

Licensing sub committee

Date: Thursday, 18 April 2019

Time: 16:15

Venue: Council chamber

City Hall, St Peters Street, Norwich, NR2 1NH

**Pre-meeting briefing for members of the committee only
15 minutes before the start of the meeting**

Committee members:

For further information please contact:

Councillors:

Hugo Malik (chair)

Julie Brociek-Coulton

David Fullman

Committee officer: Alex Hand

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e: alexhand@norwich.gov.uk

Democratic services

City Hall

Norwich

NR2 1NH

www.norwich.gov.uk

Information for members of the public

Members of the public and the media have the right to attend meetings of full council, the cabinet and committees except where confidential information or exempt information is likely to be disclosed, and the meeting is therefore held in private.

For information about attending or speaking at meetings, please contact the committee officer above or refer to the council's website.

Agenda

1 Apologies

To receive apologies for absence

2 Declarations of interest

(Please note that it is the responsibility of individual members to declare an interest prior to the item if they arrive late for the meeting)

3 **Application for review of a premises licence – Karishma, 15 Prince of Wales Road, Norwich, NR1 1BD** 3 - 44

Purpose: Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider an application by Richard Divey, Environmental Protection Officer for Norwich City Council to review the premises licence in respect of Karishma, 15 Prince of Wales Road, Norwich NR1 1BD.

*4 Exclusion of the public

Consideration of exclusion of the public.

Date of publication: **Wednesday, 10 April 2019**

Report to	Licensing sub committee 18 April 2019	Item
Report of	Head of citywide services	3
Subject	Licensing Act 2003: Application for review of a premises licence – Karishma, 15 Prince of Wales Road, Norwich, NR1 1BD	

Purpose

Members are asked, in accordance with the delegation of licensing functions contained in the Norwich City Council Statement of Licensing Policy (Licensing Act 2003), to consider an application by Richard Divey, Environmental Protection Officer for Norwich City Council to review the premises licence in respect of Karishma, 15 Prince of Wales Road, Norwich NR1 1BD.

Recommendation

That members determine the review application in respect of Karishma, 15 Prince of Wales Road Norwich NR1 1BD in accordance with the:

- Licensing Act 2003;
- Guidance issued under Section 182 of the Licensing Act 2003; and
- Norwich City Council Statement of Licensing Policy.

Corporate and service priorities

The report helps to meet the corporate priority of a safe and clean city and the service plan priority of protecting the interests of the public through the administration of the licensing function.

Financial implications

None.

Ward/s: Thorpe Hamlet

Cabinet member: Councillor Maguire – Safe City Environment

Contact officers

Maxine Fuller, licensing assistant

01603 212761

Background documents

None

Report

Licensing Act 2003 (The Act): review applications

1. The Act provides a mechanism by which, following the grant of a premises licence, a responsible authority (e.g. trading standards) or any other person (e.g. a resident living in the vicinity of the premises) may ask the licensing authority to 'review' the licence because of a matter(s) arising at the premises in connection with any of the four licensing objectives (the prevention of crime and disorder, public safety, the prevention of public nuisance and the protection of children from harm).
2. The licensing authority must advertise the review by displaying a notice at, on or near the site of the premises to which the application relates and at the main offices of the licensing authority. Notification of an application is also displayed on the Norwich City Council website.
3. The Act provides the licensing authority with a range of powers that it may exercise on determining a review, where it considers them appropriate for the promotion of the licensing objectives. However, the licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps appropriate to promote the licensing objectives.
4. Where a licensing authority considers that action under its statutory powers is necessary, it may take any of the following steps:
 - To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example by reducing the hours of opening or by requiring door supervisors at particular times;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management;
 - To suspend the licence for a period not exceeding three months; and
 - To revoke the licence.
5. It should be noted that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months.
6. The following parties have a right of appeal to the Magistrates Court if they are aggrieved by the licensing authorities decision:
 - the applicant for the review;
 - the holder of the premises licence; and
 - any other person who made relevant representations in relation to the application.

Application for review

7. An application to review the premises licence in respect of Karishma, 15 Prince of Wales Road, Norwich, NR1 1BD has been received from Richard Divey, Environmental Protection officer for Norwich City Council. A copy of the application is attached at appendix A.
8. The grounds for review fall under the licensing objective of the prevention of public nuisance.
9. A copy of the existing licence and operating schedule is attached at appendix B to the report.
10. The current Premises Licence holder is Karishma Bar & Club Ltd and the Designated Premises Supervisor is Shumon Choudhury.

