



Home Office

Preventing illegal working in licensed premises and the Home Office role as a responsible authority in England and Wales

Version 3.0

Compliant Environment and Enforcement general instructions.

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About this guidance

This guidance tells Immigration Enforcement staff about the prevention of illegal working in premises licensed for the sale of alcohol or late night refreshment.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email the Right to rent and right to work policy team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Review, Atlas and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **3.0**
- published for Home Office staff on **24 February 2025**

Changes from last version of this guidance

Updates contained in this iteration of the guidance relate to:

- improving clarification of the Home Office's role as a Responsible Authority and condensing the information provided, including the removal of the Escalated Approach, Power of Entry (s179) Quick Reference Guides and Quality Assurance sections
- the adoption of a [stepped approach](#) to non-compliance including the use of a warning letter

Related content

[Contents](#)

Related external links

[Section 182 of the Licensing Act 2003 amended guidance](#)

Policy and legislation

Policy objective

To prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

Legislation

[The Licensing Act 2003 \(the 2003 Act\)](#) sets out the licensing regime for England and Wales. Section 36 of and Schedule 4 to the [Immigration Act 2016 \(the 2016 Act\)](#) amend the 2003 Act and introduce some immigration safeguards in respect of licensing applications made in England or Wales on or after 6 April 2017, to provide that:

- an individual may not apply for a premises and/or a personal licence to supply alcohol or provide late night refreshment if they do not have permission to be in the UK, or are not entitled to undertake work relating to the carrying out of a licensable activity
- licences issued to those with time-limited permission to be in the UK will lapse when their permission to be in the UK and/or work in a licensable activity comes to an end
- the Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017
- immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with these licensable activities

Section 36 enables similar provision to be made by regulations in the licensing regimes of Scotland and Northern Ireland.

Related content

[Contents](#)

Introduction

Who needs a licence?

Under the [Licensing Act 2003 \(the 2003 Act\)](#) businesses, organisations and individuals who want to carry out a licensable activity in England and Wales must have a licence issued by a licensing authority. Licensable activities are defined in section 1 of the 2003 Act, and a fuller description of certain activities is set out in Schedules 1 and 2 of the 2003 Act. The licensable activities are:

- the sale by retail of alcohol
- the supply of alcohol by or on behalf of a club, or the order of, a member of the club
- the provision of regulated entertainment
- the provision of late night refreshment

This means that anyone selling alcohol to the public (retail sales) or late night refreshment (defined as the supply of hot food or hot drink to the public, between 11pm and 5am) must have a licence.

What are licensing objectives?

The legislation provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken. These licensing objectives are:

- the prevention of crime and disorder
- public safety
- the prevention of public nuisance
- the protection of children from harm

The prevention of crime includes the prevention of immigration related crime and the prevention of illegal working in licensed premises. Licensing authorities are expected to work with Home Office (Immigration Enforcement), as well as police and other responsible authorities, in respect of these matters.

Which types of licences are required?

The 2003 Act provides for four different types of authorisation or permission:

- a premises licence – authorises the premises to be used for licensable activities
- a personal licence – authorises an individual to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence
- a club premises certificate – to allow a qualifying club to engage in qualifying club activities as set out in the 2003 Act (for example, a working men's club or a political club)

- a temporary event notice – to carry out licensable activities at a temporary event

The provisions adopted by the Home Office only apply to premises and personal licences, and not to other types of authorisation under the 2003 Act, for the following reasons:

- there is limited evidence of immigration related crime in respect of activities carried out by clubs authorised under club premises certificates - where immigration related crime is identified in these activities, the Home Office has a range of civil and criminal sanctions available to respond
- it is deemed disproportionate to apply the requirements to a temporary event notice (TEN) - TENs are a light touch licensing process which allow any person wishing to hold an event to give notice to the licensing authority that they intend to carry out licensable activities for a period of up to 7 days
- premises licences authorising regulated entertainment only (where there is no sale of alcohol) are not in scope - however, where premises providing regulated entertainment include the sale of alcohol (for example live music venues), these types of premises would be in scope of the provisions

What is a personal licence?

A personal licence is defined in the 2003 Act as a licence granted by a licensing authority to an individual, and authorises that individual to supply alcohol, or authorise the supply of alcohol, in accordance with a premises licence.

Personal licences relate to the sale of alcohol only. A personal licence is not required in order to provide late night refreshment.

Who can apply for a personal licence?

A personal licence is issued to an individual. The applicant **must**:

- be aged 18 or over
- have an immigration status which allows work in a licensable activity
- possess a licensing qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent) - [Accredited personal licence qualification providers](#)

Or:

- be a person as prescribed in the Licensing Act 2003 (Personal licences) Regulations 2005 - currently persons prescribed in regulations are:
 - a member of the company of the Master, Wardens, Freeman and Commonalty of the Mystery of the Vintner's of the City of London
 - a person operating under a licence granted by the University of Cambridge
 - a person operating premises under a licence granted by the Board of the Green Cloth
- not have forfeited a personal licence within 5 years of their application
- have paid the appropriate fee to the licensing authority and must not have an unspent conviction for a relevant offence (relevant offences are set out in

Schedule 4 of the Licensing Act 2003, and include offences relating to firearms, drugs, and violence, as well as immigration offences) or a foreign offence or an immigration-related civil penalty

- not have received an objection on an application on crime prevention grounds from the police
- must not have received an objection from Home Office (Immigration Enforcement) on the basis of prejudice to the prevention of illegal working or the licensing authority has considered an objection but determined that the grant of the application will not undermine the crime prevention objective or prevention of illegal working

A personal licence is either granted or rejected, and once it has been granted it lasts indefinitely (unless it becomes invalid due to a change to the holder's immigration status or it is revoked). There are no conditions added to a personal licence, and it cannot be granted for a limited period of time.

