

Licensing Review Sub Committee	Date & Time: Thursday 4 February 2021 at 2:45pm.
Hearing under Provision: Section 53C, Licensing Act 2003	Agenda Item Number: 4
Review of: Premises licence authorising off-sales of alcohol at Maistas & Gerimai, 33 Herbert Road, Woolwich, London SE18 3SZ.	
Lead Officer: Director of Housing & Safer Communities.	Ward: Woolwich Common.

I. Decision Required

The Sub-Committee is requested to consider an Application for Review (with its appendices i to vii) of the premises licence in relation to Maistas & Gerimai, 33 Herbert Road, Woolwich, London SE18 3SZ, made by Royal Borough of Greenwich Trading Standards as a Responsible Authority, as set out at **Appendix A**, in line with the Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives.

The Licensing Act 2003 (Hearings) Regulations 2005 require the Council to make its determination at the conclusion of the hearing. The Sub-Committee must give reasons for its decision.

Pursuant to Section 53C of the Licensing Act 2003, it is open to the Sub-Committee to:

- Revoke the premises licence;
- Modify the conditions of the premises licence;
- Exclude a licensable activity from the scope of the premises licence;
- Remove the existing Designated Premises Supervisor (DPS);
- Suspend the premises licence for a period not exceeding three months.

Where the Licensing Sub-Committee modifies the conditions of the premises licence or excludes a licensable activity from the scope of the premises licence, they may provide that the modification or exclusion is to have effect only for such period (not exceeding three months) that it may specify.

The Licensing Act 2003 states that the licensing authority can only consider representations if they are relevant to one of the Government's four licensing objectives:

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

The Sub-Committee may only consider matters that have been raised with them based on the grounds for review *and* by way of representation. The Sub-Committee may not consider any other matters when making their decision.

Representations in this case have been made in line with the Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives.

1.1 **Summary / Grounds of Application**

The review requests revocation of the licence. On 3 December 2020, the premises were visited by officers from RBG Trading Standards and Greenwich Police Licensing, accompanied by a tobacco detection dog and its handler, following information received that illicit cigarettes were being sold from there. In a small stockroom off the shopfloor, the dog detected a panel with a switch. When the switch was activated, the panel opened to reveal 126 packets of foreign labelled / non-standardised cigarettes concealed in the cavity wall.

A Police check of Annex 2 of the premises licence revealed six conditions were being breached, including those relating to staff training and a prohibition on the sale of beer, lager or cider with an ABV of 6.5% or above.

The above is more fully described within the body of the review application and its appendices (*refer Appendix A*). These are similar to circumstances that led to a review in 2016, as described at Section 3.5 of this report.

This latest review has been brought in line with the Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives.

1.2 **Date of Application**

The Council received the Application on 14 December 2020.

The last date for Representations was 11 January 2021.

1.3 **Notice/Advertising Requirements**

The review application has been correctly advertised as required by Regulations by displaying notice of the application at Maistas & Gerimai for 28 days, and on the highway in the immediate vicinity of the premises (namely on a lamp-post directly adjacent). These notices have been regularly checked upon to ensure continued display without damage, defacement or removal. Notice of the application has also been posted at Woolwich Town Hall, facing the Royal Greenwich Council offices in Wellington Street, London SE18 6HQ, for 28 days, and advertised on the Royal Greenwich website.

2. **Current Licence**

Licensable Activity	Days & Hours Permitted	Date of Original Grant
Sale & Supply of Alcohol for consumption Off the premises.	Monday to Sunday (daily), from 09:00 to 23:00 hours.	14 June 2016.

A copy of the current premises licence is attached at **Appendix B**. (It also appears as 'Appendix i' to the review application.)

3. **The Premises**

3.1 **History**

The *current* premises licence authorising the off-sale & supply of alcohol at 33 Herbert Road, Woolwich, SE18 3SZ, was granted on 14 June 2016 following statutory consultation and the absence of contested representations. However, the full history predates the current Licensing Act, as the following describes.

