

## **Review of Premises Licence**

Licensing Act 2003 section 52 and Part 11 of the Secretary of States Guidance

### **At a Review Members of the Sub Committee can**

1. Modify licence conditions
2. Exclude a licensable activity from the licence
3. Remove the DPS from the licence
4. Suspend the licence for up to 3 months
5. Revoke the licence

### **The purpose of a Review**

To ensure that the licence holder is promoting the licensing objectives, which are

1. Prevention of crime & disorder
2. Prevention of public nuisance
3. Protection of public safety
4. Protection of children from harm

Reviews can be brought by any Responsible Authority, individual, business or Ward Councillors on any of the licensing objectives

### **Seriousness**

After hearing the evidence at a Review hearing Members need to decide the level of seriousness of the failure to promote the licensing objective. This guide suggests factors which Members may consider to be 'aggravating' or 'mitigating' but it is not a definitive list and Members may identify other factors during a Review hearing.

Based on Members views as to seriousness and 'aggravating' or 'mitigating' factors the suggested 'starting Point' for the imposition of actions under Section 52 can be considered and varied 'upwards' or 'downwards'.

Members are advised to note 'aggravating' or 'mitigating' factors and ensure these are recorded in their reasoned decision.

## Crime & Disorder

Failure to promote the licensing objective by	Aggravating factors	Mitigating factors	Suggested Starting point action by Members in Bold
matters referred to in Paragraph 11.26 of the secretary of States Guidance			
Manufacture sale or distribution of Class A drugs	Large scale over a long period Professional operation Links to organised crime 2 <sup>nd</sup> Review	Small scale for a short period of time. No links to organised crime Licence holder genuinely unaware or had tried to deal with the problem	Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>
Sale or distribution of Firearms	Large scale over a long period Professional operation Links to organised crime 2 <sup>nd</sup> Review	Small scale for a short period of time. No links to organised crime Licence holder genuinely unaware or had tried to deal with the problem	Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>

<p>Underage sales affecting the health, educational attainment employment prospects or the propensity for crime</p>	<p>Evidence of a significant impact / harm on a number of children  Associated with significant crime and / or disorder in the area  2<sup>nd</sup> Sale  2<sup>nd</sup> Review</p> <p>See also section on underage sales in Protection of Children section</p>	<p>No evidence of a significant impact / harm on a number of children  Not associated with significant crime and / or disorder in the area</p> <p>See also section on underage sales in Protection of Children section</p>	<p>Modify licence conditions  Exclude a licensable activity from the licence  Remove the DPS from the licence  <b>Suspend the licence for up to 3 months</b>  <b>Revoke the licence</b></p> <p>See also section on underage sales in Protection of Children section</p>
<p>Use of the premises for prostitution or pornography</p>	<p>Associated with serious organised crime.  Involves children or trafficked women  2<sup>nd</sup> Review  Large scale and for a long period</p>	<p>No association with serious organised crime.  No involvement with children or trafficked women Licence holder genuinely unaware or had tried to deal with the problem  Small scale and for a short period</p>	<p>Modify licence conditions  Exclude a licensable activity from the licence  Remove the DPS from the licence  <b>Suspend the licence for up to 3 months</b>  <b>Revoke the licence</b></p>
<p>Grooming of children by paedophiles</p>	<p>Organised and large scale  Resulted in psychological harm  Resulted in actual physical abuse</p>	<p>Licence holder genuinely unaware or had tried to deal with the problem  No evidence of psychological harm  No evidence of actual physical abuse</p>	<p>Modify licence conditions  Exclude a licensable activity from the licence  Remove the DPS from the licence  <b>Suspend the licence for up to 3 months</b></p>

			<b>Revoke the licence</b>
Use of premises for organised crime especially by gangs		Licence holder genuinely unaware or had tried to deal with the problem	Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>
Racist activity	Condoned or encouraged by the Licence holder Associated with organised groups or with organised crime	Licence holder genuinely unaware or had tried to deal with the problem	Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>
Unlawful gambling or gaming			Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>

Sale of smuggled alcohol or tobacco			<p>Modify licence conditions  Exclude a licensable activity from the licence  Remove the DPS from the licence  <b>Suspend the licence for up to 3 months</b>  <b>Revoke the licence</b></p>
<b>Other matters</b>			
Sale, distribution or use of Class B or C drugs	<p>Large scale over a long period  Professional operation  Links to organised crime  2<sup>nd</sup> Review</p>	<p>Small scale for a short period of time.  No links to organised crime  Licence holder genuinely unaware or had tried to deal with the problem</p>	<p>Modify licence conditions  Exclude a licensable activity from the licence  <b>Remove the DPS from the licence</b>  <b>Suspend the licence for up to 3 months</b>  <b>Revoke the licence</b></p>
Other underage sales			<p>See section on the Protection of Children from harm</p>
Breach of Licence conditions 1 <sup>st</sup> occasion	<p>Previous warnings ignored</p>	<p>Minor breach</p>	<p>Modify licence conditions  Exclude a licensable activity from the licence  <b>Remove the DPS from the licence</b></p>

			Suspend the licence for up to 3 months Revoke the licence
Breach of Licence conditions 2 <sup>nd</sup> occasion			Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>