Personal licences and criminal records

In order to substantiate whether or not an individual has a conviction for an unspent relevant offence, an application for the grant of a personal licence must include a criminal conviction certificate, a criminal record certificate generally in the form of a Disclosure and Barring Service (DBS) check or the results of a subject access search of the Police National Computer by the National Identification Service to the licensing authority.

The requirement for an individual to establish whether or not they have unspent convictions for a relevant offence or foreign offence applies whether or not the individual has been living for a length of time in a foreign jurisdiction. All applicants are also required to make a clear statement as to whether or not they have been convicted of a relevant offence or an equivalent foreign offence outside of England and Wales ([under section 1\(5\)\(8\) of the 2003 Act](#)). This applies both to applicants who are resident in England and Wales and any person from a foreign jurisdiction.

Licensing authorities are required to notify the police when an applicant is found to have an unspent conviction for a relevant offence defined in the 2003 Act, or for a foreign offence. They are required to notify Home Office (Immigration Enforcement) where these are immigration offences or where the applicant has been required to pay an immigration-related civil penalty. If no offences or penalties exist, the licensing authority will grant the licence in the case of a valid application.

Civil penalties received for immigration-related offences are treated in the same way as relevant offences. Licensing authorities are required to notify Home Office (Immigration Enforcement) when an individual declares that they have been issued with a civil penalty which has not been cancelled following an objection or appeal, or convicted of an immigration offence, or a foreign offence comparable to an immigration offence. Home Office (Immigration Enforcement) may object to an application on the grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

Where an individual has an unspent conviction for a relevant or foreign offence or an unpaid civil penalty, and the police or Home Office (Immigration Enforcement) object

to the application on crime prevention grounds, the individual is entitled to a hearing before the licensing authority. If the police and Home Office (Immigration Enforcement) do not issue an objection notice and the application otherwise meets the requirements of the 2003 Act, the licensing authority must grant the licence.

A number of relevant offences never become spent. However, where an individual is able to demonstrate that the offence in question took place so long ago such that they no longer have a propensity to reoffend, in spite of any representations made, a licensing authority may consider that it is appropriate to grant the application on the basis that doing so would not undermine any of the licensing objectives.

What is a premises licence?

A premises licence can authorise the use of any premises (which is defined in the Licensing Act 2003 as including a vehicle, vessel or moveable structure or any place or a part of any premises) for licensable activities as defined in the 2003 Act. A premises licence may be granted with conditions attached.

Who can apply for a premises licence?

Any person aged 18 or over (and, if living in the UK, with immigration status which allows work in a licensable activity), who is carrying on, or who proposes to carry on a business which involves the use of premises (any place, including one in the open air) for licensable activities may apply for a premises licence, either on a permanent basis or for a time-limited period. The majority of licences are granted on a permanent basis. Those who live outside of the UK may hold a premises licence, but as they are outside the UK, they are not required to have the right to work here. They will be required to provide supporting documents as part of their application to show this to be the case.

'A person' in this context includes, for example, a business or a partnership where there is joint or shared liability. Licensing authorities should not require the nomination of an individual to hold the licence or determine the identity of the most appropriate person to hold the licence.

Designated premises supervisor

The sale of alcohol may not be made under a premises licence unless there is a designated premises supervisor (DPS) in respect of the premises, who must hold a personal licence. There is an exception for community premises, such as village halls, which have successfully applied to remove the DPS requirement.

The DPS will usually be the person who is responsible for day-to-day management of the premises and will act as the primary contact for the licensing authority, the police and Home Office (Immigration Enforcement). While they do not need to be on site at all times, they are expected to be sufficiently involved with the business to be able to act as its representative, and they must be contactable at all reasonable times.

If the police, licensing authority or Home Office (Immigration Enforcement) have any questions or concerns about the business, they will expect to be able to reach the DPS.

Each premises may have only one DPS, but the same person may act as the DPS at more than one premises.

What is late night refreshment?

Schedule 2 of the 2003 Act defines late night refreshment as the supply to the public of 'hot food or hot drink' between 11pm and 5am. For example, take away food outlets and night cafés. Shops and supermarkets selling only cold food and cold drinks, even if immediately consumable from 11pm are not licensable as providing late night refreshment.

The 2003 Act allows for certain exemptions in respect of the supply of hot food or hot drink, this includes hot drinks sold via vending machines, food sold in hotels to guests, to passengers on board moving vehicles (for example, boats, trains or coaches), and food provided by charities (for example to rough sleepers).

Licensing authorities are able to exempt categories of late night refreshment providers from the requirements of the 2003 Act, but before doing so must consider what the risks are in terms of the promotion of the licensing objectives and consult relevant partner agencies. In practice, these exemptions have not been used by any licensing authority since they were introduced in October 2015.

What are responsible authorities?

Responsible authorities are listed in section 69 of the 2003 Act. These are public bodies that must be fully notified of applications and that are entitled to make representations to the licensing authority in relation to the application for the grant, variation or review of a premises licence. These representations must relate to one or more of the licensing objectives and be considered 'relevant' by the licensing authority.

Since 6 April 2017, the Secretary of State has been a responsible authority in respect of premises licensed to sell alcohol or late-night refreshment. In effect this conveys the role of responsible authority on Home Office (Immigration Enforcement). When Home Office (Immigration Enforcement) acts as a responsible authority it does so under the prevention of crime and disorder licensing objective. This includes receiving, for consideration, applications for premises licences, except applications to vary the DPS on a premises licence and regulated entertainment only licences.

Applications to vary licences

In addition to applications for new personal and premises licences, existing licence holders may apply to vary or transfer a licence.

Variations of existing licences

Where a premises licence holder wishes to amend the licence, the 2003 Act permits an application to vary the licence to be made in the majority of cases, rather than requiring an application for a new premises licence. The process to be followed will depend on the nature of the variation and its potential impact on the licensing objectives.