- 3.2 Originally, a premises licence authorising off-sales had been granted under the former licensing regime (Licensing Act 1964) to Mr Nirmal Singh Bassan and was converted under the new 2003 Act by way of ‘grandfather’ rights in August 2005. At that time, the premises were known as “Bassan’s” aka “JK Wines”. This licence lapsed in February 2013 following non-payment of the statutory annual fee.
- 3.3 On 24 September 2013, a new premises licence authorising off-sales was granted to Mr Bassan in the name of Vilkas UK Ltd, by way of delegated authority – that is, without a formal hearing following the agreement of conditions.
- 3.4 During the process to grant this new licence to Mr Bassan, Mr Egidijus Razmirskis became named as its Designated Premises Supervisor and he oversaw a refit/refurbishment of the premises into an Eastern European-style deli & store, as described at 3.8. Mr Bassan remained premises licence holder.
- 3.5 On 13 January 2016, an application to review the licence for Vilkas UK Ltd (Maistas & Gerimai) was lodged by Mr Oliver Jewell of RBG Trading Standards. This followed a lengthy period of investigation – principally by Trading Standards, but also involving Licensing Police and officers from HM Revenue & Customs – which commenced on 18 January 2014 following a failed underage test purchase of alcohol and concluded on 17 November 2015 when a seventh visit to the premises revealed the premeditated and deliberate concealment of illegal tobacco for sale, hidden from plain sight behind covert sliding panels; plus continued breaches of the licence conditions, continued possession of prescription-only medicines, and training records that had been falsified to demonstrate the duty manager was a personal licence holder.
- 3.6 At a hearing on 8 March 2016, Mr Bassan did not resist the Licensing Sub-Committee’s decision to revoke his premises licence. Mr Razmirskis did not attend the hearing. A copy of the formal Decision Notice is attached at **Appendix C**.
- 3.7 On 14 June 2016, the current licence was granted to Mandris Ltd, with Mr Mantas Andris in the role of Designated Premises Supervisor. Conditions pertaining to a representation lodged by Greenwich Licensing Police were agreed without the application having to come before committee and, at the close of statutory consultation, the licence was deemed granted by way of delegated authority. One of the conditions agreed was that Mr Razmirskis play no part in the operation of the premises, directly or indirectly.

Notwithstanding this, the practice of concealing illicit cigarettes has continued under Mr Andris's tenure.

3.8 Nature

The premises have historically operated as an off-licence, also selling a variety of grocery produce, tinned goods, household supplies, cigarettes & tobacco products, and so forth. Those it caters for include the Lithuanian community ("Maistas & Gerimai" is Lithuanian for 'food & drink'.)

3.9 Location

The premises are located on Herbert Road, off Plumstead Common Road, which is densely populated by commercial properties and backed on to by numerous private residencies.

The premises are located within the Herbert Road Cumulative Impact Zone (CIZ) as prescribed by the current Royal Borough of Greenwich Licensing Policy – although this CIZ was not in force at the time the review was lodged, as it only came into being from 7 January 2021 with the advent of **Version 6** of the Licensing Policy. *However, for purposes of review proceedings, consideration of a CIZ is not applicable in any event. Section 5, Part 10.1, of this report refers.*

A map of the area is attached at **Appendix D**.

3.10 Other Premises in Herbert Road licensed for the Off-Sale of Alcohol:

- **9-15 – Co-Op:** Hours 08:00 until 23:00 Monday to Saturday; 10:00 until 22:30 Sunday.
- **17 – Mani News, Food & Wine:** Hours 06:00 until 00:00 midnight daily.
- **29 – Sunrise Supermarket:** Hours 09:00 until 23:00 daily.
- **62 – Herbert Food & Wine** (formerly Plumstead Best & Save): Hours 08:00 until 23:00 Monday to Saturday; 10:00 until 22:30 Sunday.
- **72-74 – Louroy Supermarket (Premier):** Hours 08:00 until 01:00 the following day, daily.
- **194 – Gardford Supermarket (Value Retailers Ltd):** Hours 08:00 until 23:00 Monday to Saturday; 10:00 until 22:30 Sunday.

