

AGENDA

LICENSING SUB-COMMITTEE MEETING

Date: Thursday, 23 February 2023

Time: 10.00 am

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT*

Membership:

Councillors Carole Jackson, Lee McCall and Mike Whiting.

Quorum = 3

Pages

Information about this meeting

*Members of the press and public can listen to this meeting live. Details of how to join the meeting will be added to the website by 22 February 2023.

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1. Emergency Evacuation Procedure

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- (a) The fire alarm is a continuous loud ringing. In the event that a fire drill is planned during the meeting, the Chair will advise of this.

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 - (d) Anyone unable to use the stairs should make themselves known during this agenda item.
2. Apologies for Absence
 3. Notification of Chairman and Outline of Procedure
 4. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPIs) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

Part B Report for the Licensing Sub-Committee to decide

5. Review of a premises Licence under the Licensing Act 2003 5 - 38

To review the premises licence of Londis Iwade, 3 School Mews, Iwade.

Issued on Monday, 13 February 2023

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**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

Licensing Sub-Committee Meeting	
Meeting Date	15th February 2023
Report Title	Consideration of an application for the review of a premises licence under the Licensing Act 2003
Premises	Londis Iwade (Nisa), 3 School Mews, Iwade, Sittingbourne, Kent ME9 8UW
Lead Officer	Johanna Thomas, Licensing Officer
Key Decision	No
Classification	Open
Recommendations	Members are requested to determine the application on its merits and decide whether to take such steps as Members consider appropriate for the promotion of the licensing objectives

1 Purpose of Report and Executive Summary

- 1.1 The report advises Members of an application for the review of a premises licence granted under the Licensing Act 2003 made by PC 12319 Alexander Guise on behalf of Kent Police in respect of Londis Iwade (Nisa), 3 School Mews, Iwade, Sittingbourne, Kent ME9 8UW.

2 Background

- 2.1 The Licensing Sub-Committee is asked to determine an application for the review of a premises licence under section 51 of the Licensing Act 2003.
- 2.2 The Licensing Act 2003 (the 2003 Act) requires the Council (as licensing authority) to carry out its various functions so as to promote the following four licensing objectives:
- the prevention of crime and disorder
 - the protection of public safety
 - the prevention of public nuisance
 - the protection of children from harm
- 2.3 The 2003 Act requires the council to publish a 'Statement of Licensing Policy' that sets out the policies that will generally apply to promote the licensing objectives when making decisions on applications made under the Act. The council first adopted its Statement of Licensing Policy in 2004 and it has been regularly reviewed in line with legislative requirements ever since. The latest policy was adopted on 1st April 2021. The policy will be available at the meeting for reference purposes and is available to view at <https://swale.gov.uk/news-and-your-council/strategies-and-policies/statement-of-licensing-policy>

- 2.4 Under the 2003 Act, licensing authorities must, in carrying out their functions, have regard to guidance issued by the Secretary of State under section 182. The Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Provided that the licensing authority has properly understood and considered the guidance, it may depart from it when it has reason to do so. However, as the licensing authority is under a duty to have regard to the guidance, it will need to give full reason for any departure from it. This would be a key consideration for the courts should departure from the guidance result in a determination which might lead to an appeal or judicial review. The Guidance will be available at the meeting for reference purposes.
- 2.5 A copy of the council's approved procedure for hearing of the Licensing Sub-Committee in relation to an application, along with a copy of the Hearings Regulations has been circulated to all parties prior to the meeting.
- 2.6 The Licensing Sub-Committee is reminded that the Human Rights Act 1998 guarantees the right to a fair hearing for all parties in the determination of their civil rights. The Act also provides for the protection of property which may include licences in existence and the protection of private and family life.

3 The current Licence

- 3.1 The current premises licence for Londis Iwade (Nisa), 3 School Mews, Iwade, Sittingbourne, Kent ME9 8UW was granted to become effective on 23rd July 2008. The premises licence was transferred to the current premises licence holder Trio Management Ltd on 28th February 2013. The Designated Premises Supervisor is Mr Arudchelvam Uthayanam. Mr Uthayanam is also a company director of Trio Management Ltd.
- 3.2 The licence allows for the sale of alcohol for consumption off the premises. The premises licence as issued 28th February 2013 and is attached as **APPENDIX I.**

4 The Review Application

- 4.1 An application for a review of the premises licence was received on 4th January 2023 from PC 12319 Alexander Guise on behalf of Kent Police.
- 4.2 It is a requirement of the Licensing Act 2003, that the licensing authority advertise the review application, inviting representations from any responsible authority or interested party. The application has been correctly advertised with notices posted at the premises, on the council website and the council offices for the required period of 28 days.
- 4.3 The grounds for the review are in order to promote the licensing objectives of: The prevention of crime and disorder and the protection of public safety and follows the result of an immigration enforcement visit to the premises. The purpose of the visit was to locate any persons working illegally or to locate

persons that may be in the Country unlawfully. During the visit 2 (TWO) members of staff were found to be working illegally by working contrary to the conditions stipulated on their Visas. The review application is attached as **APPENDIX II**.

- 4.4 An employer must check the immigration status of persons they employ under section 15 – 25 of the Immigration, Asylum and Nationality Act 2006. The relevant sections of the Act are attached as **APPENDIX III**
- 4.5 As part of the review application the Police ask for the following:
- Revocation of the Premises Licence
- 4.6 Members are advised that they may only modify premises licences if it is appropriate to promote the licensing objectives.