Relevant representations

11. The responses from the Responsible Authorities are as follows:

Police – representation received (copy attached at appendix C)

Environmental Protection – (applicant in this review)

Fire Officer – representation received (copy attached in appendix C)

Planning Officer – no representations

Area Child Protection Committee – no representations.

Trading Standards – no representations

Primary Care Trust – no representations

Norwich City Council Statement of Licensing Policy

12. Attached at appendix D are the elements of the city council's local Licensing Policy which are considered to have a bearing upon the application:

National Guidance (issued under section 182 of the Licensing Act 2003)

13. Attached at appendix E are the elements of the National Guidance issued by the Secretary of State that are considered to have a bearing upon the application.

Summary

14. In determining the application with a view to promoting the licensing objectives the subcommittee must give appropriate weight to:
 - the steps that are appropriate to promote the licensing objectives (i.e. the prevention of crime and disorder; public safety; the prevention of public nuisance; and the protection of children from harm);
 - the representations (including supporting information) presented by all the parties;

- the guidance issued under Section 182 of the Licensing Act 2003 (National Guidance); and
 - the council's own statement of licensing policy.
15. The subcommittee must take such of the following steps as it considers appropriate for the promotion of the licensing objectives:
- To modify the conditions of the Premises Licence (which includes adding new conditions or any alteration or omission of an existing condition);
 - To exclude a licensable activity from the scope of the licence;
 - To suspend the licence for a period not exceeding three months; and
 - To revoke the licence.
 - To remove the Designated Premises Supervisor, for example, because they consider that the problems are the result of poor management;
16. The subcommittee is asked to note that it should not carry any of the steps set out in paragraph above because it considers it desirable to do so, it must actually be appropriate in order to promote the licensing objectives.

Update

17. Norwich City Council licensing team with cooperation from the venue reached an agreed position, in that the imposition of the following conditions will allow for the improved operation of the premises such that the applicant for the review is satisfied the licence would be appropriate:
- a) Ground Floor: Amplified music on the ground floor shall be played through a sealed limiter specifically for the ground floor and shall not exceed 90dB at 1 metre from the microphone location. Any changes to the level must be approved in advance by the Environmental Protection Team.
 - b) First Floor: Amplified music on the first floor shall be played through a sealed limiter specifically for the first floor and shall not exceed 80dB at 1 metre from the microphone location. Any changes to the level must be approved in advance by the Environmental Protection Team.



NORWICH
City Council

Citywide Services
Public Protection (Licensing)
City Hall
St Peters Street
Norwich NR2 1NH

RECEIVED

21 FEB 2019

LICENSING OFFICE

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 Richard Divey

(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

Karishma 15 Prince Of Wales Road

Post town Norwich

Post code (if known) NR1 1BD

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

Karishma Bar And Club Ltd

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

18/00722/PREM

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

First names

I am 18 years old or over

Please tick ✓ yes

☐

Current
postal
address if
different
from
premises
address

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Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(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 Richard Divey Norwich city council City hall St peters street Norwich NR2 1NH	

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

- | | |
|---|-------------------------------------|
| | Please tick one or more boxes ✓ |
| 1) the prevention of crime and disorder | <input type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

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

As part of an investigation into nuisance noise from the premises on the night of 15th February 2019 I visited an alleyway that runs to the rear of the premises and the car park for Maidstone road flats.

During previous noise investigations about the same premises under a previous management it was clear that this is the weak point in the fabric of the building for noise escape.

The noise was clearly audible while walking Rose Lane along Greyfriars Road at a distance of approximately 70 metres.

When we arrived at the nearest point to the rear of the premises (7 metres) it was apparent that the rear wall (that I know to be a wall containing the fire escape for the premises) was emitting a very loud bass noise such that each beat of the music was very clearly audible and could also be felt in my body. A very loud noise, sounding like a hundred small jackhammers, could be heard, it appeared to follow a pattern alongside the bass beat. Although it was dark, from previous experience of noise like this, I identified it as being tiles from the roof of the premises vibrating against each other.

