

- 10.21 Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club licences or club premises certificates in an area. This may be unlawful under current law. However, it is important to note that the mandatory conditions made under sections 19A and 73B of the 2003 Act prohibit a number of types of drinks promotions including where they give rise to a significant risk to any one of the four licensing objectives; the mandatory conditions also prohibit the sale of alcohol below the permitted price, as defined in paragraph 10.56.
- 10.22 Where licensing authorities are asked by the police, other responsible authorities or other persons to impose restrictions on promotions in addition to those restricted by the mandatory conditions, they should consider each application on its individual merits, tailoring any conditions carefully to cover only irresponsible promotions in the particular and individual circumstances of any premises where these are appropriate for the promotion of the licensing objectives. In addition, when considering any relevant representations which demonstrate a clear causal link between sales promotions or price discounting and levels of crime and disorder on or near the premises, it would be appropriate for the licensing authority to consider the imposition of a new condition prohibiting irresponsible sales promotions or the discounting of prices of alcoholic beverages at those premises. However, before pursuing any form of restrictions at all, licensing authorities should take their own legal advice.

⁸ No licence is required for any entertainment provided by or on behalf of a local authority, see paragraphs 15.16-15.19

⁹ The register of public spaces: <https://www.gov.uk/government/publications/licensed-spaces-register>

Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)

- 10.23 Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises with exceptionally high capacities, which are used primarily or exclusively for the sale and consumption of alcohol, and have little or no seating for patrons. Previous research has demonstrated that the environment within such establishments can have a significant bearing on the likelihood of crime and disorder.
- 10.24 Where appropriate, conditions can be attached to premises licences for the promotion of the prevention of crime and disorder at such premises that require the premises to observe:
- a prescribed capacity;
 - an appropriate ratio of tables and chairs to customers based on the capacity; and
 - a requirement that security staff holding the appropriate SIA licence or exemption are present to control entry for the purpose of compliance with the capacity limit and to deny entry to individuals who appear drunk or disorderly or both.

Mandatory conditions in relation to the supply of alcohol

- 10.25 The 2003 Act provides for the following mandatory conditions to be included in every licence and/or club premises certificate in the circumstances specified.

Designated premises supervisor

- 10.26 The 2003 Act provides that, where a premises licence authorises the supply of alcohol, it must include a condition that no supply of alcohol may be made at a time when no designated premises supervisor has been specified in the licence or at a time when the designated premises supervisor does not hold a personal licence or the personal licence has been suspended.
- 10.27 The main purpose of the ‘designated premises supervisor’ as defined in the 2003 Act is to ensure that there is always one specified individual among these personal licence holders who can be readily identified for the premises where a premises licence is in force. That person will normally have been given day to day responsibility for running the premises by the premises licence holder. The requirements set out in relation to the designated premises supervisor and authorisation of alcohol sales by a personal licence holder do not apply to community premises in respect of which a successful application has been made to disapply the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act (see Chapter 4 of this Guidance).
- 10.28 The 2003 Act does not require a designated premises supervisor or any other personal licence holder to be present on the premises at all times when alcohol is sold. However, the designated premises supervisor and the premises licence holder remain responsible for the premises at all times including compliance with the terms of the 2003 Act and conditions attached to the premises licence to promote the licensing objectives.