5 Representations

- 5.1 At any stage during the 28-day consultation period a responsible authority, a Councillor or an interested party may make representations provided that the grounds are relevant to the licensing objectives and are not deemed vexatious, frivolous or repetitive.
- 5.2 There have been no representations from responsible authorities or interested parties.

6 Determining the application – Options of the Licensing sub-Committee

- 6.1 Members must, having regard to the application and any relevant representations, take such steps mentioned below as they consider appropriate for the promotion of the licensing objectives. The steps are:
- To take no action;
 - To issue a warning or caution;
 - To modify the conditions of the licence;
 - To exclude a licensable activity from the scope of the licence;
 - To remove the designated premises supervisor;
 - To suspend the licence for a period not exceeding 3 months;
 - To revoke the licence.
- 6.2 Relevant sections of the Guidance issued under section 182 of the Licensing Act 2003 that Members should take into account are:

Chapter 2 Licensing Objectives

- Chapter 10 Conditions attached to Premises Licences and Club Premises Certificates
 Chapter 11 Reviews

6.3 Members should also take into account relevant policy statements as contained in the Swale BC Statement of Licensing Policy 2021 – 2026 including specifically section 14: Review of Premises Licence or Club Premises Certificates. This is attached as **APPENDIX IV**.

7 Implications

Issue	Implications
Corporate Plan	There are links to Priority 3 – Tackling deprivation and creating equal opportunities for everyone. Point 3.4 states “Ensure that the council plays a proactive role in reducing crime and anti-social behaviour including through the modernisation of CCTV provision.
Financial, Resource and Property	There are no direct financial requirements at this time. There is the possibility of a challenge by way of an appeal.
Legal, Statutory and Procurement	<p>Under the Licensing Act 2003 the Licensing Authority has a duty to exercise licensing control of relevant premises.</p> <p>The Licensing Sub-Committee is obliged to determine this application with a view to promoting the four licensing objectives.</p> <p>In making its decision, the Licensing Sub-Committee is also obliged to have regards to the S182 Guidance that accompanies the Licensing Act 2003 and the council’s Statement of Licensing Policy.</p> <p>The Licensing Sub-Committee must also have proper regard to the Human Rights Act 1998 in respect to the rights of an individual when making decisions that affect them. However, it also has to have regard to the safety and protection of the public and therefore to ensure that the right balance is found.</p>
Crime and Disorder	<p>Section 17 of the Crime and Disorder Act requires local authorities to consider the crime and disorder implications of their decisions and it is the Licensing Authority’s responsibility to co-operate in the reduction of crime and disorder in the Borough.</p> <p>Section 17 of the Crime and Disorder Act 1998 states: “Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it can reasonably can to prevent crime and disorder in its area”.</p>
Environment and Climate/Ecological Emergency	No implications

Health and Wellbeing	Anti-social behaviour and noise nuisance can impact on the wellbeing of nearby residents
Safeguarding of Children, Young People and Vulnerable Adults	The protection of children from harm is one of the 4 licensing objectives that underpin the Licensing Act 2003 and must be considered when making decisions on licence applications.
Risk Management and Health and Safety	Departure from the Guidance and Statement of Licensing Policy could lead to an increased risk of appeal. Similarly, if any decision made is not evidence based and proportionate
Equality and Diversity	No implications
Privacy and Data Protection	Normal privacy and data protection rules apply

8 Appendices

8.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Current premises licence – ref: SIT/SWALE/189/0499
- Appendix II: Review Application
- Appendix III: Extract of the Immigration, Asylum and Nationality Act 2006.
- Appendix IV: Extract of Swale BC Statement of Licensing Policy 2021 - 2026

9 Background Papers

Licensing Act 2003

Home Office Guidance issued under s.182 of the Licensing Act 2003 (as amended)

Swale BC Statement of Licensing Policy 2021 - 2026

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Swale Borough Council, Swale House, East Street,
Sittingbourne, Kent, ME10 3HT

Premises licence number

SIT/SWALE/189/0499

Part 1 – Premises details

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

Londis
School Lane
Iwade

Post town Sittingbourne, Kent

Post code ME9 8UW

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

Sale of alcohol.

The times the licence authorises the carrying out of licensable activities

Sale of alcohol, Monday – Sunday 07.00 – 22.00

The opening hours of the premises

Sale of alcohol, Monday – Sunday 07.00 – 22.00

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

Off the premises.

Part 2

Name, (registered) address, telephone number and e-mail (where relevant) of holder of premises licence

Trio Management Limited
Unit 1A
Alencon Link
Basingstoke
Hampshire, RG21 7TN

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

8061124

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

Arudchelvam Uthayanan

██████
██
██████
████████████████████

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

Licence No: ████████████████████
Issued by: Watford Borough Council

Annex 1 – Mandatory Conditions

Condition 1

No supply of alcohol may be made under this licence:-

- (a) At a time when there is no designated premises supervisor in respect of it or
- (b) At a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

Every retail sale or supply of alcohol made under this licence must be made or authorised by a person who holds a personal licence.

Condition 9

- (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 licence 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.