On a previous occasion I have witnessed noise nuisance in the flat nearest this venue (no 21) when the noise escape at this position was not this loud, I was therefore satisfied that this would constitute a nuisance.

Inside the bedroom of another flat, 30 meters from the rear wall of the venue, bass noise was very loud and at times clearly audible over the sound of a conversation between my colleague and the residents with the window closed. The rattle noise from the venue was at times also clearly audible, such that I am satisfied that it would have been impossible to gain normal restorative sleep.

The observations were made between 23:06 and 23:56 and at all times, was clearly audible in the outside surrounding areas, even from St Vedast street, which has no direct noise path (a large three story building blocks line of sight) from the premises and is 75 metres away.

I had previously visited the premises on the 14/12/2018 and spoken to the manager of the premises, warning him that noise escape was too loud. I later confirmed this by email.

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I visited Karishma and found the the music levels inside extramly loud even when compared to other nightclubs.

I spoke to the same manager who stated that noise levels inside were 90dB, I told him that in my experience that the noise was closer to 110dB and that if he was using a phone app it was unlikely to be measuring a full frequency range.

During these discussions which took place in the street outside the premises noise escape caused all discussions to take place with raised voices and at times by shouting.

We discussed conditions on the licence that indicated that a noise limiting device shall be fitted to any equipment used to play music at the venue, he

admitted that he was not aware of this.

It was clear that noise conditions on the licence may have restricted noise escape from the venue to an appropriate level but that this was not happening.

Although the conditions may have been appropriate if complied with, this use did cause a nuisance to local residents and therefore a review of this licence is appropriate under the prevention of public nuisance objective.

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

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

1	1	1	1	1	1	1	1
---	---	---	---	---	---	---	---

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, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION

Part 3 – Signatures (please read guidance note 4)

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

Signature

.....

Date 21/02/2019

.....

Capacity Environmental Protection Officer

.....

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)

Page 14 of 44

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)



NORWICH City Council

Premises Licence Summary

Premises Licence Number

19/00408/PREM

Premises Details

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

Karishma
15 Prince Of Wales Road
Norwich
NR1 1BD

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Ent like live/recorded music/dance - Activity takes place indoors
Films - Activity takes place indoors
Late Night Refreshment - Activity takes place indoors
Live Music - Activity takes place indoors
Performances of Dance - Activity takes place indoors
Plays - Activity takes place indoors
Sale by Retail of Alcohol
Recorded Music - Activity takes place indoors

The times the licence authorises the carrying out of licensable activities

Ent like live/recorded music/dance Every Day 10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

Films Every Day 10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

Late Night Refreshment Every Day 23:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

Live Music Every Day 10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

Performances of Dance Every Day 10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

Plays	Every Day	10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.		
Sale by Retail of Alcohol	Every Day	10:00 - 03:45
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.		
Recorded Music	Every Day	10:00 - 04:00
New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.		

The opening hours of the premises

Monday	10:00 - 04:00
Tuesday	10:00 - 04:00
Wednesday	10:00 - 04:00
Thursday	10:00 - 04:00
Friday	10:00 - 04:00
Saturday	10:00 - 04:00
Sunday	10:00 - 04:00

New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

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

Alcohol is supplied for consumption both on and off the Premise

Name, (registered) address of holder of premises licence

Karishma Bar And Club Ltd
15 Prince Of Wales Road
Norwich
NR1 1BD

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

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Registered Business Number 11339923

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Shumon Choudhury

State whether access to the premises by children is restricted or prohibited

Persons under 18 not to be permitted entry to that part of the premises where any adult entertainment is being performed.



Premises Licence

Premises Licence Number

19/00408/PREM

Part 1 – Premises Details

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

Karishma
15 Prince Of Wales Road
Norwich
NR1 1BD

Telephone number

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence.

Ent like live/recorded music/dance - Activity takes place indoors
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New Years Eve hours from the end of permitted hours on 31 December until the start of permitted hours on 1 January.

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

Alcohol is supplied for consumption both on and off the Premise

State whether access to the premises by children is restricted or prohibited

Persons under 18 not to be permitted entry to that part of the premises where any adult entertainment is being performed.