Variations include, for example, adding licensable activities, amending the times when alcohol may be sold, or changing the structure or layout of the premises. The variation process allows the licensing authority to consider the potential impact of the changes on the licensing objectives and put any appropriate conditions in place. In their application, the licence holder must describe the nature of the proposed variation and any additional steps they will take to promote the licensing objectives. In the same way as for a premises licence application, if representations are made then the application will be considered at a hearing.

Home Office (Immigration Enforcement) will not receive applications to vary the DPS on a premises licence. These applications are sent to the relevant licensing authority and the police only.

Minor variations process

Variations to premises licences that would not be expected to impact adversely on the licensing objectives may be subject to a simplified 'minor variations' process. On receipt of such an application, the licensing authority will consider whether the variation could impact adversely on the licensing objectives. The licensing authority must consult those responsible authorities it considers appropriate (whether the application is made in writing or electronically) and take their views into account in reaching a decision. They may wish to consult Home Office (Immigration Enforcement) if they have particular concerns about preventing immigration-related crime and illegal working in licensed premises, under the broader licensing objective of preventing crime and disorder.

There is no right to a hearing (as for a full variation or new application), but licensing authorities must take any representations into account in arriving at a decision. Minor variations will generally fall into four categories: minor changes to the structure or layout of premises; small adjustments to licensing hours; the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions; and the addition of certain licensable activities. In all cases the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

Amending or removing existing conditions

There may be some circumstances when the minor variations process is appropriate. Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. When the application is to remove an existing condition imposed to prevent illegal working in licensed premises, Home Office (Immigration Enforcement) should be consulted as a responsible authority.

Interim authority notices

The 2003 Act provides special arrangements for the continuation of permissions under a premises licence when the licence lapses because the holder of the licence dies suddenly, becomes bankrupt, mentally incapable or ceases to be entitled to work in the UK.

In such circumstances, an 'interim authority' notice may be given to the licensing authority to allow the business to continue operating in the immediate period. The notice must be given within 28 consecutive days beginning the day after the licence lapsed. The effect of giving the notice is to reinstate the premises licence as if the person giving the notice is the holder of the licence and thereby allow licensable activities to continue to take place pending a formal application for the transfer of the licence. The maximum period for which an interim authority notice may have effect is 3 months. An interim authority notice may only be given by a person with an interest in the premises as set out in the 2003 Act or by a person connected to the former holder of the licence (normally a personal representative of the former holder; or a person with power of attorney; or where someone has become insolvent, that person's insolvency practitioner). The person giving the interim authority notice must be entitled to work in the UK in a licensable activity.

The interim authority notice ceases to have effect unless, by the end of the initial period of 28 consecutive days, a copy of the notice has been given to the chief officer of police and, except for regulated entertainment only licences, Home Office (Immigration Enforcement). In view of their short duration, Home Office (Immigration Enforcement) are unlikely to have a significant interest in interim authority notices and will be more interested in the application to transfer the licence that will follow. Where applications are made in writing, the applicant must give notice of the application to the chief officer of police and to Home Office (Immigration Enforcement). If an application is made electronically via GOV.UK or the licensing authority's electronic facility, the licensing authority must notify the police and Home Office (Immigration Enforcement) no later than the first working day after the notice is given.

If satisfied that, in the exceptional circumstances of the case failure to cancel the interim authority would undermine the crime prevention objective, within 2 working days of receiving the copy the police may give a notice to that effect to the licensing authority. Similarly, and within the same time period, Home Office (Immigration Enforcement) may give a notice to the licensing authority if satisfied that in the exceptional circumstances of the case, failure to cancel the interim authority notice would be prejudicial to the prevention of illegal working in licensed premises. In such circumstances, the licensing authority must hold a hearing to consider the objection notice and cancel the interim authority notice if it decides that it is appropriate to do so for the promotion of the crime prevention objective including the prevention of illegal working.

Transfers of premises licences

Any person who may apply for a premises licence, which includes a business, may apply for a premises licence to be transferred to them. Where the application is made in writing, the applicant must give notice of the application to the police and Home Office (Immigration Enforcement). Where it is made electronically, the licensing authority must notify the police and Home Office (Immigration Enforcement) no later than the first working day after the application is made.

In the vast majority of cases, it is expected that a transfer will be a very simple administrative process. The transfer can come into immediate interim effect as soon as the licensing authority receives it, until it is formally determined or withdrawn. This is to ensure that there should be no interruption to normal business at the premises. If the police and Home Office (Immigration Enforcement) raise no objection about the application, the licensing authority must transfer the licence in accordance with the application.

Home Office (Immigration Enforcement) may object if it considers that granting the transfer would be prejudicial to the prevention of illegal working in licensed premises. Such objections are expected to be rare and arise because the police or Home Office (Immigration Enforcement) have evidence that the business or individuals seeking to hold the licence or have an interest in the business, or individuals linked to such persons, are involved in immigration-related crime or illegal working.

Related content

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Overview of licensing applications

How are applications made?

Applications are currently made either online or by post. Online application forms are available on GOV.UK or through the relevant licensing authority. Application forms are prescribed in regulations; this means that applicants must use the prescribed forms so that applications are in a standard format.

Relevant licensing authority

Premises licences are issued by the licensing authority for the area in which the premises are situated. Applicants for personal licences who are resident in a licensing authority's area are required to make the application to that licensing authority. Once a personal licence is issued it may be used anywhere in England or Wales (for example, if the licence holder moves address, they do not need to reapply).

Application forms

Relevant application forms include a warning that it is a criminal offence to work illegally in the UK. The forms also include questions about the applicant's date of birth, nationality, and their residential address. Evidence of the applicant's entitlement to work in the UK should also accompany their application. The forms contain guidance for applicants on how to demonstrate their entitlement to work, including use of the Home Office online right to work checking service or by providing a copy of one or more acceptable documents. The documents which demonstrate entitlement to work in the UK are the same for personal and premises licence applications. They are based on existing acceptable document lists for right to work checks undertaken by employers in the UK.