Condition 11

- (1) 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.
- (2) For the purpose of the condition set out in paragraph 1:-
 - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979(6);
 - (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(7)
- (3) Where the permitted price given by Paragraph (b) of paragraph (2) would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (4) (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.

Annex 2 - Conditions consistent with the Operating Schedule**Condition 1**

- (a) CCTV to be fitted to a standard agreed to by the police that comply with The CCTV Code of Practice (2008 edition) produced by the Information Commissioners Office.
- (b) The CCTV system shall be capable of producing immediate copies of recordings on site. Copies of recordings will either be recorded on good quality videotape or digitally onto CD/DVD or other equivalent medium.
- (c) Any recording shall be retained and stored in a suitable and secure manner for a minimum of one calendar month and shall be available, to the Police or Officers of the Licensing Authority within 48 hours of any reasonable request being made.
- (d) The CCTV system will incorporate cameras covering all public areas including the entrance and the alcohol display areas and will be capable of providing an image, which is regarded as identification standard. The precise positions of the cameras will be agreed with Police from time to time.
- (e) The system will display, on any recording, the correct time and date of the recording.
- (f) A system will be in place to maintain the quality of the recorded image and a complete audit trail maintained.
- (g) The CCTV system will be maintained so as to be fully operational throughout the hours that the premises are open for any licensable activity.
- (h) Appropriate signage informing customers CCTV is in operation to be displayed in store.

Condition 2

There will be at least 3 other members of staff at the premises who hold a personal licence holder in addition to the Designated Premises Supervisor.

Condition 3

All staff to be fully trained in their responsibilities under the Licensing Act 2003. This training is to be fully auditable and available to Police, Local Authority Licensing Officer and Trading Standard Officers on request.

Condition 4

The premises will engage in a 'Bottlewatch' scheme if required to do so by police or local authority licensing officer.

Condition 5

Adequate waste disposal receptacles for use by customers shall be provided in, and immediately outside the premises.

Condition 6

Notices will be prominently displayed to ask customers to leave quietly.

Condition 7

- (a) 'Challenge 21' scheme shall be adopted so that all staff are trained to ask any customer wishing to purchase alcohol, who appears to be under the age of 21 years, for evidence of age.
- (b) Only ID acceptable will be passport, photo driving licence and any 'PASS' marked identification, such as citizen card.
- (c) Challenge 21 posters will be prominently displayed in all areas of the shop where alcohol is displayed and at the point of entry to the shop and the point of sale.
- (d) All staff to be fully trained in 'Challenge 21' and the training will be fully auditable and available to Police, Local Authority Licensing Officer and Trading Standard Officers on request.