Part 2

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

Karishma Bar And Club Ltd
15 Prince Of Wales Road
Norwich
NR1 1BD

Electronic Mail

karishmabarclub@gmail.com

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

Registered Business Number 11339923

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

Mr Shumon Choudhury

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

Party Reference:

Licensing Authority: I

Annex 1 – Mandatory conditions

- 1 No supply of alcohol may be made under a 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 No moving picture shall be exhibited unless: -
 - (i) it has received a "U", "PG", "12A", "15" or "18" certificate of the British Board of Film Classification; or
 - (ii) it is a current newsreel which has not been submitted to the British Board of Film Classification; or
 - (iii) the permission of the Licensing Authority is first obtained and any conditions of such permission are complied with.
- 4 No person under the age of 18 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received an "18" certificate from the British Board of Film Classification.
- 5 No person under the age of 15 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "15" certificate from the British Board of Film Classification.
- 6 No person under the age of 12 years shall be admitted to any exhibition at which there is to be shown any moving picture which has received a "12A" certificate from the British Board of Film Classification.
- 7 Where, at specified times one or more individuals must be at the premises to carry out a security activity each such individual must be licensed by the Security Industry Authority.
- 8
 - (1) 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.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises.
 - a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
 - e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
- 9 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 10
 - (1) 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.

- (2) The designated premises supervisor in relation to the premises licences must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) 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.
- 11 The responsible person shall ensure that:
- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
- (i) beer or cider half pint
 - (ii) gin, rum, vodka or whisky: 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.
- 12 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.
- 13 . For the purposes of the condition set out in paragraph 1:
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979
 - (b) "permitted price" is the price found by applying the formula:

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

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.
- 14 (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (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.
- 15 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.
- 16 Where the film classification body is specified in the licence, unless subsection (12)(b) applies, admission of children must be restricted in accordance with any recommendation by that body.
- 17 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.
- 18 In this section "children" means any person 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(c39) (authority to determine suitability of video works for classification).

19 Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must:

(a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or

(b) be entitled to carry out that activity by virtue of section 4 of the Act.

20 But nothing in subsection (1) requires such a condition to be imposed:

(a) in respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films); or

(b) in respect of premises in relation to:

(i) any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

(ii) any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act).

21 For the purposes of this section:

(a) "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies, and, which is licensable conduct for the purposes of that Act, (see Section 3(2) of that Act) and

(b) paragraph 8(5) of that Schedule (interpretation of references to an occasion) applies as it applies in relation to paragraph 8 of that Schedule.

Annex 2 – Conditions consistent with the Operating Schedule

1 **General - all four licensing objectives**

2 All bar staff will be trained in the basic law relating to the sale/supply of alcohol and a record of who has received this training will be kept at the premises.

3 There will be a 15 minute "chill out" period after sale of alcohol ceases before the premises are closed.

4 **The Prevention of Crime and Disorder**

5 When the premises are open between Sunday - Thursday there will be a minimum of 2 SIA door supervisors employed at the premises from 22:00 until close.

When the premises are open on Friday and Saturday there will be a minimum of 2 SIA door supervisors on the entrance to the premises and 1 SIA door supervisor inside to patrol inside the venue from 22:00 until close.

When the premises are open on any day, and when each upper floor is open to the public, there will be an additional 1 SIA door supervisor employed and they will be deployed in those areas to monitor patrons.

6 The door supervisors will monitor the capacity using clickers.

7 There will be a door supervisor signing in/off book which will include date, full SIA badge number, tour of duty and times worked. This book will be kept on the premises and available for inspection by Police or Licensing Authority on request.

8 Toughened Glass will be used in place of regular glass.

9 A search policy will be in place and the documents relating to this will be available for inspection on the premises by Police or Licensing Authority on request.

10 The Licensee or nominated person will be a member of the Norwich Licensing Forum and will attend at least 3 meetings per year.

11 Door supervisors situated on the front door to wear hi-visibility and bright fluorescent coloured outer clothing to be visible.

12 An Amnesty Safe is to be installed at the premises to allow confiscated fraudulent ID's and drugs to be deposited.

13 There shall be in place a code of conduct for the professional dancers. Each performer is to sign a copy of the code of conduct before being allowed to commence dancing at the premises. This code of conduct and signed copies will be kept on the premises and available to Police or Licensing Authority on request.