Authorisation by personal licence holders

- 10.29 In addition, every premises licence that authorises the sale of alcohol must require that every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence. This in most instances will be the designated premises supervisor who must hold a valid personal licence. Any premises at which alcohol is sold or supplied may employ one or more personal licence holders. This does not mean that the condition should require the presence of the designated premises supervisor or any other personal licence holder on the premises at all times.
- 10.30 Similarly, the fact that every supply of alcohol must be made under the authority of a personal licence holder does not mean that only personal licence holders can make sales or that they must be personally present at every transaction. A personal licence holder may authorise members of staff to make sales of alcohol but may be absent at times from the premises when a transaction takes place. However, the responsible personal licence holder may not be able to escape responsibility for the actions of anyone authorised to make sales.
- 10.31 “Authorisation” does not imply direct supervision by a personal licence holder of each sale of alcohol. The question arises as to how sales can be authorised. Ultimately, whether an authorisation has been given is a question of fact that would have to be decided by the courts on the evidence before it in the course of a criminal prosecution.
- 10.32 The following factors should be relevant in considering whether or not an authorisation has been given:
- the person(s) authorised to sell alcohol at any particular premises should be clearly identified;
 - the authorisation should have specified the acts which may be carried out by the person who is authorised to supply alcohol;
 - there should be an overt act of authorisation, for example, a specific written statement given to the individual who is authorised to supply alcohol; and
 - there should be in place sensible arrangements for the personal licence holder to monitor the activity that they have authorised on a reasonably regular basis.
- 10.33 It is strongly recommended that personal licence holders give specific written authorisations to individuals whom they are authorising to retail alcohol. A single written authorisation would be sufficient to cover multiple sales over an unlimited period. This would assist personal licence holders in demonstrating due diligence should issues arise with enforcement authorities; and would protect employees if they themselves are challenged in respect of their authority to sell alcohol.
- 10.34 Written authorisation is not a requirement of the 2003 Act and its absence alone could not give rise to enforcement action.
- 10.35 It must be remembered that while the designated premises supervisor or a personal licence holder may authorise other individuals to sell alcohol in their absence, they are responsible for any sales that may be made. Similarly, the premises licence holder remains responsible for ensuring that licensing law and licence conditions are observed at the premises.

Arrangements for the mandatory licence conditions

- 10.36 The mandatory conditions made under sections 19A and 73B of the 2003 Act (the conditions governing irresponsible promotions, dispensing alcohol directly into the mouth, provision of free tap water, age verification, small measures and the prohibition on sales of alcohol below the permitted price) do not have to be physically included in the licence or certificate but nonetheless will apply to every licence and certificate authorising the sale and supply of alcohol for consumption on the premises. The mandatory conditions set out in section 19 of the 2003 Act (the requirement for a DPS and for all sales to be made or authorised by a personal licence holder) do, however, have to be physically included in the licence. The mandatory licence conditions do not apply to activities (including the supply of alcohol) authorised by a temporary event notice.
- 10.37 Whereas the initial mandatory conditions in section 19 of the 2003 Act are set out in Annex 1 of the licence, the additional mandatory conditions made under section 19A of the 2003 Act are treated as if they were included in existing licences and certificates on the date that those conditions came into force.
- 10.38 Following their commencement, the mandatory conditions overrode any pre-existing conditions already included in a licence or certificate insofar as the mandatory conditions were identical to, or inconsistent with or more onerous than, any pre-existing conditions. It is not necessary to record on the face of existing licences and certificates the impact that the introduction of the mandatory conditions has had on pre-existing conditions.

Irresponsible promotions

- 10.39 Under this condition, the “responsible person” (defined in the 2003 Act as the holder of a premises licence, designated premises supervisor, a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18 or a member or officer of a club present on the club premises who can oversee the supply of alcohol) should be able to demonstrate that they have ensured that staff do not carry out, arrange or participate in any irresponsible promotions. An irresponsible promotion is one that fits one of the descriptions below (or is substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives.

Drinking games

- 10.40 Drinking games which require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise, are prohibited. For example, this may include organised ‘drink downing’ competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit ‘happy hours’ as long as these are not designed to encourage individuals to drink excessively or rapidly.

Large quantities of alcohol for free or a fixed price

10.41 Irresponsible promotions can include the provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted price, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This includes alcohol provided to the public or to a group defined by a particular characteristic, for example, a promotion which offers women free drinks before a certain time or “all you can drink for £10”. Promotions can be designed with a particular group in mind (for example, over 65s). A common sense approach is encouraged, which may include specifying the quantity of alcohol included in it or not targeting a group which could become more vulnerable or present a greater risk of crime and disorder as a result of excessive alcohol consumption.

Prizes and rewards

10.42 The sale, supply or provision of free or discounted alcohol or any other item as a prize to encourage or reward the purchase and consumption of alcohol can be within the definition of an irresponsible promotion, where there is a significant risk that such a promotion would undermine one or more of the licensing objectives. This may include promotions under which free or discounted alcohol is offered as a part of the sale of alcohol, for example, “Buy one and get two free” and “Buy one cocktail and get a second cocktail for 25p”. This includes promotions which involve the provision of free or discounted alcohol within the same 24 hour period.

Posters and flyers

10.43 Irresponsible promotions can also include the sale or supply of alcohol in association with promotional materials on display in or around the premises, which can either be reasonably considered to condone, encourage or glamorise anti social behaviour or refer to the effects of drunkenness in any favourable manner.