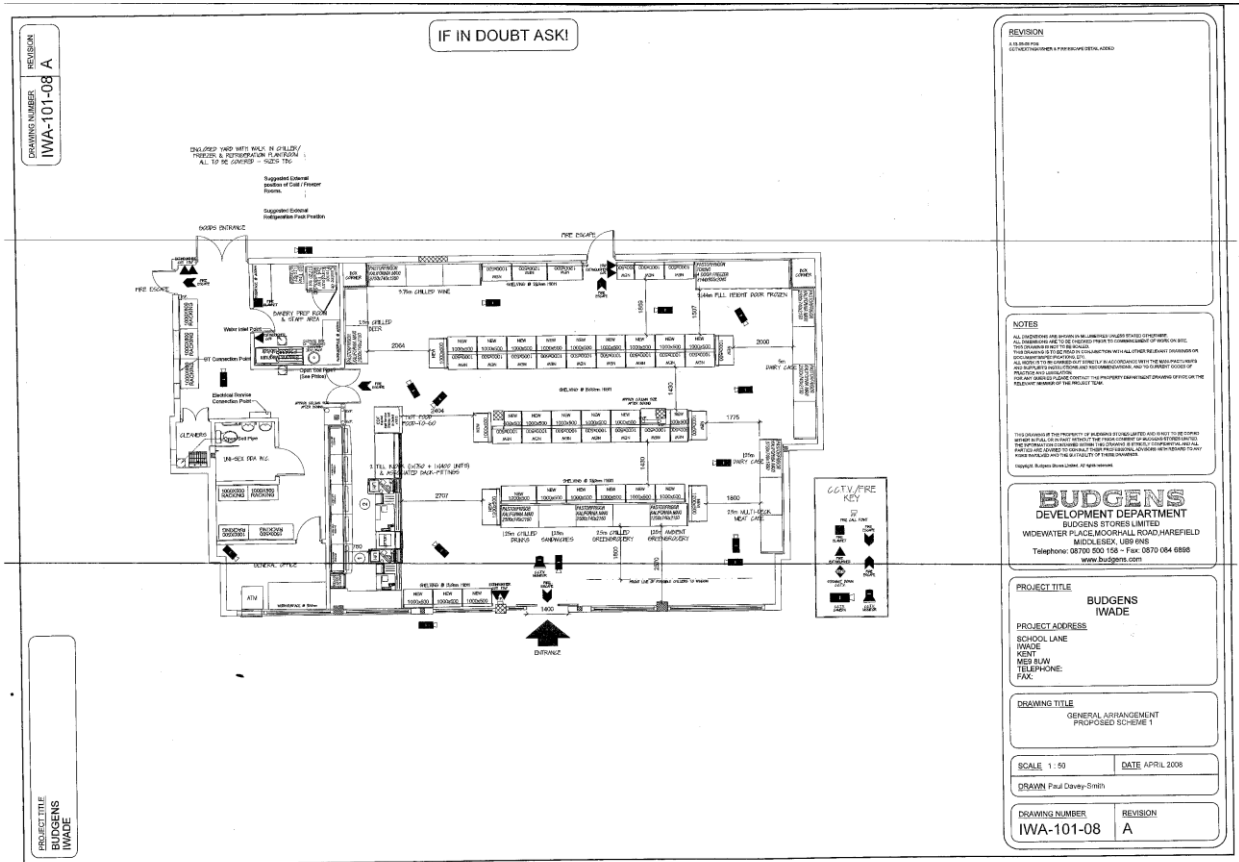
Condition 8

- (a) Refusals book will be kept, and made available for inspection to any Police Officer, Local Authority Officer or Trading Standards Officer at any reasonable time. The book will be bound and will include the following details;
 - (i) Time of refusal.
 - (ii) Date of refusal.
 - (iii) Item refused.
 - (iv) Name or description of person refused sale.
 - (v) Reason for refusal.
 - (vi) Name of staff member making refusal.

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

N/A

Annex 4 – Plans



OFFICIAL (when complete)**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 PC 12319 GUISE on behalf of Kent Police.....
(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 Londis 3 School Mews, Iwade, Sittingbourne, Kent	
Post town Sittingbourne	Post code (if known) ME9 8UW

Name of premises licence holder or club holding club premises certificate (if known) Trio Management Limited Unit 1A Alencon Link Basingstoke Hampshire RG21 7TN

Number of premises licence or club premises certificate (if known) SIT/SWALE/189/0499

Part 2 – Applicant details

I am

Please tick yes

1) an interested part (please complete (A) or (B) below)

- | | |
|---|--------------------------|
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |

OFFICIAL (when complete)

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

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

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 a applicable)

Please tick

Mr

Mrs

Miss

Ms

Other title

(for example, Rev)

Surname

First names

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

OFFICIAL (when complete)
Application for the review of a premises licence or club premises certificate under the Licensing Act 2003

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address PC 12319 Guise Medway Police Station Purser Way Gillingham Kent ME7 1NE
Telephone number (if any) 07929 048327
E-mail address (optional) Alexander.guise12319@kent.police.uk

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 checked="" type="checkbox"/> |
| 2) public safety | <input checked="" type="checkbox"/> |
| 3) the prevention of public nuisance | <input type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/> |

OFFICIAL (when complete)

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

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

Kent Police submit this application to review Londis / Nisa, in order to promote the licensing objectives of the Licensing Act 2003.

- (1) The prevention of crime and disorder.
- (2) Public Safety.

This review is following a result of an immigration enforcement visit. The purpose of the visit was to locate any persons working illegally or to locate persons that may be in the Country unlawfully.

As a result, two members of staff were found to be working illegally and interviewed.

Both persons were interviewed, and it was concluded that they were both working in excess of the 20-hour allowance stated on their Visa, which breached immigration Rule 9.8.8.

OFFICIAL (when complete)

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

Please provide as much information as possible to support the application

(please read guidance note 2)

This premises has been granted a premises licence by Swale Borough Council authorising the sale of alcohol Sunday to Saturday 07:00 to 22:00 hours.

Londis operates as a convenience store providing Household items, food and alcohol for sale. The premises licence holder is Trio Management Ltd. The licence shows that the designated premises supervisor is Arudchelvam UTHAYANAN. Further checks at Company House show that UTHAYANAN is also the Secretary and company director for Trio Management Ltd. The shop front displays a sign for Nisa although the premises licence is shown as Londis.

Londis was visited by Home Office Immigration and Kent Police approximately 09:00 hours on Wednesday 9th November 2022, after recent intelligence stating this employer was employing students for full time work and had recruited people with no valid visas in the past. Person checks conducted by immigration Officers at the premises found that two of the males were found to be working illegally.

One of the males, Person 1, was arrested under Schedule 2 paragraph 17(1) of the immigration Act 1971 as there was reason to believe he was working in breach of his student Visa, as he admitted to working 30 hours a week. Person 1 made admissions to having worked at the premises for one month, working three days a week in the off licence and on the tills. During interview, Person 1 said he had met the boss once, although he didn't know his name and that the boss is aware he is a student and has limits on his visa. Subsequent checks revealed that Person 1 was working in excess of the 20-hour allowance stated on his Visa. Due to this he was issued with a Notice of liability to Removal, form RED.0001.

Person 2 stated that he had been studying at university for one year and working at Londis two days a week. Subsequent checks revealed that they had failed to enrol on the University course in September 2021. Person 2 stated that he knew the owner as 'UDHAY'. Attempts were made to contact UDHAY, but this was unsuccessful. Due to this an Illegal Working Civil Penalty Referral Notice Form was issued to Person 2 to provide to UDHAY, advising him that he was potentially liable to be fined for employing persons in breach of their Visa conditions.

Subsequent checks by Police show that UDHAY could be the same male shown as the DPS for the premises, Arudchelvam UTHAYANAN.

It is apparent that Trio Management have displayed a total disregard and lack of responsibility for ensuring that their employees are legitimately available for employment or responsibility for promotion of the licensing objective for the prevention of Crime and disorder.