Entitlement to work

For the purposes of these provisions, an individual is entitled to work in the UK if:

- they do not require permission to enter or stay in the UK under the [Immigration Act 1971](#)
- they have been granted such permission and the permission:
 - is not invalid
 - has not ceased to have effect (whether by reason of curtailment, revocation, cancellation, passage of time or otherwise)
 - is not subject to a condition preventing them from doing work relating to the carrying on of a licensable activity

An individual may not apply for a premises or a personal licence if they are not entitled to work in the UK or are not entitled to undertake work relating to the carrying on of a licensable activity.

Assessment of entitlement to work

Licensing authorities must conduct checks of entitlement to work on all individuals who apply for a premises licence, including partnerships where there is joint and several liability among the individual partners.

Where the applicant lives in the UK, the licensing authority must be satisfied that the applicant has lawful immigration status, and that they are not prohibited from holding a licence because they are in the UK illegally, or because they are in the UK legally but are subject to a condition that prevents them from working in a licensable activity.

Applicants are not required to provide original documents as proof of their entitlement to work, and licensing authorities should not request original documents. Clear and legible photocopies or scanned copies of original documents are sufficient. The reason for this is that, in making amendments to the 2003 Act to prevent illegal working, the intention has been to work within the grain of existing licensing processes. These processes allow online applications without original documents being submitted.

Under [section 158 of the 2003 Act](#), it is a criminal offence to provide false information (including information related to the applicant's entitlement to work) as part of the licence application, punishable on summary conviction by an unlimited fine.

In most cases the licensing authority should be able to make an assessment that the applicant is not disqualified from holding a premises or personal licence by virtue of their immigration status based on the information provided with the application. This will include all cases where the applicant is a British or Irish citizen.

In the following circumstances, licensing authorities should contact the Home Office's Status, Verification, Enquiries and Checking (SVEC) Unit to verify an individual's entitlement to work:

- the applicant is unable to provide proof of entitlement to work because they have an outstanding application for permission to stay in the UK with the Home Office, submitted before their previous immigration permission expired
- the applicant is unable to provide proof of entitlement to work because they have an appeal or administrative review pending against a Home Office decision
- the applicant is unable to provide proof of entitlement to work, but they present other information indicating they are a long-term resident who arrived in the UK before 1988

If an individual is unable to provide evidence that they are entitled to undertake work relating to the carrying on of a licensable activity, this may not necessarily mean that they do not have permission to work. For example, in cases where the individual benefits from continuing immigration permission while an in-time application is being considered by the Home Office, or in the event of a technical issue beyond the individual's control which results in the production of an incorrect share code, online right to work check result or they are temporarily unable to generate a share code.

Licensing authorities are able to contact the Home Office Status, Verification, Enquires and Checking service (SVEC) to confirm entitlement to work of an individual who is unable to do so online using a share code or manually using original, hard-copy documents.

If licensing authorities require further advice, they may also contact Home Office (Immigration Enforcement) via their Local Partnership Manager.

Official -sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use.

Official – sensitive: end of section

Licensing authorities are not required to carry out immigration checks on the following:

- the designated premises supervisor (DPS) named on an application for a premises licence
- applications to vary the DPS on a premises licence
- applications from those who do not live in the UK (where this is clear from the information and supporting documentation)
- applications from those applying for a premises licence as a limited company, limited liability partnership, or anyone applying pursuant to a function or on behalf on an organisation listed in section 16(1)(b)-(h) of the 2003 Act

If an individual has restrictions on the length of time they may work in the UK, a premises licence or personal licence may still be issued. A licence issued in respect of an application made on or after 6 April 2017 will cease to have effect if the individual to whom it has been granted ceases to be entitled to live in the UK or they become subject to a condition preventing them from carrying on a licensable activity.

General principles: determining an application

If an application for a premises licence has been made lawfully and there have been no representations from responsible authorities or other persons, the licensing authority must grant the application, subject only to conditions that are consistent with the operating schedule and relevant mandatory conditions.

The operating schedule sets out the details of how the business will operate such as the licensing hours, the licensable activities that are authorised, and the steps the business will take to manage any risks to the licensing objectives (for example, installing CCTV or employing door staff at certain times to prevent crime and disorder).

General principles: licence conditions

Conditions on a premises licence are important in setting the parameters within which premises can lawfully operate. Licence conditions are decided by the licensing authority, but may be proposed by the licensing authority, the applicant and responsible authorities (where appropriate). When requesting conditions to be added to a licence, Home Office (Immigration Enforcement) must adhere to the following principles (these are set out in the statutory guidance issued under section 182 of the [2003 Act](#)). The use of wording such as 'must', 'shall' and 'will' is encouraged. Licence conditions:

- must be appropriate for the promotion of the licensing objectives
- must be precise and enforceable
- must be unambiguous and clear in what they intend to achieve
- should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation
- must be tailored to the individual type, location and characteristics of the premises and events concerned
- should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case
- should not replicate offences set out in the 2003 Act or other legislation
- should be proportionate, justifiable and be capable of being met
- cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave
- should be written in a prescriptive format

Conditions should only be requested to be added to a premises licence if it is justified, in that it is appropriate to the prevention of immigration-related crime or the prevention of illegal working in licensed premises. Conditions are requested by making a representation, and this process triggers a hearing to consider the application (unless all parties come to an agreement about the conditions and agree that a hearing is not necessary).

Each application on its own merits

Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy (see the guidance issued under [section 182 of the 2003 Act](#)). Conditions attached to licences must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

Where representations are made

There is no requirement for responsible authorities to respond to any application. If no representations are made, the licensing authority will grant the licence in accordance with the application. The term 'representations' is used generically to refer to a response by a responsible authority to a licence application. Where this response is to a personal licence application, the term 'objection' is always used. It is common for licence applications not to receive representations. A 'nil response' is not required where there are no concerns about an application.