3.11 There are three **on-licensed** premises in Herbert Road, as follows:

- **13-15 – Star of Spice:** Hours 11:00 until 00:00 midnight Monday to Saturday; 12:00 noon until 23:30 Sunday. Operates as an Indian restaurant; no off-sales. Additionally licensed for music & dance and late night refreshment.
- **47 – Lord Herbert:** Hours 11:00 until 00:00 midnight Monday to Thursday; 11:00 until 01:00 each following day Friday & Saturday; 12:00 noon until 00:00 midnight Sunday. Operates as a public house; also licensed for off-sales, plus music & dance and late night refreshment.
- **52 – Benjo’s:** Hours 12:00 noon until 23:00 Sunday to Thursday; 12:00 noon until 00:00 midnight Friday & Saturday. Operates as a Portuguese/ African restaurant; no off-sales. Additionally licensed for late night refreshment.

3.12 There are three premises in Herbert Road licensed solely for Late Night Refreshment from 23:00 hours, as follows:

- **23 – Zenith:** Until 01:00 each following day, daily.
- **56 – Gold Dragon Chinese Takeaway:** Until 01:00 each following day, daily.
- **64 – Delight** (formerly Herbert Best Kebabs): Until 01:00 each following day, Sunday to Thursday; until 03:00 each following day, Friday & Saturday.

4. Summary of Representations

Name of Person Making Representation & Relevant Authority/Other Person	Relevant Licensing Objective(s)	Appendix Reference
<p>Eva Barnsley & Alain Lodge, RBG Public Health (includes Exhibits EB/1 to EB/6.)</p> <p><i>Note: EB/1 is the same as Appendix A.</i></p>	<p>Supports review in line with Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives.</p>	<p>Appendix E</p>

<p>PC Darryl Crossman, Greenwich Licensing Police</p>	<p>Supports review in line with Prevention of Crime & Disorder and Protection of Children from Harm licensing objectives.</p>	<p><i>End of Appx E.</i></p>
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Of the remaining Responsible Authorities, Environmental Health (Pollution Control), the London Fire Authority, and Home Office Immigration each formally indicated that they had no representations to make.

At the time of writing this report, there has been no formal response to the review from the licence holder, Mr Mantas Andris for and on behalf of Mandris Ltd.

5. Relevant Provisions of Royal Borough of Greenwich Licensing Policy (Version 5)

Section & Paragraph	Provision
<p>1.6</p>	<p>“In order to avoid any duplication or inefficiency between the licensing and planning processes, the Royal Borough will expect that prior to the submission of a licensing application the appropriate planning permission will have been granted in respect of the premises concerned. The Royal Borough will only grant licences for premises without planning consent in exceptional circumstances.”</p>
<p>3.1</p>	<p>“The Royal Borough of Greenwich maintains that licensing is about the control of licensed premises, qualifying clubs and temporary events within the terms of the Act. Any conditions attached to licences will be focused on matters that are within the control of individual licensees and must be appropriate for the promotion of the licensing objectives.”</p>
<p>3.2</p>	<p>“These conditions will relate to the premises and other places being used for licensable activities and the impact of those activities in the near vicinity of the premises. In this regard, the Royal Borough of Greenwich will primarily</p>

	focus on the impact, or reasonably anticipated impact, of any activities taking place at the licensed premises on those living, working or engaged in normal activity in the area concerned.”
3.3	“Where the Royal Borough of Greenwich’s discretion is engaged as a result of relevant representations, tailored and proportionate conditions may be imposed on a licence to address the individual licensing objectives.”
3.5	“In order to avoid duplication with other statutory regimes as far as possible, the Royal Borough of Greenwich will not attach conditions on a licence unless they are considered necessary for the promotion of the licensing objectives.”
3.6	“The Royal Borough recognises that well-run premises can make a valuable, positive contribution to the local community though the local economy, tourism and cultural development. However, if they are not properly managed and controlled, licensed premises ... can become a serious source of crime and disorder or anti-social behaviour problems.”
3.8	“The Royal Borough will expect applicants to address in their operating schedule how the operation of the premises will satisfactorily address crime and disorder issues ranging from the design of the premises through to the daily operation of the business whilst promoting the prevention of crime and disorder.”
3.12	“The Royal Borough will require the licence holder to indicate what steps will be put in place to control the excessive consumption of alcohol and drunkenness on the relevant premises in order to reduce the risk of anti-social behaviour occurring elsewhere after customers have left the premises.”
3.12.1	“The Police and local Community Safety Partnership are the main source of advice on crime and disorder.”
3.13	“Conditions may, for example, include items relating to management systems, training, drugs policies, search procedures, entry policies, physical security, door supervisors, bottle bans, drinks containers, smoking area capacity limits, CCTV, restricting drinking areas, premises