The licensing Act 2003 is clearly intended to prevent Crime and Disorder from occurring in relation to licensed premises but also to deter and prevent criminals from operating under the auspices of a Premises Licence granted by the Local Authority.

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

Section 11.27 states that there is certain criminal activity which should be treated particularly seriously, one of these being knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person leave to enter. (It is pertinent to note that the inclusion of this in the statutory guidance indicates the offence has now become a particular concern.)

Section 11.28 states that where 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.

The employment of people who do not have the right to work in the UK is a serious crime and can be linked to the exploitation of vulnerable people.

Illegal working results in businesses that are not playing by the rules and undercutting legitimate businesses that are. It also negatively impacts on the wages of lawful workers and can be linked to other labour market abuse such as tax evasion, breach of the national minimum wage and exploitive working conditions.

The ability to work illegally is a key driver of illegal migration. It encourages people to break the UK'S immigration laws and provides the practical means for migrants to remain lawfully in the UK. It encourages people to take risks in trying to enter the UK illegally by putting their lives in the hands of unscrupulous people smugglers and leaves them vulnerable to exploitive employers.

Employers have an important role to play in preventing illegal working by undertaking simple checks on their employees right to work in the UK. This has not been done in this case by Trio Management.

Employers have had a responsibility since 1997 to ensure that they do not employ illegal workers. Since 2008, this requirement has been underpinned by Civil and Criminal sanctions for non-compliance, set out in the immigration, asylum, and Nationality Act 2006 – Sections 15 & 21. Under these sanctions, an employer who employs an illegal worker may be liable for a civil penalty up to £20,000 per illegal worker and an employer who knowingly or has reasonable cause to believe that the employment is not permitted may on conviction after indictment be subject to a custodial sentence of up to five years and an unlimited fine.

This incident is also a high priority under the current Kent Police control strategy 2022/2023 in relation to exploitation. This includes Organised immigration crime, human trafficking, and criminal exploitation. A strong message needs to be sent to individuals exploiting people for their own financial gain and having considered the available options, Kent Police seek revocation of the premises licence. Allowing the premises to continue to operate with the benefits of a premises licence will merely serve to perpetuate this act to the detriment of the vulnerable in our society.

OFFICIAL (when complete)

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

Please tick yes

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

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

OFFICIAL (when complete)

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


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 3)

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

Signature  (12319)

Date 4th January 2023

Capacity - Police Licensing Officer PC 12319 GUISE

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)	
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. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.

Immigration, Asylum and Nationality Act 2006

Sections 15 to 24

15 Penalty

- (1) It is contrary to this section to employ an adult subject to immigration control if—
- (a) he has not been granted leave to enter or remain in the United Kingdom, or
 - (b) his leave to enter or remain in the United Kingdom—
 - (i) is invalid,
 - (ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or
 - (iii) is subject to a condition preventing him from accepting the employment.
- (2) The Secretary of State may give an employer who acts contrary to this section a notice requiring him to pay a penalty of a specified amount not exceeding the prescribed maximum.
- (3) An employer is excused from paying a penalty if he shows that he complied with any prescribed requirements in relation to the employment.
- (4) But the excuse in subsection (3) shall not apply to an employer who knew, at any time during the period of the employment, that it was contrary to this section.
- (5) The Secretary of State may give a penalty notice without having established whether subsection (3) applies.
- (6) A penalty notice must—
- (a) state why the Secretary of State thinks the employer is liable to the penalty,
 - (b) state the amount of the penalty,
 - (c) specify a date, at least 28 days after the date specified in the notice as the date on which it is given, before which the penalty must be paid,
 - (d) specify how the penalty must be paid,
 - (e) explain how the employer may object to the penalty **[F1** or make an appeal against it], and
 - (f) explain how the Secretary of State may enforce the penalty.
- (7) An order prescribing requirements for the purposes of subsection (3) may, in particular—
- (a) require the production to an employer of a document of a specified description;

- (b) require the production to an employer of one document of each of a number of specified descriptions;
- (c) require an employer to take specified steps to verify, retain, copy or record the content of a document produced to him in accordance with the order;
- (d) require action to be taken before employment begins;
- (e) require action to be taken at specified intervals or on specified occasions during the course of employment.

Textual Amendments

Words in subsection (3) shall not apply to an employer who hires, at any time during the period of the employment,

F1 Words in s. 15(6)(e) inserted (28.7.2014) by Immigration Act 2014 (c. 22), s. 75(3), Sch. 9 para. 61; S.I. 2014/1820, art. 3(cc)

Commencement Information

I1 S. 15 in force at 5.11.2007 for specified purposes by S.I. 2007/3138, art. 2(a)

I2 S. 15 in force at 29.2.2008 in so far as not already in force by S.I. 2008/310, art. 2(1)(a) (with art. 5(2))

16 Objection

- (1) This section applies where an employer to whom a penalty notice is given objects on the ground that—
 - (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 15(3), or
 - (c) the amount of the penalty is too high.
- (2) The employer may give a notice of objection to the Secretary of State.
- (3) A notice of objection must—
 - (a) be in writing,
 - (b) give the objector's reasons,
 - (c) be given in the prescribed manner, and
 - (d) be given before the end of the prescribed period.
- (4) Where the Secretary of State receives a notice of objection to a penalty he shall consider it and—
 - (a) cancel the penalty,
 - (b) reduce the penalty,
 - (c) increase the penalty, or
 - (d) determine to take no action.
- (5) Where the Secretary of State considers a notice of objection he shall—

- (a) have regard to the code of practice under section 19 (in so far as the objection relates to the amount of the penalty),
- (b) inform the objector of his decision before the end of the prescribed period or such longer period as he may agree with the objector,
- (c) if he increases the penalty, issue a new penalty notice under section 15, and
- (d) if he reduces the penalty, notify the objector of the reduced amount.