Dispensing alcohol directly into the mouth

10.44 The responsible person (see paragraph 10.39) must ensure that no alcohol is dispensed directly into the mouth of a customer. For example, this may include drinking games such as the ‘dentist’s chair’ where a drink is poured continuously into the mouth of another individual and may also prevent a premises from allowing another body to promote its products by employing someone to dispense alcohol directly into customers’ mouths. An exception to this condition would be when an individual is unable to drink without assistance due to a disability.

Free potable water

10.45 The responsible person (see paragraph 10.39) must ensure that free potable water is provided on request to customers where it is reasonably available on the premises. What is meant by reasonably available is a question of fact; for example, it would not be reasonable to expect free tap water to be available in premises for which the water supply had temporarily been lost because of a broken mains water supply. However, it may be reasonable to expect bottled water to be provided in such circumstances.

Age verification

- 10.46 The premises licence holder or club premises certificate holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person (see paragraph 10.39) to be under the age of 18 years of age to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and either a holographic mark or ultraviolet feature. The Home Office encourages licensed premises to accept cards bearing the Proof of Age Standards Scheme (PASS) hologram as their preferred proof of age, while acknowledging that many other forms of identification meet the requirements of the mandatory condition.
- 10.47 The premises licence holder or club premises certificate holder must ensure that staff (in particular, staff who are involved in the supply of alcohol) are made aware of the existence and content of the age verification policy which applies by the premises.
- 10.48 The designated premises supervisor (where there is one) must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy. This means that the DPS has personal responsibility for ensuring that staff are not only aware of, but are also applying, the age verification policy.
- 10.49 It is acceptable, and indeed encouraged, for premises to have an age verification policy which requires individuals who appear to the responsible person to be under an age greater than 18 to produce such identification on request. For example, if premises have a policy that requires any individual that appears to be under the age of 21 to produce identification that meets the criteria listed above, this is perfectly acceptable under the mandatory code.
- 10.50 Licence holders should consider carefully what steps they are required to take to comply with the age verification requirements under the 2003 Act in relation to sales of alcohol made remotely. These include sales made online, by telephone and mail order sales, and alcohol delivery services. Each of these sales must comply with the requirements of the 2003 Act. The mandatory condition requires that age verification takes place before a person is served alcohol. Where alcohol is sold remotely (for example, online) or through a telephone transaction, the sale is made at this point but the alcohol is not actually served until it is delivered to the customer. Age verification measures (for example, online age verification) should be used to ensure that alcohol is not sold to any person under the age of 18. However, licence holders should also consider carefully what steps are appropriate to ensure that age verification takes place before the alcohol is served (i.e. physically delivered) to the customer to be satisfied that the customer is aged 18 or over. It is, therefore, the responsibility of the person serving or delivering the alcohol to ensure that age verification has taken place and that photo ID has been checked if the person appears to be less than 18 years of age.

Smaller measures

- 10.51 The responsible person (see paragraph 10.39) shall ensure that the following drinks, if sold or supplied on the premises, are available in the following measures:
- Beer or cider: ½ pint
 - Gin, rum, vodka or whisky: 25ml or 35ml
 - Still wine in a glass: 125ml

- 10.52 As well as making the drinks available in the above measures, the responsible person must also make customers aware of the availability of these measures by displaying them on printed materials available to customers on the premises. This can include making their availability clear on menus and price lists, and ensuring that these are displayed in a prominent and conspicuous place in the relevant premises (for example, at the bar). Moreover, staff must make customers aware of the availability of small measures when customers do not request that they be sold alcohol in a particular measure.
- 10.53 This condition does not apply if the drinks in question are sold or supplied having been made up in advance ready for sale or supply in a securely closed container. For example, if beer is only available in pre-sealed bottles the requirement to make it available in 1/2 pints does not apply.
- 10.54 The premises licence holder or club premises certificate holder must ensure that staff are made aware of the application of this condition.