	capacity limits, age verification systems such as ‘Challenge 25’, crime prevention notices, and signage.”
3.17	“Premises licenses will undergo review, where the premises in question is suspected to or proven to be the source of crime and disorder. Conditions which should be considered, to ensure prevention of crime and disorder, have been listed in Appendix A [of the Royal Greenwich Statement of Licensing Policy].”
3.33	“The Royal Borough will not impose any condition which specifically requires access for children to be provided at any premises. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so for the prevention of harm, or would compromise another licensing objective. Although the Royal Borough is sympathetic to applications which create additional appropriate child and family friendly venues, the Royal Borough will consider limiting access to children if there is a risk of moral, psychological and physical harm posed by their presence. Licence applicants are expected to determine appropriate times for children to be present on the premises. Where no restriction or limitation is imposed, the issue of access will remain a matter for the discretion of the individual licensee or club. Each licence application will be judged on an individual basis.”
3.34	“The Royal Borough recognises the widespread problem with compliance with regard to the law regarding the sale of alcohol to under 18 year-olds. The Royal Borough shares the government’s concern over the consumption of alcohol by children. Trading Standards and the Police strongly support the use of ‘Challenge 25’ in all licensed premises as an aid to preventing underage sales of alcohol.”
3.39	“The Royal Borough will expect applicants of alcohol licences to demonstrate in their operating schedule that suitable and sufficient steps are to be taken to ensure the licensing objective of the protection of children from harm.”
8.1	“Every application considered by the licensing authority...will be considered on its own merits and due regard will be given to the Guidance issued under Section

	182 of the Licensing Act 2003, the Licensing Act 2003 itself, and any supporting Regulations.”
10.1	The ‘ cumulative impact ’ on the licensing objectives of a concentration or clustering of multiple licensed premises may rise to a relevant representation when an application for the grant or variation of a premises licence is being considered, <i>but not in relation to an application for review</i> which must relate to an individual premises.
13.1	“The Royal Borough of Greenwich recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, other persons and responsible authorities in pursuit of common aims. The Royal Borough of Greenwich will endeavour to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. The Royal Borough of Greenwich, where time allows, will be prepared to facilitate mediation between licensee and those who may be intending to review the licence.”
13.3	“Where a review of a premises licence is sought, this must relate specifically to a particular premises licence relating to an individual premises.”
17.2	“The Royal Borough fully recognises the role businesses play in supporting our social life and the local economy. The Royal Borough and the Police share the aim of helping responsible businesses and their customers to take advantage of the new flexibilities, and taking appropriate enforcement action against those who abuse them. The Royal Borough will work with the Police to ensure that effective action is taken to deal with unlicensed activity, breaches of licence conditions, or crime and disorder associated with licensed premises. It should be noted that investigations will be undertaken through a range of means including overt and covert operations. It should be noted; in particular, that the Royal Borough’s Trading Standards Officers or officers from the Police will carry out test purchases of alcohol using young volunteers. Follow-up visits to licensed premises will include inspection for the presence of duty-evaded or counterfeit products.”

17.3	“An ongoing risk-based enforcement programme is in place to ensure we respond to complaints of non-compliance with licence conditions and we concentrate on areas where licensed premises are perceived to be contributing to anti-social behaviour. A sample of premises may also be inspected from time to time to ensure that the premises are operating in accordance with relevant licensing requirements.”
17.5	“For those who do act irresponsibly, serve alcohol to minors or those who are already clearly drunk, our aim is to take firm action against them.”