Timescales for responding

Responsible authorities must submit representations (for premises licences) or a notice (transfer application/interim authority notice) or an immigration objection notice (for a personal licence) in the following timescales:

Premises licence applications: At any time during a period of 28 consecutive days starting on the day after the day on which the application to which it relates was given to the authority by the applicant.

Applications to transfer a premises licence: 14 calendar days beginning on the day on which the Home Office (Immigration Enforcement) is notified of the application.

Application for an interim authority notice: Before the end of the second working day following receipt of the interim authority notice by Home Office (Immigration Enforcement).

Personal licence: 14 days beginning on the day Home Office (Immigration Enforcement) received the notice.

Application to vary a licence: 28 consecutive days starting on the day after the day on which the application to which it relates was given to the licensing authority by the applicant.

Related content

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Factors for consideration: representations in premises licence applications

Home Office (Immigration Enforcement) should consider making a representation only where it is considered that to grant a licence would be prejudicial to the prevention of illegal working or immigration-related crime in licensed premises. Each application must be considered on its individual merits.

Representations must be given within the timescales stipulated in this guidance, which vary according to the type of application. Nil responses are not required. In the event that no representations are received, a licensing authority will proceed to grant a licence in the case of a valid application which otherwise meets the criteria.

The 2 key questions to ask are:

1. Would granting the premises licence be prejudicial to the prevention of illegal working and immigration-related crime?
2. If **yes**, can this be mitigated sufficiently by attaching conditions to the licence?

If yes – Home Office (Immigration Enforcement) may make representations to request the attachment of immigration-related conditions to the licence.

If no – Home Office (Immigration Enforcement) may make representations to object to the grant of the licence.

Stage 1: Triage - minimum thresholds

The following factors should always trigger an assessment of whether it would be appropriate to make a representation.

The individual:

- has been convicted of an offence of employing an illegal worker under section 21 of the [Immigration, Asylum and Nationality Act 2006 \(the 2006 Act\)](#)
- has been required to pay an immigration penalty, in particular, penalty under section 15 of the 2006 Act during the last 3 years ending on the date of the licence application; or has, at any time, been required to pay such a penalty and failed to pay it (the objection and appeal processes and any timescale for paying it must have been concluded, and the penalty still payable)
- has, at any time, been convicted of an offence under any of the Immigration Acts

Where none of these is identified, no further action is required.

Where one or more of these issues is identified, consideration should move to stage 2.

Stage 2: more detailed consideration of the licence application

In relation to a penalty

Home Office (Immigration Enforcement) will consider the number of separate penalty notices issued, with greater weight given to those issued in the last 3 years, and/or repeat non-compliance, together with the number of illegal workers identified in those notices.

Where the risk of illegal working is deemed less serious, Home Office (Immigration Enforcement) may consider requesting licensing conditions.

Whilst any representations must be focussed only on the specific premises, Home Office (Immigration Enforcement) can consider if there is evidence that a business has shown wilful or systematic disregard for the law in respect of illegal working at any other premises, as this will be relevant to the assessment of risk. This should also be taken into account in considering the application for a new premises licence. This could include where the business had no evidence of processes in place for conducting right to work checks on any of its workers.

Home Office (Immigration Enforcement) will also consider any evidence that a business is generally compliant and has received penalties in other locations, perhaps by virtue of the size of its workforce, and there is evidence that the business has sought to address deficiencies that led to the employment of illegal workers. Such evidence is likely to mitigate against making representations to the grant of a licence. It may still be appropriate for Home Office (Immigration Enforcement) to consider requesting licensing conditions.

In relation to an unpaid penalty

Home Office (Immigration Enforcement) will consider whether a penalty has been issued at any time and remains unpaid following the completion of the objection and appeal processes. This includes where no payment has been made or where there exists an agreement to pay by instalments, which has not been adhered to. Home Office (Immigration Enforcement) will usually object to the issue of the licence to prevent illegal working in the licensed premises, except where to do so would be disproportionate.

Where there is evidence that a business has dissolved and recommenced trading as a different legal entity in order to avoid consequences of unlawful activity (also called 'phoenixism'), this should be provided in the representations to the licensing authority. This is relevant where a business ceases to trade at a time that it has outstanding civil penalties and then re-establishes as a different legal entity. It will be necessary to establish a clear connection between the two businesses in order to produce this in evidence.

Payment of an outstanding penalty may not be requested as a licence condition; however, it may be raised in representations, and payment could be pursued in discussion with the individual during the process of considering the licence application.

In relation to convictions under any of the Immigration Acts

Home Office (Immigration Enforcement) will consider what the offence was and the punishment, whether the conviction is spent as of the date of the application, and if it is proportionate to make representations on the basis that granting the application is likely to be prejudicial to the prevention of illegal working and immigration-related crime.

Home Office (Immigration Enforcement) should make representation where the conviction is unspent and granting the licence would give rise to a serious risk of illegal working or immigration-related crime in licensed premises.

Where the conviction is spent and/or the risk of immigration-related crime or illegal working is deemed less serious, Home Office (Immigration Enforcement) may consider requesting licensing conditions.

Related content

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Factors for consideration: objection to a personal licence application

Home Office (Immigration Enforcement) can only make an immigration objection where it is considered that to grant a personal licence will adversely impact on the aim of the prevention of illegal working or immigration-related crime. Each application must be considered on its individual merits.

The immigration objection must be given within the timescales stipulated in this guidance. Nil responses are not required. In the event that no objections are received, a licensing authority will proceed to grant a licence in the case of a valid application.

Conditions cannot be attached to a personal licence. The licence is either granted or refused. Other than this, Home Office (Immigration Enforcement) will apply the same consideration to the application as in determining whether to make representations in premises licence applications..

In relation to a penalty

Home Office (Immigration Enforcement) should object when the individual has been issued with an immigration penalty and it is considered that the amount of the penalty and/or the number of separate penalty notices issued, and the number of illegal workers identified in those notices indicates granting a licence would give rise to a serious risk of illegal working in a licensed premises.