Commencement Information

- I1 S. 16 in force at 5.11.2007 for specified purposes by S.I. 2007/3138, art. 2(b)
 I2 S. 16 in force at 29.2.2008 in so far as not already in force by S.I. 2008/310, art. 2(1)(a) (with art. 5(2))

17 Appeal

- (1) An employer to whom a penalty notice is given may appeal to the court on the ground that—
- (a) he is not liable to the imposition of a penalty,
 - (b) he is excused payment by virtue of section 15(3), or
 - (c) the amount of the penalty is too high.
- (2) The court may—
- (a) allow the appeal and cancel the penalty,
 - (b) allow the appeal and reduce the penalty, or
 - (c) dismiss the appeal.
- (3) An appeal shall be a re-hearing of the Secretary of State's decision to impose a penalty and shall be determined having regard to—
- (a) the code of practice under section 19 that has effect at the time of the appeal (in so far as the appeal relates to the amount of the penalty), and
 - (b) any other matters which the court thinks relevant (which may include matters of which the Secretary of State was unaware);
- and this subsection has effect despite any provision of rules of court.
- [F1 (4A)** An appeal may be brought only if the employer has given a notice of objection under section 16 and the Secretary of State—
- (a) has determined the objection by issuing to the employer the penalty notice (as a result of increasing the penalty under section 16(4)(c)),
 - (b) has determined the objection by—

- (i) reducing the penalty under section 16(4)(b), or
 - (ii) taking no action under section 16(4)(d), or
- (c) has not informed the employer of a decision before the end of the period that applies for the purposes of section 16(5)(b).
- (4B) An appeal must be brought within the period of 28 days beginning with the relevant date.
- (4C) Where the appeal is brought under subsection (4A)(a), the relevant date is the date specified in the penalty notice issued in accordance with section 16(5)(c) as the date on which it is given.
- (4D) Where the appeal is brought under subsection (4A)(b), the relevant date is the date specified in the notice informing the employer of the decision for the purposes of section 16(5)(b) as the date on which it is given.
- (4E) Where the appeal is brought under subsection (4A)(c), the relevant date is the date on which the period that applies for the purposes of section 16(5)(b) ends.】
- (6) In this section “the court” means—
- (a) where the employer has his principal place of business in England and Wales, **[F2 the county court]**,
 - (b) where the employer has his principal place of business in Scotland, the sheriff, and
 - (c) where the employer has his principal place of business in Northern Ireland, a county court.

Textual Amendments

F1 S. 17(4A)-(4E) substituted for s. 17(4)(5) (28.7.2014) by *Immigration Act 2014* (c. 22), ss. 44, 75(3); S.I. 2014/1820, art. 3(p) (with art. 5) (as amended by SI 2014/2771, art. 14)

F2 Words in s. 17(6)(a) substituted (22.4.2014) by *Crime and Courts Act 2013* (c. 22), s. 61(3), Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

Commencement Information

I1 S. 17 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(a) (with art. 5(2))

18 Enforcement

- [E1** (1) This section applies where a sum is payable to the Secretary of State as a penalty under section 15.
- (1A) In England and Wales the penalty is recoverable as if it were payable under an order of the county court.
- (1B) In Scotland, the penalty may be enforced in the same manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.
- (1C) In Northern Ireland the penalty is recoverable as if it were payable under an order of a county court in Northern Ireland.

- (1D) Where action is taken under this section for the recovery of a sum payable as a penalty under section 15, the penalty is—
- (a) in relation to England and Wales, to be treated for the purposes of section 98 of the Courts Act 2003 (register of judgments and orders etc) as if it were a judgment entered in the county court;
- (b) in relation to Northern Ireland, to be treated for the purposes of Article 116 of the Judgments Enforcement (Northern Ireland) Order 1981 (S.I. 1981/226 (N.I. 6)) (register of judgments) as if it were a judgment in respect of which an application has been accepted under Article 22 or 23(1) of that Order.]
- (3) Money paid to the Secretary of State by way of penalty shall be paid into the Consolidated Fund.

Textual Amendments

F1 S. 18(1)-(1D) substituted for s. 18(1)(2) (28.7.2014) by *Immigration Act 2014 (c. 22), ss. 45, 75(3)*; S.I. 2014/1820, art. 3(q) (with art. 6) (as amended by SI 2014/2771, art. 14)

Commencement Information

I1 S. 18 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(a) (with art. 5(2))

19 Code of practice

- (1) The Secretary of State shall issue a code of practice specifying factors to be considered by him in determining the amount of a penalty imposed under section 15.
- (2) The code—
- (a) shall not be issued unless a draft has been laid before Parliament, and
- (b) shall come into force in accordance with provision made by order of the Secretary of State.
- (3) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised.