14 There shall be no physical contact between the customer and the dancer.

15 Dancers may never exchange any contact details including telephone numbers and email addresses with patrons.

16 All dancers/performers will be aged at least 18 years of age and legally entitled to work in the UK before they perform in the club. Files confirming this information to be retained on the premises and available to responsible authorities on request.

17 The premises will not display photographs or other images that may be construed as offensive.

18 There will be a no entry / re-entry to the premises 1 hour before the end of licensable activity of the sale by retail of alcohol except for those persons using the designated smoking area.

19 The Licensee, that is the person in whose name the premises licence is issued, shall ensure that at all times when the premises are open for any licensable activity, there are sufficient, competent staff on duty at the premises for the purpose of fulfilling the terms and conditions of the licence and for preventing crime and disorder.

20 All members of staff at the premises shall seek "credible photographic proof of age evidence" from any person who appears to be under the age of 18 years and who is seeking to purchase or consume alcohol on the premises.

21 A suitable worded sign of sufficient size and clarity must be displayed at the point of entry to the premises and in a suitable location at any points of sale, advising customers that they may be asked to produce evidence of their age.

22 A conspicuous notice must be displayed on or immediately outside the premises, or which is immediately adjacent to the premises, which gives details of any restrictions relating to the admission of children to the premises.

23 No patrons shall be allowed to leave the premises or its curtilage (curtilage includes any patio, terrace or other smoking areas) whilst in the possession of any drinking vessel or open glass bottle whether empty or containing any beverage.

- 24 The Licensee will ensure that there are sufficient staff on the premises to be able to monitor the
behaviour of customers whilst inside the premises and take action to alert the Police and prevent
problems escalating.
- 25 CCTV will be installed to cover all entrance, bars, dance areas and any external smoking area,
maintained in good working order and, recordings will be kept for a minimum of 31 days for
inspection by the Police or other responsible authority.
- 26 Door supervisors will be employed during the evening and early hours proportionate to the
perceived risk.
- 27 An incident book will be provided and available for inspection by the Police and responsible
authorised authorities.
- 28 The Licensee or a responsible person will monitor patrons leaving the premises, especially during the
terminal hour to assist in a quiet and orderly dispersal of patrons.
- 29 An "alert" radio system will be operated by the premises under the Project 150 scheme and
subscription charges will be payable for the duration of the Project 150 scheme. This condition is
only enforceable whilst the reduced cost structure of Project 150 continues.
- 30 **Public Safety**
- 31 The provisions of the Regulatory Reform (Fire safety) Order 2005 apply to these premises and
accordingly all fire and health and safety risk assessments will be fully implemented.
- 32 **The Prevention of Public Nuisance**
- 33 Before any amplified music is played in the premises a sealed noise limiting device shall be installed
and set in accordance with a scheme approved by the Council. Once set, the level of all amplified
music played at the premises shall be controlled by this limiting device.
- 34 The ground floor rear door to the premises will be kept locked whilst the premises are open to the
public.
- 35 Internal and external lighting provided for the purpose of customer and staff safety and for the
security of the premises must be so positioned to not cause nuisance to neighbouring or adjoining
properties.
- 36 Premises must remove their waste and refuse in a timely manner to a licensed waste disposal
facility.
- 37 An adequate number of staff must monitor the activity of persons leaving the premises and remind
them of their public responsibilities where necessary.
- 38 There must be clear and legible notices displayed at exits and other circulatory areas requesting
patrons to leave the premises having regard to the needs of local residents.
- 39 Volume levels from licensable music, both live and recorded, will be monitored by responsible
persons throughout the period both inside and outside the premises with particular regard to
excessive noise to neighbouring properties.
- 40 Doors (except for access and egress) and windows will be kept closed when licensable music is
being played.
- 41 A suitably worded sign of sufficient size and clarity must be displayed at the point of entry to the
premises and in a suitable location at any points of sale, advising customers that they may be asked
to produce evidence of their age.
- 42 All members of staff at the premises shall seek "credible photographic proof of age evidence" from
any person who appears to be under the age of 18 years and who is seeking to purchase or
consume alcohol on the premises.
- 43 **The Protection of Children From Harm**
- 44 No children under the age of 18 years to be allowed access to that part of the premises during any
time when an activity or entertainment of a sexual nature is being provided.



