

## 11 Police Powers to Close Premises

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11.1 Part 8 of the Licensing Act 2003 significantly extends the existing powers of the police (a) to seek court orders to close licensed premises in a geographical area that is experiencing or likely to experience disorder; and (b) to close down instantly individual licensed premises that are disorderly, likely to become disorderly or are causing nuisance as a result of noise from the premises by making these powers available in relation to premises licensed for the provision of regulated entertainment and late night refreshment and to premises in respect of which a temporary event notice has effect. Ministers have previously given undertakings to Parliament that guidance would be issued to police officers about the operation of those powers. This Chapter therefore constitutes that guidance.

### General

11.2 This guidance has no binding effect on police officers who, within the terms of their force, orders and the law, remain operationally independent. The guidance is provided to support and assist police officers in interpreting and implementing Part 8 of the 2003 Act in the interests of public safety, the prevention of disorder and the reduction of anti-social behaviour. Part 8 of the 2003 Act can assist in the overall strategy to reduce anti-social behaviour.

11.3 It is recognised that this guidance cannot cater for every circumstance and that instances may arise where officers will determine the need to operate in ways which will not wholly conform to it. However, at all times, senior police officers deploying the powers in question should seek to ensure that their actions are appropriate, proportionate and necessary in all the circumstances.

11.4 Police officers reading this guidance may also find it beneficial to familiarise themselves with the terms of:

- The explanatory notes accompanying the 2003 Act;
- Part 3 of the Environmental Protection Act 1990; and
- The Noise Act 1996.

11.5 Since 1872, the right of licensees to sell and supply alcohol to the general public has co-existed alongside a number of offences which may be committed in the course of exercising that right, and the licensed trade has long understood these social responsibilities. Part 7 of the 2003 Act provides that licensees, designated premises supervisors, members or officers of clubs, premises users who have given a temporary event notice under Part 5 and certain staff of licensed premises commit offences if they allow disorderly conduct on licensed premises or if they sell alcohol to a person who is drunk. These offences may also be committed by such persons not necessarily themselves selling alcohol but allowing sales or supplies to take place. Running alongside these offences, however, are powers afforded to licence holders and such other persons to expel from premises those who are drunk and disorderly.

11.6 The extended police powers in Part 8 of the 2003 Act underline the social responsibilities and requirement to maintain order at their premises which fall on those in the hospitality, leisure

and entertainment industry; and the need to enforce the new provisions will usually arise where there has been a failure to comply with the duties referred to above.

- 11.7 The arrangements in section 160 of the 2003 Act (orders to close premises in an area experiencing disorder) will generally be used by the police, with the sanction of the courts, where contingency planning is possible, though may be used in an emergency too. The arrangements in sections 161 – 170 will generally be used only where unanticipated events arise and emergency action proves necessary.
- 11.8 The Government intends that the extended police powers contained in sections 161 – 170 of the 2003 Act should place licence holders, those giving temporary event notices and designated premises supervisors, who will usually have day to day management control of the premises, under pressure to maintain order and minimise anti-social behaviour on licensed premises, and thereby to deter disorder and nuisance behaviour often caused by excessive consumption of alcohol. The powers are intended to make these individuals more alive to their responsibilities to the wider community. As such, the potential as well as the actual use by the police of these powers should itself be beneficial in terms of preventing disorder on and noise nuisance from the relevant premises. The powers therefore have significant deterrent value. In addition, an effective police licensing policy, promoting good crime prevention strategies and professional practice among holders of premises licences and designated premises supervisors, should result in the extended powers being used minimally. It will be noted that in relation to those premises which do not sell or supply alcohol there will be no individual identified as a designated premises supervisor for the purposes of the 2003 Act. However, the provisions in Part 8 of the 2003 Act include the manager of the premises within the definition of “appropriate person” who must be given notice of a closure order so that these powers can be effectively used without obstacle. Good practice should involve an effective working liaison and system of communication between the police and managers of licensed premises. It is recognised that a great deal will depend on the willingness of licensees, managers, designated premises supervisors and premises users to involve themselves in a partnership approach, but those licensees who fail to take a socially responsible attitude will place themselves at greater risk of police action under these powers than other licensees, managers, designated premises supervisors and premises users who actively co-operate.