Commencement Information

I1 S. 19 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

20 Orders

- (1) An order of the Secretary of State under section 15, 16 or 19—
- (a) may make provision which applies generally or only in specified circumstances,
- (b) may make different provision for different circumstances,
- (c) may include transitional or incidental provision, and
- (d) shall be made by statutory instrument.

- (2) An order under section 15(2) may not be made unless a draft has been laid before and approved by resolution of each House of Parliament.
- (3) Any other order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Commencement Information

I1 S. 20 in force at 5.11.2007 by S.I. 2007/3138, art. 2(c)

21 Offence

- (1) A person commits an offence if he employs another (“the employee”) knowing that the employee is **[F1]** disqualified from employment by reason of the employee's immigration status.]

[F2] (1A) A person commits an offence if the person—

(a) employs another person (“the employee”) who is disqualified from employment by reason of the employee's immigration status, and

(b) has reasonable cause to believe that the employee is disqualified from employment by reason of the employee's immigration status.

- (1B) For the purposes of subsections (1) and (1A) a person is disqualified from employment by reason of the person's immigration status if the person is an adult subject to immigration control and—

(a) the person has not been granted leave to enter or remain in the United Kingdom, or

(b) the person's leave to enter or remain in the United Kingdom—

(i) is invalid,

(ii) has ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise), or

(iii) is subject to a condition preventing the person from accepting the employment.]

- (2) A person guilty of an offence under this section shall be liable—

(a) on conviction on indictment—

(i) to imprisonment for a term not exceeding **[F3 five]** years,

(ii) to a fine, or

(iii) to both, or

(b) on summary conviction—

(i) to imprisonment for a term not exceeding 12 months in England and Wales or 6 months in Scotland or Northern Ireland,

(ii) to a fine not exceeding the statutory maximum, or

(iii) to both.

(3) An offence under this section shall be treated as—

(a) a relevant offence for the purpose of sections 28B and 28D of the Immigration Act 1971 (c. 77) (search, entry and arrest), and

(b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H (search after arrest).

(4) In relation to a conviction occurring before **[F4 2 May 2022]** the reference to 12 months in subsection (2)(b)(i) shall be taken as a reference to 6 months.

Textual Amendments

F1 Words in s. 21(1) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(2), 94(1); S.I. 2016/603, reg. 3(f)

F2 S. 21(1A)(1B) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(3), 94(1); S.I. 2016/603, reg. 3(f)

F3 Word in s. 21(2)(a)(i) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(4), 94(1); S.I. 2016/603, reg. 3(f)

F4 Words in s. 21(4) substituted (28.4.2022) by The Criminal Justice Act 2003 (Commencement No. 33) and Sentencing Act 2020 (Commencement No. 2) Regulations 2022 (S.I. 2022/500), regs. 1(2), 5(1), Sch. Pt. 1

Commencement Information

I1 S. 21 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(b) (with art. 5(2))

22 Offence: bodies corporate, &c.

(1) For the purposes of section 21(1) a body (whether corporate or not) shall be treated as knowing a fact about an employee if a person who has responsibility within the body for an aspect of the employment knows the fact.

[F1 (1A) For the purposes of section 21(1A) a body (whether corporate or not) shall be treated as having reasonable cause to believe a fact about an employee if a person who has responsibility within the body for an aspect of the employment has reasonable cause to believe that fact.]

(2) If an offence under section 21(1) **[F2** or (1A)] is committed by a body corporate with the consent or connivance of an officer of the body, the officer, as well as the body, shall be treated as having committed the offence.

(3) In subsection (2) a reference to an officer of a body includes a reference to—

(a) a director, manager or secretary,

(b) a person purporting to act as a director, manager or secretary, and

(c) if the affairs of the body are managed by its members, a member.

(4) Where an offence under section 21(1) **[F3** or (1A)] is committed by a partnership (whether or not a limited partnership) subsection (2) above shall have effect, but as if a reference to an officer of the body were a reference to—

- (a) a partner, and
- (b) a person purporting to act as a partner.

Textual Amendments

- F1** S. 22(1A) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(6), 94(1); S.I. 2016/603, reg. 3(f)
- F2** Words in s. 22(2) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(7), 94(1); S.I. 2016/603, reg. 3(f)
- F3** Words in s. 22(4) inserted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(7), 94(1); S.I. 2016/603, reg. 3(f)

Commencement Information

- I1** S. 22 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(b) (with art. 5(2))

23 Discrimination: code of practice

- (1) The Secretary of State shall issue a code of practice specifying what an employer should or should not do in order to ensure that, while avoiding liability to a penalty under section 15 and while avoiding the commission of an offence under section 21, he also avoids contravening—
- (a) **[F1** the Equality Act 2010, so far as relating to race], or
 - (b) the Race Relations (Northern Ireland) Order 1997 (S.I. 869 (N.I. 6)).
- (2) Before issuing the code the Secretary of State shall—
- (a) consult—
 - (i) the Commission for Equality and Human Rights,
 - (ii) the Equality Commission for Northern Ireland,
 - (iii) such bodies representing employers as he thinks appropriate, and
 - (iv) such bodies representing workers as he thinks appropriate,
 - (b) publish a draft code (after that consultation),
 - (c) consider any representations made about the published draft, and
 - (d) lay a draft code before Parliament (after considering representations under paragraph (c) and with or without modifications to reflect the representations).
- (3) The code shall come into force in accordance with provision made by order of the Secretary of State; and an order—
- (a) may include transitional provision,
 - (b) shall be made by statutory instrument, and
 - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) A breach of the code—
- (a) shall not make a person liable to civil or criminal proceedings, but