In relation to an unpaid penalty

Home Office (Immigration Enforcement) should object when the individual has been issued with an immigration illegal working civil penalty and has not paid or is not making regular payments or they have been served with a second or further penalty and Home Office (Immigration Enforcement) believes that objecting to the licence is a proportionate response and will prevent illegal working in licensed premises.

In relation to convictions under any of the Immigration Acts

Home Office (Immigration Enforcement) should object when there is an unspent conviction for an immigration offence and it is considered that the nature, seriousness and/or timing of the offence is such that granting the licence would give rise to a serious risk of illegal working or immigration-related crime in licensed premises.

Related content

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Process for handling notification of licence applications

Point of receipt and contact details

Immigration Enforcement (IE) has a central team to handle the receipt of licence applications. This team considers whether to make an objection or representation.

Electronic licence applications are preferred and will be forwarded to IE by the licensing authority, along with accompanying documentation to Alcohol or [Late Night Refreshments \(ALNR\) team](#).

In the event of submitting a postal licence application, this should be copied by the applicant to IE as a responsible authority, along with accompanying documentation.

Postal address:

Immigration Enforcement Licencing Compliance Team
Floor 6
2 Ruskin Square
Dingwall Road
Croydon
CRO 2WF

Related content

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Requesting a review of a licence

Summary of a licence review

An application for a review of a premises or personal licence must be relevant to the promotion of one or more of the **licensing objectives** which, under the prevention of crime and disorder, includes the prevention of immigration crime and illegal working.

Home Office (Immigration Enforcement) may, therefore, request that an existing premises licence (except regulated entertainment only licences) be reviewed by the relevant licensing authority if there are concerns relating to immigration crime and illegal working in licensed premises. This also applies to licences issued before the [Immigration Act 2016](#) came into force. Such a request is likely to follow enforcement activity, data sharing with HM Revenue and Customs or the grant of an **illegal working compliance order** by a court (for which special arrangements apply).

Official – sensitive: start of section

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When to request a review

The following factors should always trigger an assessment of whether it would be appropriate to request a review of a personal or premises licence.

The licence holder:

- has no lawful immigration status/right to work (if the licence was granted before 6 April 2017)
- has been convicted of an offence of employing an illegal worker under section 21 of the [Immigration, Asylum and Nationality Act 2006](#)
- has been required to pay a penalty, in particular:
 - a penalty under section 15 of the 2006 Act during the last 3 years ending on the date of the licence application
 - a penalty at any time which they have failed to pay
- has, at any time, been convicted of an offence under any of the Immigration Acts

In the case of disqualification by reason of immigration status, this course of action is relevant where a licence was issued before 6 April 2017, as licences granted prior to

that date will not automatically lapse where they have no lawful status. In these circumstances, the onus will be on Home Office (Immigration Enforcement) to inform the relevant licensing authority and request a review of the licence.

Home Office (Immigration Enforcement) may inform the relevant issuing authority when it is identified that a personal licence holder has been required to pay a penalty under section 15 of the 2006 Act. The issuing authority will then consider whether a review is required.

Considerations for the review of a personal licence, premises licence, or both

In every case, apart from late night refreshment, there will be a personal and premises licence to be considered. Home Office (Immigration Enforcement) must determine whether to:

- request a review of the premises licence
- request a review of the personal licence
- request a review of both the premises licence and the personal licence of the designated premises supervisor (DPS)

Engagement with the business, other responsible authorities and the licensing authority

It should be noted that the statutory guidance issued under section 182 of the 2003 Act recognises that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims.

This means where responsible authorities have identified problems at licensed premises, it is good practice to give licence holders early warning of their concerns and the need for improvement, and advice on steps required. This may be sufficient in the event where there are failings in the right to work checks, but no illegal workers have been identified.

A stepped approach

Where illegal working is identified in a licensed premises involving 1-2 illegal workers, and it is the licence holder's first identified instance of non-compliance with the licensing objectives, Home Office (Immigration Enforcement) will normally issue a warning letter. The warning letter relates to the identification of illegal working encountered and the impacts of further non-compliance in respect of any personal or premises licence held.

However, Home Office (Immigration Enforcement) will consider other forms of non-compliance when determining whether to issue a warning letter or request a review of a licence. Factors that will be taken into account include:

- a previous requirement to pay a penalty, in particular:

- a penalty under section 15 of the 2006 Act during the last 3 years ending on the date that illegal working is identified
- a penalty at any time which they have failed to pay
- repeat instances of non-compliance with the relevant licensing objectives or the prevention of illegal working in the last 3 years (whether or not a previous warning has been issued to the licence holder)
- where 3 or more illegal workers are identified during an enforcement visit

There may be cases where the severity or scale of non-compliance (including issues other than illegal working) will result in the stepped approach not being applied even where the number of illegal workers encountered are between one and two (1–2) individuals and where a review of a licence would be more appropriate.

Factors that will be taken into account when considering whether to apply the stepped approach or whether to proceed with a licence review instead includes:

- where it was identified during an enforcement visit that the fire exits at the premises were locked and where the owner had told the employee or employees to keep them locked whilst they were there on their own for security purposes
- where an illegal worker confirmed that they were the only employee working at a premises and had sole responsibility for the day to day running of the premises, including the sale of alcohol
- where Home Office (Immigration Enforcement) officers identified during an enforcement visit that the premises licence holder was employing underage individuals
- where illegal workers were found to be residing at the premises or being housed in poor conditions, and there is evidence of controlling or coercive behaviour by the licence holder including withholding documents and/or wages owed

These examples are **not** intended to be an exhaustive list. Home Office (Immigration Enforcement) will consider the individual facts of each case in determining the appropriate course of action (including consideration of whether to adopt the stepped approach or not) in respect of any personal or premises licence held. Serious safeguarding concerns, breaches of conditions, repeat non-compliance or strong evidence to show failures in meeting licensing objectives identified by Home Office (Immigration Enforcement) teams during enforcement activity, should be considered for licence review.