6. Relevant Provisions of Government Guidance under Section 182 of the Licensing Act 2003

Section	Provision
1.19	“While licence conditions should not duplicate other statutory provisions, licensing authorities and licensees should be mindful of requirements and responsibilities placed on them by other legislation. Legislation which may be relevant includes: <ul style="list-style-type: none"> • The Environmental Protection Act 1990; • The Noise Act 1996.”
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 Community Safety Partnership (CSP).”
2.3	“Conditions should be targeted on deterrence and preventing crime and disorder. 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.”
2.22	“The protection of children from harm includes the protection of children from moral, psychological and physical harm ... such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).”
2.23	“The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered.”
2.25	“Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.”
2.26	“Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.”
2.29	“Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. ... In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.”

9.15	<p>“It is also reasonable for licensing authorities to expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising Environmental Health functions to make representations where there are concerns about noise nuisance. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.”</p>
9.37	<p>“As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or ‘other person’ may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation.”</p>
9.38	<p>“In determining the application with a view to promoting the licensing objectives in the overall interests of the local community, the licensing authority must give appropriate weight to:</p> <ul style="list-style-type: none"> • The steps that are necessary to promote the licensing objectives; • The representations (including supporting information) presented by all the parties; • This Guidance; • Its own statement of licensing policy.”
9.39	<p>“The licensing authority should give its decision within five working days of the conclusion of the hearing (or immediately in certain specified cases) and provide reasons to support it. This will be important if there is an appeal by any of the parties. Notification of a decision must be accompanied by information on the right of the party to appeal.”</p>

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.
11.7	“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.”
11.10	“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.”

11.17	“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.”
11.20	“In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.”
11.21	“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 maybe 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	<p>“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. 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.</p>
11.26	<p>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:</p> <ul style="list-style-type: none"> • 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

	<ul style="list-style-type: none"> • for the sale or storage of smuggled tobacco and alcohol.
11.27	<p>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.</p>

7. **Further Considerations**

7.1 **Duration of the Licence**

A premises licence lasts for the lifetime of the business unless it lapses due to the death or insolvency of the licence holder, is surrendered by the Applicant, or suspended or revoked by the Licensing Authority.

7.2 **Review**

The Review mechanism may be implemented by a relevant authority or any other person where a matter arises at the licensed premises which they consider to be contravening the licensing objectives.

7.3 **Human Rights Act**

Under the Human Rights Act 1998, the Sub-Committee needs to consider the balance between the rights of the applicant and those making representations to the application when making their decision.

The Human Rights Act provides that: “Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No-one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest, or to secure the payment of taxes or other contributions or penalties.” The term “possession” includes a Licence as well as a home and the things it contains.

The Act further provides:

“1. It is unlawful for a public authority to act in a way which is incompatible with a Convention right.

2. Subsection (1) does not apply to an act if:

2.1 As the result of one or more provisions of primary legislation, the authority could not have acted differently; or,

2.2 In the case of one or more provisions of, or made under, primary legislation, which cannot be read or given effect in a way which is compatible with the Convention rights, the authority was acting so as to give effect to or enforce those provisions.”

However, it is recognised that the Council’s Statement of Principles and Statutory Guidance cannot anticipate every possible scenario or set of circumstances that may arise. Therefore, subject to both the Statement of Principles and Statutory Guidance having been properly and carefully considered, licensing authorities may depart from them if they have a justifiable reason to do so. If doing so, licensing authorities will need to give full reasons for their actions.

8. Written Decision & Reasons

A written decision notice with reasons will be provided within five working days of the date of the hearing.

Para 13.10 of the Guidance states: “It is important that a licensing authority should give comprehensive reasons for its decision in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal. It is particularly important that the reasons should also address the extent to which the decision has been made with regard to the Licensing Authority’s Statement of Policy and this Guidance. Reasons should be promulgated to all parties of any process which might give rise to an appeal under the terms of the 2003 Act.”

9. Appeal Rights

The Applicant and any person who has made a relevant representation may appeal the decision of the Licensing Sub-Committee by written notification to the Magistrates' Court within 21 days of receipt of the decision notice and reasons.

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