- (b) may be taken into account by a court or tribunal.
- (5) The Secretary of State shall from time to time review the code and may revise and re-issue it following a review; and a reference in this section to the code includes a reference to the code as revised.
- (6) Until the dissolution of the Commission for Racial Equality, the reference in subsection (2)(a)(i) to the Commission for Equality and Human Rights shall be treated as a reference to the Commission for Racial Equality.

Textual Amendments

- F1** Words in s. 23(1)(a) substituted by 2010 c. 15, Sch. 26 Pt. 1 para. 86 (as inserted (1.10.2010) by The Equality Act 2010 (Consequential Amendments, Saving and Supplementary Provisions) Order 2010 (S.I. 2010/2279), art. 1(2), Sch. 1 para. 6) (see S.I. 2010/2317, art. 2)

Commencement Information

- I1** S. 23 in force at 31.8.2006 by S.I. 2006/2226, art. 3, Sch. 1

24 [F1 Immigration bail]

Where a person is at large in the United Kingdom by virtue of [F2 a grant of immigration bail to the person under Schedule 10 to the Immigration Act 2016] —

(a) he shall be treated for the purposes of sections 15(1) and [F3 21(1B)] as if he had been granted leave to enter the United Kingdom, and

(b) any restriction as to employment imposed under [F4 that Schedule as a condition of that person's immigration bail] shall be treated for those purposes as a condition of leave.

Textual Amendments

- F1** S. 24 heading substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 10 para. 39(a); S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F2** Words in s. 24 substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 10 para. 39(b); S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)
- F3** Word in s. 24(a) substituted (12.7.2016) by Immigration Act 2016 (c. 19), ss. 35(8), 94(1); S.I. 2016/603, reg. 3(f)
- F4** Words in s. 24(b) substituted (15.1.2018) by Immigration Act 2016 (c. 19), s. 94(1), Sch. 10 para. 39(c); S.I. 2017/1241, reg. 2(c) (with Sch.) (as amended by S.I. 2018/31, reg. 2)

Commencement Information

- I1** S. 24 in force at 29.2.2008 by S.I. 2008/310, art. 2(1)(c) (with art. 5(2))

25 Interpretation

In sections 15 to 24—

(a) “adult” means a person who has attained the age of 16,

(b) a reference to employment is to employment under a contract of service or apprenticeship, whether express or implied and whether oral or written,

(c) a person is subject to immigration control if under the Immigration Act 1971 he requires leave to enter or remain in the United Kingdom, and

(d) “prescribed” means prescribed by order of the Secretary of State.

Modifications etc. (not altering text)

C1 S. 25 excluded (8.2.2008) by Immigration, Asylum and Nationality Act 2006 (Commencement No.8 and Transitional and Saving Provisions) Order 2008 (S.I. 2008/310), art. 5(2)

Commencement Information

I1 S. 25 in force at 5.11.2007 by S.I. 2007/3138, art. 2(c)

EXTRACT FROM SWALE BC STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 – 2021 - 2026

14 REVIEW OF A PREMISES LICENCE OR CLUB PREMISES CERTIFICATE

- 14.1 The Licensing Authority acknowledges that at any stage following the grant of a premises licence matters can arise at premises that raise concern as to the continued promotion of the licensing objectives at licensed premises.
- 14.2 The Act allows a licence to be reviewed where such matters arise. It is expected that most reviews will be applied for by Responsible Authorities.
- 14.3 Although this Licensing Authority is also a Responsible Authority and may bring about a review application, it is not expected that it will act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups).
- 14.4 Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for the Licensing Authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and the Licensing Authority is aware of relevant grounds to make a representation, it may consider acting in its capacity as Responsible Authority.
- 14.5 The Licensing Authority will determine whether a review application is relevant and the validity of a review application will be determined by a licensing officer. This will be on the basis of whether the request for the review is:
- relevant to one or more of the licensing objectives and
 - not frivolous, vexatious or repetitious.
- 14.6 In every review case an evidential basis for the allegations made will need to be submitted to the Council as the Licensing Authority.
- 14.7 The Licensing Authority would expect grounds for a review to be evidence based but will consider each application on its merits.
- 14.8 Where a review application is accepted the Licensing Authority will encourage the parties to enter into mediation during the consultation period to help resolve or narrow issues arising. The Council would be happy to assist in these meetings as appropriate.
- 14.9 All reviews, save where agreed by all parties as unnecessary, will lead to a hearing before a sub-committee. This may be a full hearing or a condensed hearing to consider the outcome of mediation. However other parties who have made representation but not been involved in mediation will be permitted to voice their representations at the hearing in accordance with the Hearings Regulations. The Policy applied to hearings can be found in section 16.

- 14.10 The authority considers that where reviews are raised as a result of serious crime and disorder causing that licensing objective to be undermined, then it is likely that that a revocation of the licence will be considered.