NORFOLK
CONSTABULARY

Our Priority is You

Licensing Officer
Norwich City Council
St Peters Street
Norwich
NR2 1NN

Date 21st March 2019

Dear Sir/Madam

The Licensing Team

Bethel Street Police Station
Norwich
Norfolk
NR2 1NN

Tel: 01603 276020

Fax: 01603 276025

Email: licensingteam@norfolk.pnn.police.uk

www.norfolk.police.uk

Non-Emergency Tel: 0845 456 4567

Police have received a copy of the application to review of the Premises licence for Karishma, 15 Prince of Wales Road, Norwich.

This review has been requested by a Norwich City Council Environmental Protection Officer and is specifically due to noise experienced from the music played at the venue and the impact this has caused to local residents.

PC Spinks attended the premises on the 22nd December 2018 and was of the opinion that the music was excessively loud. He spoke to manager, Mr Ali at the time and requested that they turned it down and submitted a report to the Environmental Protection Team.

Police also accompanied Norwich City Council Officers on the night of the 15th February 2019 when the noise nuisance was witnessed. Officers had to invite Mr Ali to come outside the venue due to being unable to hear. During this visit, Mr Ali admitted to breaching the noise limiter condition attached to the premises licence and this conversation was recorded on Police body worn camera.

The venue manager, Mr Ali claims the venue is a Bollywood Club however since opening last summer, the premises has held a handful of these events and the main focus being on hosting music events arranged by local promoters.

In terms of crime and disorder, there have been 9 incidents recorded since the premises opened in July 2018, the most significant incidents being:

- On 9th February 2019, PC Kentfield found two females in a heavily intoxicated state on Prince of Wales Road. They stated they had been drinking heavily in Karishma and had evidence of white powder around their nostrils. They both required medical cover and an intelligence report was created.
- On the 22nd December 2018, an ejected male was produced to Police and seen with white powder around his nose and was arrested for possession of class A drugs.
- An ambulance was required on the 11th November 2018 for a female who was unable to walk. It is believed that the female was overly intoxicated possibly due to drugs and alcohol.
- A fight broke out inside the premises at closing time on the 14th October 2018 with one person detained by Police for drunk and disorderly.

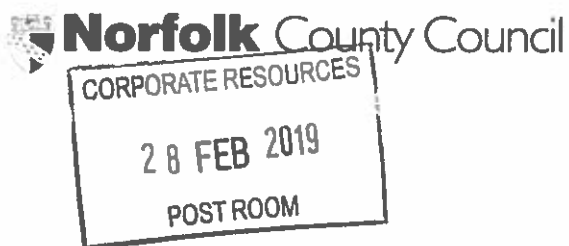
- Police Officers witnessed an unconscious female being carried out of the premises outside the permitted operating hours on the 16th September 2018. Officers found an after party and those attending were smoking inside the premises and intoxicated. Police Licensing called a meeting with the venue manager to debrief this incident and given a warning.

There are concerns that the nominated DPS, Shumon Choudhury does not regularly attend the venue to supervise the alcohol sales. It is preferable that the nominated DPS has the day to day running in order to be confident that alcohol sales are being sold legally and responsibly.

I hope this will remind the Premises Licence Holder of their responsibilities to comply with licence conditions and to promote the licensing objectives in order to protect their business for the future.

Yours faithfully,

Michelle Bartram
Licensing Officer



NORFOLK FIRE & RESCUE SERVICE
Group Manager Central
Diamond Jubilee Fire & Rescue Station Carrow
63 Bracondale
NORWICH, NR1 2EE
Tel: 0300 1231248

Website: www.norfolkfireservice.gov.uk/

Mr R Divey
Norwich City Council
City Hall
St Peters Street
Norwich
NR2 1NH

Please ask for: Kerry Larcombe
Direct Dial: 0300 123 141
Email: kerry.larcombe@fire.norfolk.gov.uk
My Ref: 00012328
Your Ref:

25 February 2019

Dear Sir

The Regulatory Reform (Fire Safety) Order 2005
With reference to – Licensing Act 2003
Premises: Karishma, 15 Prince Of Wales Road, Norwich, NR1 1BD

I acknowledge receipt of the application for the review of the above premises. We have no intention of raising any concerns.

Should you require any further assistance please do not hesitate to contact me on the number shown above.