Ban on sales of alcohol below the permitted price

- 10.55 The relevant person (the holder of the premises licence, the designated premises supervisor (if any) in respect of such a licence, the personal licence holder who makes or authorises a supply of alcohol under such a licence, or any member or officer of a club present on the premises in a capacity which enables the member or officer to prevent the supply in question) 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.
- 10.56 The permitted price is defined as the aggregate of the duty chargeable in relation to the alcohol on the date of its sale or supply and the amount of that duty multiplied by a percentage which represents the rate of VAT chargeable in relation to the alcohol on the date of its sale or supply. Detailed guidance on how to make this calculation and a calculator to determine permitted prices for each product are available on the Home Office website.
- 10.57 Where there is a change to the rate of duty or VAT applying to alcohol (for instance, following a Budget), the relevant person should ensure that the permitted price reflects the new rates within fourteen days of the introduction of the new rate.
- 10.58 It is still permitted to sell alcohol using promotions (as long as they are compatible with any other licensing condition that may be in force), and the relevant person should ensure that the price of the alcohol is not less than the permitted price. Detailed guidance on the use of promotions is given in the guidance document available on the Gov.uk website.

Exhibition of films

- 10.59 The 2003 Act provides that where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (currently only the British Board of Film Classification (BBFC)) or by the licensing authority itself.
- 10.60 The effect of paragraph 5 of Schedule 1 to the 2003 Act is to exempt adverts from the

Home Office Immigration Enforcement acting as a responsible authority

9.25 The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly.

Disclosure of personal details of persons making representations

- 9.26 Where a notice of a hearing is given to an applicant, the licensing authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made.
- 9.27 In exceptional circumstances, persons making representations to the licensing authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant.
- 9.28 Where licensing authorities consider that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.
- 9.29 For instance, they could advise the persons to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations if appropriate and justified.
- 9.30 The licensing authority may also decide to withhold some or all of the person's personal details from the applicant, giving only minimal details (such as street name or general location within a street). However, withholding such details should only be considered where the circumstances justify such action.

Hearings

9.31 The Licensing Act 2003 (Hearings) Regulations 2005 governing hearings may be found on the www.legislation.gov.uk website. If the licensing authority decides that representations are relevant, it must hold a hearing to consider them. The need for a hearing can only be avoided with the agreement of the licensing authority, where the applicant and all of the persons who made relevant representations have given notice to the authority that they consider a hearing to be unnecessary. Where this is the case and the authority agrees that a hearing is unnecessary, it must forthwith give notice to the parties that the hearing has been dispensed with. Notwithstanding those regulatory provisions, in cases where the licensing authority believes that a hearing is still necessary, it is recommended that the authority should, as soon as possible, provide the parties with reasons in writing for the need to hold the hearing. In cases where only 'positive' representations are received, without qualifications, the licensing authority should consider whether a hearing is required. To this end, it may wish to notify the persons who made representations and give them the opportunity to withdraw those representations. This would need to be done in sufficient time before the hearing to ensure that parties were not put to unnecessary inconvenience.

- the steps that are appropriate to promote the licensing objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

- 9.39 The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to such conditions that are consistent with the operating schedule. Any conditions imposed must be appropriate for the promotion of the licensing objectives; there is no power for the licensing authority to attach a condition that is merely aspirational. For example, conditions may not be attached which relate solely to the health of customers rather than their direct physical safety. Any conditions added to the licence must be those imposed at the hearing or those agreed when a hearing has not been necessary.
- 9.40 Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives. It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority should publish hearings procedures in full on its website to ensure that those involved have the most current information.
- 9.41 In the context of variations or minor variations, which may involve structural alteration to or change of use of a building, the decision of the licensing authority will not exempt an applicant from the need to apply for building control approval, planning permission or both of these where appropriate.

Determining actions that are appropriate for the promotion of the licensing objectives

- 9.42 Licensing authorities are best placed to determine what actions are appropriate for the promotion of the licensing objectives in their areas. All licensing determinations should be considered on a case-by-case basis. They should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant or premises user as the case may be.
- 9.43 The authority's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.
- 9.44 Determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this does not therefore require a licensing authority to decide that no lesser step will achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions on licensable activities) as well as the potential benefit in terms of the promotion of the licensing objectives. However, it is

imperative that the authority ensures that the factors which form the basis of its determination are limited to consideration of the promotion of the objectives and nothing outside those parameters. As with the consideration of licence variations, the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business. Further advice on determining what is appropriate when imposing conditions on a licence or certificate is provided in Chapter 10. The licensing authority is expected to come to its determination based on an assessment of the evidence on both the risks and benefits either for or against making the determination.

Considering cases where licensing and planning applications are made simultaneously

- 9.45 Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing committees and officers should consider discussion with their planning counterparts prior to determination with the aim of agreeing mutually acceptable operating hours and scheme designs.

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