The above considerations should be made and recorded on Home Office systems as this will provide important evidence in any licence review. This will show that the licence holder has failed to comply with their responsibilities or conditions imposed upon them and that the review of the licence is, therefore, proportionate and necessary to prevent illegal working and immigration-related crime in licensed premises.

There is no requirement to evidence previous engagement with the licence holder where serious non-compliance has been identified from the outset. The Home Office has published guidance and statutory codes of practice which set out what a

responsible employer should ask for ahead of employing any person in order to comply with legislation and avoid liability for employing an illegal worker.

How to request a licence review

In instances where Home Office (Immigration Enforcement) consider a licence review to be the appropriate course of action after an enforcement visit, representations will be made to the relevant licensing authority. During this process, other responsible authorities will be advised of the submission, in order for any additional representations or objections to be made, and considered, where appropriate.

The form used to apply for a review of a premises licence is set out at Sch.8 of [The Licensing Act 2003 \(Premises licences and club premises certificates\) Regulations 2005](#).

The application to review a licence must be sent to the relevant licensing authority, the holder of the licence, and all responsible authorities (See: [section 51 of the Licensing Act 2003](#)).

When another responsible authority or person, other than the Home Office, makes an application to the licensing authority for the review of a licence, the Home Office will receive a copy and may make any immigration-related representations when appropriate.

This licence review process does not apply to personal licences, for which requests for review must only be sent to the licensing authority which issued the licence. It may be that this is not the licensing authority for the area in which the licence holder is resident if the individual has relocated.

Conditions, suspension and revocation

Conditions

Conditions can only be requested in relation to a premises licence, not a personal licence. Where a licence review is requested, and conditions are imposed on a licensed premises, they need to be proportionate and link to the licensing objectives. Home Office (Immigration Enforcement) conditions should relate to the prevention of illegal working in licensed premises with the intention of reducing the risk of immigration crime.

Conditions must be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions should be avoided and indeed may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case. Appropriate conditions could include evidencing to immigration officials that they are complying with requirements, for example:

- the employer must carry out checks relating to the right to work of their employees at [insert address of premises] and any prospective employees before entering into a contract of employment:
 - copies of these documents must be retained and stored securely by the employer at the premises or a digital copy be immediately accessible from the premises for ease of inspection by immigration officials
 - the employer, or any person appearing to represent the employer, must be able to produce on demand copies of documents relating to the right to work of all staff, at the request of an immigration officer who enters the premises to carry out a compliance visit

Payment of an outstanding penalty may not be requested as a licence condition. However, it may be referred to when making a request for a review.

Suspension

Suspension of a licence is a possible outcome in relation to a review of a premises licences, usually taken together with conditions. Suspension of a premises licence may be necessary in order for the licence holder to address concerns that have been identified at the premises and put systems in place to prevent illegal working occurring in the future. A licence can only be suspended for a maximum of three months.

Revocation

Home Office (Immigration Enforcement) will request a review of a licence in circumstances in which it is considered that the risk of immigration-related crime and illegal working cannot be otherwise mitigated. In such cases, revocation of the licence is a possible outcome.

This might also be the appropriate remedy in relation to a personal licence.

Serious and or repeat non-compliance may include (but is not limited to):

- identification of 3 or more illegal workers
- multiple civil penalties or a single penalty for a large amount
- unpaid civil penalties
- unspent immigration offences or other relevant offences
- evidence of phoenixism

Licensing hearing

If representations are made by a responsible authority or other person, in respect of a premises licence, it is for the licensing authority to decide whether those representations are relevant to the licensing. If the licensing authority decides that the representations are relevant, then it must hold a hearing to consider them.

All cases regarding an existing licence must go to a hearing by the licencing sub-committee (for example, where Home Office (Immigration Enforcement) requests the review of an existing licence, or where it makes representations on an application to

vary an existing licence). However, a hearing in connection with an application for a new premises licence application can be avoided if the individual agrees to conditions being added to their premises licence and all parties agree that a hearing is not necessary (including all those who made representations). In these cases, Home Office (Immigration Enforcement) will make contact with the licence applicant and work with the licensing authority to agree conditions and prevent a hearing. The majority of decisions regarding applications for new premises licences are made, in discussion with the individual, without going to a hearing.

Where Home Office (Immigration Enforcement) makes representations, the licensing authority should notify them of the outcome of the decision.

Licensing authorities, alongside Home Office (Immigration Enforcement) in some cases, will try to conclude any discussions with the individual in good time before the hearing. If the application is amended at the last moment, the licensing committee should consider giving other persons time to address the revised application before the hearing commences.

Official – sensitive: start of section

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There is no requirement in the 2003 Act for responsible authorities that have made representations to attend the hearing. However, it is generally good practice as this assists committees in reaching more informed decisions. Where several responsible authorities within a local authority have made representations on an application, a single local authority officer may represent them at the hearing if the responsible authorities and the licensing authority agree. This local authority officer representing other responsible authorities may be a licensing officer and will have no role in the licensing determination process. This is to ensure that the responsible authorities are represented by an independent officer separate from the licensing determination process.

The precise make-up of a licensing hearing will be a decision of the individual licensing authority. It will generally comprise a chair and members of the licensing authority sub-committee (who are councillors), a solicitor who is an officer to the sub-committee, licensing officers to provide a secretariat to the sub-committee,

responsible authority representatives (such as the police and environmental health), the applicant and their solicitor. The hearing is also open to the public.

As a matter of practice, the hearing will focus 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. For example, Home Office (immigration Enforcement) may make representations on the grounds that the applicant has received previous civil penalties, for which payment has not been made. At the hearing the officer may provide more detail about those penalties and any other evidence appropriate to the licensing objective, which has been included in the representations, and which is appropriate for public disclosure.