## Prevention of Public Nuisance

Failure to promote the licensing objective by	Aggravating factors	Mitigating factors	Suggested Starting point action by Members
One off serious noise nuisance	Long duration affecting many people Deliberate act Lack of cooperation from the licensee Significant financial gain obtained	Short duration affecting limited number of people Not deliberate Full cooperation by licences	<b>Modify licence conditions</b> Exclude a licensable activity from the licence Remove the DPS from the licence Suspend the licence for up to 3 months Revoke the licence
More than one serious noise nuisance or second Review for a similar matter	Long duration affecting many people Deliberate act Lack of cooperation from the licensee Significant financial gain obtained		Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> Revoke the licence
Deliberate and persistent noise / nuisance, anti social behaviour	Long duration affecting many people Deliberate act Lack of cooperation from the licensee		Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> <b>Suspend the licence for</b>

			<b>up to 3 months</b> Revoke the licence
Breach of Licence conditions 1 <sup>st</sup> occasion	Previous warnings ignored	Minor breach	Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> Suspend the licence for up to 3 months Revoke the licence
Breach of Licence conditions 2 <sup>nd</sup> occasion			Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>



## Public Safety

Failure to promote the licensing objective by	Aggravating factors	Mitigating factors	Suggested Starting point action by Members
One off failure to protect public safety / breach of a licence condition / A matter dealt with by an Improvement Notice	Long duration affecting many people Deliberate act Lack of cooperation from the licensee Significant financial gain obtained		<b>Modify licence conditions</b> Exclude a licensable activity from the licence Remove the DPS from the licence Suspend the licence for up to 3 months Revoke the licence
Repeated failures to protect public safety / Serious single failure or breach of condition / a matter dealt with by a Prohibition Notice	Long duration affecting many people Deliberate act Lack of cooperation from the licensee Significant financial gain obtained		Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>
Deliberate / persistent placing of public / staff at risk	Actual harm caused Risk of significant harm Deliberate act Lack of cooperation from the licensee Significant financial gain obtained	No actual harm caused Risk of minor injury Cooperation	Modify licence conditions Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>

Breach of Licence conditions 1 <sup>st</sup> occasion	Previous warnings ignored	Minor breach	<p><b>Modify licence conditions</b>  <b>Exclude a licensable activity from the licence</b>  Remove the DPS from the licence  Suspend the licence for up to 3 months  Revoke the licence</p>
Breach of Licence conditions 2 <sup>nd</sup> occasion			<p>Revoke / Suspend / Remove DPS / Vary conditions</p> <p>Modify licence conditions  Exclude a licensable activity from the licence  <b>Remove the DPS from the licence</b>  <b>Suspend the licence for up to 3 months</b>  Revoke the licence</p>

## Protection of Children from Harm

Failure to promote the licensing objective by	Aggravating factors	Mitigating factors	Suggested Starting point action by Members
1 <sup>st</sup> time underage sale	Poor Management No effective challenge policy Poor training Deliberate Significant financial gain	Effective challenge policy but a one off failure	Vary conditions <b>Modify licence conditions</b> Exclude a licensable activity from the licence Remove the DPS from the licence Suspend the licence for up to 3 months Revoke the licence
2 <sup>nd</sup> Underage sale	Failed to respond to previous sale Deliberate Significant financial gain Failed other underage sales for age restricted products		Revoke or Suspend the licence / Remove DPS / Vary conditions  Modify licence conditions Exclude a licensable activity from the licence Remove the DPS from the licence <b>Suspend the licence for up to 3 months</b> <b>Revoke the licence</b>
Permitting children to be in premises where there is	Younger children would be treated more seriously	Older children may be treated as being less serious	Suspend the licence / Remove DPS / Vary

drunkenness	Regular occurrence	Infrequent occurrence	<p>conditions</p> <p><b>Modify licence conditions</b> Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> Suspend the licence for up to 3 months Revoke the licence</p>
Exposing children to age restricted films	<p>Poor Management no effective challenge policy Poor training Deliberate Significant financial gain</p>	Effective challenge policy but a one off failure	<p>Suspend the licence / Remove licensable activity / Remove DPS / Vary conditions</p> <p><b>Modify licence conditions</b> Exclude a licensable activity from the licence Remove the DPS from the licence Suspend the licence for up to 3 months Revoke the licence</p>
Exposing to entertainment of an adult , sexual, violent nature	<p>Poor Management &amp; supervision No effective challenge policy Poor training</p>	Effective challenge policy but a one off failure	<p>Revoke or Suspend the licence / Remove licensable activity /Remove DPS / Vary conditions</p>

	Deliberate Significant financial gain		<p><b>Modify licence conditions</b> Exclude a licensable activity from the licence <b>Remove the DPS from the licence</b> Suspend the licence for up to 3 months Revoke the licence</p>
Permitting children to gamble	Poor Management & supervision No effective challenge policy Poor training Deliberate Significant financial gain		<p>Revoke or Suspend the licence / Remove licensable activity / Remove DPS / Vary conditions</p> <p><b>Modify licence conditions</b> Exclude a licensable activity from the licence Remove the DPS from the licence Suspend the licence for up to 3 months Revoke the licence</p>
Breach of Licence conditions 1 <sup>st</sup> occasion	Previous warnings ignored	Minor breach	<p>Suspend / Remove DPS / Vary conditions</p> <p><b>Modify licence conditions</b> Exclude a licensable activity</p>

			<p>from the licence  Remove the DPS from the licence  Suspend the licence for up to 3 months  Revoke the licence</p>
Breach of Licence conditions 2 <sup>nd</sup> occasion			<p>Revoke / Suspend / Remove DPS / Vary conditions</p> <p>Modify licence conditions  Exclude a licensable activity from the licence  <b>Remove the DPS from the licence</b>  <b>Suspend the licence for up to 3 months</b>  <b>Revoke the licence</b></p>