Yours faithfully

Kerry Larcombe
For Chief Officer

Local Policy considerations

1.0 Introduction

1.4 The 2003 Act requires the Council to carry out its various licensing functions so as to promote the four licensing objectives. These are:

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

1.5 The 2003 Act also requires that the Council publishes a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

4.1 "Responsible Authorities" will be asked to consider all applications and to make representations to the Council, if they relate to the promotion of the four licensing objectives and particularly in respect of applications which, might be regarded as contentious. Representations must be evidentially based and the organisation should attend any hearing when the application is being considered.

4.2 The Council will consider all representations from any "Interested Party" (see Appendix 7), or their representative, which should preferably be evidentially based and supported by attendance at any hearing at which the application is being considered.

4.3 A representation, will only be accepted by the Council if it is 'relevant', in that it must relate to the likely effect of granting the licence on the promotion of at least one of the four licensing objectives. Representation's, which are regarded as being frivolous or vexatious, will not be considered, and in the case of a review of a licence, any representation which is regarded as repetitious, will also not be considered. A decision as to whether a representation is frivolous, vexatious or repetitive will be made by an officer of the Council.

5.0 Conditions attaching to Licences

5.1 Where relevant representations are made, the Council will make objective judgments as to whether conditions may need to be attached to the premises licence to secure achievement of the licensing objectives. Any conditions arising as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises, on those attending the premises, and members of the public living, working or engaged in normal activity in the area concerned, and will cover matters that are within the control of individual licensees.

5.2 All applications will be considered on an individual basis and any condition attached to such a licence, will be tailored to each individual premises, in order to avoid the imposition of disproportionate or burdensome conditions on those

premises. Therefore, mandatory conditions, will only be imposed where they are necessary for the promotion of the licensing objectives.

11.0 Reviews of Licences and Certificates

11.1 A Licence or Certificate will be reviewed if valid representations are received by the Council. Where practicable, the Council will mediate between applicants, relevant statutory agencies and occupiers of nearby premises, local residents groups, community or interested groups where significant issues have arisen relating to a premises licence. Where possible, the Council will mediate by:

- Identifying potential issues for other relevant statutory agencies particularly regarding the safety and amenity of local residents.
- Negotiating, if possible, potential conditions to reflect resolutions of this mediation.

This process will not override the right of any interested party to ask that the Council consider their valid objections, or for any licence holder to decline to participate in a mediation meeting.

Where mediation is not practicable or fails, the Council will advise the parties of the provisions of the Act concerning a formal review of the licence.

11.2 Should Responsible Authorities and Interested Parties give early notice to licence holders of any concerns about problems identified at premises and of the need for improvement, requests for a review of any licence will only be sought if such notice has failed to resolve the matter or problem.

11.3 The Council expects that any Responsible Authority or Interested Party will provide an evidentiary basis to support their application for a review of a premises licence.

LICENSING OBJECTIVES

20.0 Objective - Prevention of Crime and Disorder

20.1 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on the City Council, and others, to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003 reinforces this duty for local authorities.

20.2 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and the licensable activities at those premises.

20.3 When addressing the issue of crime and disorder, the applicant should demonstrate that all those factors that impact on crime and disorder have been considered. These include:

Underage drinking

Drunkenness on premises

Public drunkenness

Keeping Illegal activity like drug taking and dealing, offensive weapons and sales of contraband or stolen goods away from the premises.

Preventing disorderly and potentially violent behaviour on and outside the premises.

Reducing Anti-social behaviour and Disorder inside and outside the premises

Litter

Unauthorised advertising

Protecting people and property from theft, vandalism and assault

Guard against glasses and bottles being used as weapons or causing accidents.

20.4 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or licensable activities:

Effective and responsible management of premises;

Training and supervision of staff;

Employ sufficient numbers of staff to keep numbers down of people awaiting service;

Provide sufficient seating for customers;

Patrols of staff around the premises;

Ensure sufficient lighting and visibility, removing obstructions if necessary, to discourage illegal activity;

Introduce an entry policy – making people aware of it – and apply it consistently and fairly;

Implement a search policy to prevent drugs, offensive weapons etc being brought onto the premises;

Implement effective management of entrance queues – incorporating barriers if necessary;

Adoption of best practice guidance e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit, Minor Sales Major Consequences, Clubbing against Racism and other voluntary codes of practice, including those relating to drinks promotions e.g. The Point of Sale Promotions published by the British Beer and