Additional representations that do not amount to an amplification of the original representation may not be made at the hearing. If Home Office (Immigration Enforcement) wish to include further evidence in representations presented at a hearing, they should contact the licensing authority, who, in very exceptional circumstances may decide that it is necessary to adjourn the hearing to a specified date in order that further evidence may be submitted in written representations and considered at the hearing. In seeking an adjournment to raise such additional evidence, Home Office (Immigration Enforcement) will be expected to explain why this additional evidence was not available when original representations were made. An adjournment must not be requested simply because the Home Office made a mistake, or the evidence was previously available but was overlooked.

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:

- the steps that are appropriate to promote the licensing objectives
- the representations (including supporting information) presented by all the parties
- the statutory guidance issued under section 182 of the 2003 Act
- its own statement of licensing policy

The licensing authority should give its decision within 5 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 a party to appeal. After considering all the relevant issues, the licensing authority may grant the application subject to conditions which must be appropriate for the promotion of the licensing objectives, which may include the prevention of illegal working and immigration-related crime in licensed premises.

Alternatively, the licensing authority may refuse the application on the grounds that this is appropriate for the promotion of the licensing objectives, which may include the prevention of immigration-related crime and illegal working in licensed premises.

It may also refuse to specify a designated premises supervisor and/or only allow certain requested licensable activities. In the interests of transparency, the licensing authority will publish hearings procedures in full on its website to ensure that those involved have the most current information.

In summary, at a hearing, the licensing authority may:

- grant the licence application as made
- grant the licence application subject to modifying conditions that are consistent with the operating schedule in a way it considers appropriate for the promotion of the licensing objectives
- reject one or more requested licensable activities
- reject the licence application
- refuse to specify a person as a designated premises supervisor
- decide that no action is necessary to promote the licensing objectives
- modify or add conditions to the licence
- exclude a licensable activity from the licence
- remove the designated premises supervisor
- suspend the licence for a period (not exceeding 3 months)
- revoke the licence

Appeals

All decisions of the licensing authority, and any conditions imposed, must be appropriate for the promotion of the licensing objectives. There is a right of appeal to a magistrates' court against a licensing authority's decision.

In any appeal, a magistrates' court is not permitted to consider any question as to whether an individual should be or should have been granted permission to enter or stay in the UK; or an individual has, after the date of the decision being appealed against, been granted permission to enter or stay in the UK. In the case of the latter, it is open to the individual to make a further licence application.

If a premises licence application is refused, or granted subject to conditions, the applicant will be entitled to appeal against the decision of the licensing authority. Similarly, if a personal licence application is granted despite an objection from either the police or Home Office (Immigration Enforcement), both the police and Home Office (Immigration Enforcement) are entitled to appeal against the licensing authority's determination. Home Office (Immigration Enforcement) will decide on the relevance and necessity for an appeal based upon the individual facts of the case and with due regard to legislation and published guidance. Licensing authorities are expected to record in full the reasons for any decision which they make.

Compliance orders

The licensing authority must automatically review a premises licence if the premises to which it relates was made the subject of a compliance order to prevent illegal working (as set out in section 167(1A) of the [Licensing Act 2003](#), as amended by paragraph 18 of Schedule 6 to the [Immigration Act 2016](#)). Information supplied by Home Office (Immigration Enforcement) for a review hearing triggered by a

[compliance order](#) will broadly replicate that presented in the compliance order proceedings in the magistrates' court.

When the licensing authority receives notice from a magistrates' court that it has issued a compliance order:

- the licensing authority has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received
- the hearing must be held within 10 working days, the first of which is the day after the day the notice from the magistrates' court is received
- notice of the hearing must be given no later than 5 working days before the first hearing day (there must be 5 clear working days between the giving of the notice and the start of the hearing)

Where a licence lapses

A premises licence will generally run indefinitely. However, it will lapse if the licence was granted in respect of an application made on or after 6 April 2017 and the holder (who is an individual) ceases to be entitled to work in the UK if they are resident here.

The licensing authority is under no duty to carry out ongoing immigration checks to determine whether a licence holder's permission to be in the UK has ended. The migrant will be aware when their time-limited permission has come to an end and the Home Office will inform them if their permission to be in the UK is curtailed.

Home Office (Immigration Enforcement) will seek to inform the licensing authority when they identify a licence holder whose permission to be in the UK has come to an end, so that the licensing authority can take any necessary action. An application may be made to transfer a premises licence to another person. However, that person must not themselves be disqualified by reason of their immigration status from holding a licence.

Related content

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Immigration representation in respect of a premises licence

On behalf of the Secretary of State, Immigration Enforcement (IE) makes representations for the following premises licence application, relating to the crime prevention objective, including the prevention of illegal working and immigration crime in licensed premises.

IE wishes to make representations on an application for a new premises licence.

Licensing authority application reference number	
Immigration Enforcement reference number	
Applicant name	
Address of premises	
Immigration Enforcement Contact 1	
Name	
Address	
Telephone no.	
Email address	
Immigration Enforcement Contact 2 (If applicable)	
Name	
Telephone no.	
Email address	

Representations are being made for the following reasons:

Offence, immigration penalty, dates, penalty amount etc.

Representation:

- objection to the grant of a premises licence to the applicant

Reasons for which there is a risk to the licensing objectives, and why the objection is appropriate to prevent crime including illegal working in licensed premises.

Date:

Related content

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Immigration representation to request the cancelation of an interim authority notice

Immigration Enforcement (IE) on behalf of the Secretary of State, is satisfied that, in the circumstances particular to this case, failure to cancel the interim authority notice would be prejudicial to the prevention of illegal working and immigration crime in licensed premises.

Licensing authority application reference number	
Immigration Enforcement reference number	
Applicant name	
Address of premises	
Immigration Enforcement Contact 1	
Name	
Address	
Telephone no.	
Email address	
Immigration Enforcement Contact 2 (If applicable)	
Name	
Telephone no.	
Email address	

Reasons for which continuation of the interim authority notice would be prejudicial to the prevention of illegal working:

Further comments:

(Immigration offence, penalty etc)

Date:

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