Pub Association (BBPA), Security in Design published by BBPA and Drugs and Pubs, published by BBPA;
 Acceptance of accredited 'proof of age' cards e.g. Portman proof of age cards, Citizencard, Connexions Card and/or 'new type' driving licences with photographs, or passports;
 Provision of effective CCTV in and around premises;
 Employment of Security Industry Authority licensed door staff to manage the door and minimize disorder;
 Ensure glasses are collected on an on going basis, make regular inspections for broken glass and clear up;
 Provision of toughened or plastic drinking vessels and bottles;
 Provision of 'bottle bins' inside the premises and near exits;
 Provision of secure, deposit boxes for confiscated items i.e. Operation Enterprise Drug and Weapon Amnesty Safe's;
 Information displayed for staff and customers on Drug Awareness including the 'spiking' of drinks with drugs;
 Provision of litterbins and other security measures, such as lighting, outside premises;
 Membership of local 'Pubwatch' schemes or similar accreditation schemes or organizations ie Operation Enterprise;
 Responsible advertising;
 Distribution of promotional leaflets, posters etc;
 Drug Seizure Kits (available from Norfolk Police Operation Enterprise);
 Member of the 'NiteLink' radio scheme;
 Working in partnership with the SOS Bus scheme;
 Ban known offenders and share information with other licensed premises in the area;
 Implement a dispersal policy;
 Introduce a 'closed door' policy, with attendance prohibited for new customers 2-3 hours before licensable activities finish;

26. Objective – protection of children from harm

- 26.1 The council will consult with the appropriate area child protection committee for consideration of all applications for licences.
- 26.2 With a view to the promotion of the licensing objective relating to the protection of children from harm the council will work closely with the police and trading standards authority to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol products to children (for Minor Sales Major Consequences information please contact trading standards on 0844 800 8013 trading.standards@norfolk.gov.uk).
- 26.3 Applicants should be aware that the protection of children from harm includes the protection of children from moral, psychological and physical harm and this includes the protection of children from exposure to strong language, sexual expletives and gambling. In certain circumstances children are more vulnerable and their needs will require special consideration. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and their lack of understanding of danger.

- 26.4 There should be no presumption of giving children access nor any presumption of preventing their access to licensed premises. Where no licensing restriction is necessary, the admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a temporary event notice.
- 26.5 Applicants must ensure that children will not be allowed access into premises when licensable activities involving eg topless female 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. The council has given particular consideration to the types of entertainment referred to above, and has included within this policy their expectations of applicants in section A, paragraph 17.
- 26.6 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and the licensable activities for which a licence is being sought.**
- 26.7 While children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. **When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that may particularly impact on harm to children have been considered.** These include:
- where entertainment or services of an adult or sexual nature are commonly or regularly provided
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking
 - where there has been a known association with drug taking or dealing
 - where there is a strong element of gambling on the premises
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 26.8 The council commends the Portman Group 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 or older. **The council will expect all licensees to agree not to replenish their stocks following notification of a retailer alert bulletin by the Portman Group in relation to any product that is in breach of that code. Commitment to that code should be included in operating schedules.**
- 26.9 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:
- Effective and responsible management of premises.
 - Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.

- Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
- Adoption of best practice guidance (eg Minor Sales Major Consequences).
- Ensure that all drinks containers carry a price tag or other sticker that identifies your premises. This will be a useful tool for working with authorities to tackle underage drinking if problems arise.
- Limitations on the hours when children may be present, in all or parts of the premises.
- Limitations or exclusions by age when certain activities are taking place.
- Imposition of requirements for children to be accompanied by an adult.
- Train staff to deal with – and be vigilant about – potentially harmful situations, eg children in the presence of adults who are excessively drunk.
- Acceptance of accredited proof of age cards and/or new type driving licences with photographs, or passports.
- Measures to ensure children do not purchase, acquire or consume alcohol.
- Measures to ensure children are not exposed to incidences of violence or disorder.

These examples can be adopted in any combination.

APPENDIX E

National Guidance

(issued under section 182 of the Licensing Act 2003)

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

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.

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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

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 promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.

11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

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

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

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

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

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

REVIEWS ARISING IN CONNECTION WITH CRIME

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, 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

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

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- 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

11.30 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