## **Orders to close premises in an area experiencing disorder**

- 11.9 Section 160 of the 2003 Act replaces and extends the longstanding powers of section 188 of the Licensing Act 1964. Under section 160 a police officer of the rank of superintendent or above may ask a magistrates’ court to make an order requiring all premises holding premises licences or subject to a temporary event notice which are situated at or near the place of the disorder or anticipated disorder to be closed for a period up to 24 hours. The court may not make such an order unless it is satisfied that it is necessary to prevent disorder. A constable may use necessary force to close any premises covered by such an order.
- 11.10 Such orders should therefore normally be sought where public order problems are anticipated, as a result of intelligence or publicly available information, which may very often be fuelled by the ready availability of alcohol. Examples of future events which might justify action by the

police under section 160 of the 2003 Act could include football fixtures with a history of public order problems; and political demonstrations which are thought likely to be hi-jacked by extreme or violent groups. Accordingly, if a football match is taking place on a Saturday, and intelligence is received on the preceding Thursday, which indicates that fans may cause disorder, a senior police officer should **not** rely on the powers in sections 161 – 170 of the 2003 Act (instant closure without court involvement) on that Thursday specifying closure of premises near the football ground during the following Saturday. This is because the orders under sections 161 – 170 must be made and served at the time the senior police officer forms his or her reasonable belief that the disorder is happening or is imminent, or that the noise nuisance is being caused, and such orders will come into force as soon as they are served. However, where it is possible to anticipate disorder in this way, the courts should be involved and make the decision on the application of a police officer of the rank of superintendent or above as to whether widespread closure is justified.

- 11.11 When seeking an order under section 160 of the 2003 Act, the burden of proof will fall on the police to satisfy the court that their intelligence or evidence is sufficient to demonstrate that such action is necessary. Police officers should recognise that such action may do serious damage to the businesses affected (and in circumstances where those businesses are being conducted properly) and disrupt the activities of consumers and other law-abiding citizens. It is therefore essential that orders are sought only where necessary to prevent disorder.
- 11.12 Where serious disorder is anticipated, many holders of premises licences and premises users who have given temporary event notices will want to co-operate with the police, not least for the protection of their premises and customers. So far as possible, and where time is available, police officers should initially seek voluntary agreement to closure in an area for a particular period of time. The courts should therefore only be involved where other alternatives are not available.

### Closure orders for identified premises

- 11.13 Disorder and noise nuisance will more commonly arise in circumstances that cannot readily be anticipated. Section 161 of the 2003 Act provides that a senior police officer of the rank of inspector or above may make an order closing individual premises covered by premises licences or a temporary event notice for up to 24 hours where disorder is taking place, or is likely to take place imminently or a nuisance is being caused by noise emanating from the premises. Such orders may only be made where it is necessary in the interests of public safety or to prevent the nuisance caused by noise coming from the premises. These powers should not be used where it has been possible to anticipate the disorder arising, for example, in connection with intelligence about likely future disorder at a football fixture or in connection with a demonstration. The appropriate course then is to seek a court order in respect of an application under section 160 of the 2003 Act.

### Conduct of the premises licence holder

- 11.14 Section 161 of the 2003 Act also provides that the senior police officer must consider the premises licence holder's conduct and that of the manager or designated premises supervisor or premises user who has given a temporary event notice in respect of the premises before

making a closure order. This means that if the licence holder or manager or designated premises supervisor or premises user has acted incompetently, inadequately or has actually provoked or caused the problems, the officer may take that into account when deciding whether to make a closure order. On the other side of the coin, if the licensee, manager or designated premises supervisor or premises user has called the police in promptly and acted sensibly in his or her attempts to prevent disorder or noise nuisance, that good conduct should also be taken into account.

- 11.15 In this context, it must be understood that the powers to close licensed premises are not a penalty to be imposed on the licence holder. Part 7 of the 2003 Act contains offences of allowing disorderly conduct on licensed premises for which, on conviction, a court may impose an appropriate penalty on a licence holder. Similarly, the Environmental Protection Act 1990 and the Noise Act 1996 provide for penalties to be imposed by the courts on those who are convicted of causing a statutory noise nuisance. The powers in sections 161 – 170 of the 2003 Act are, first and foremost, designed to protect the public whether a licensee or manager or any other person is at fault or not. This means that even if the licence holder, managers or other persons have done all they can to prevent the disorder or noise nuisance, a senior police officer may on occasions, still believe that closure is necessary to safeguard the public or to prevent the public nuisance. These will be fine judgements, appropriately pitched at a senior police rank. But the police's overriding consideration should always be the public interest.
- 11.16 However, police officers should bear in mind that decisions to close licensed premises, or premises where a temporary event notice has effect, will almost always have a seriously damaging commercial impact on the business involved, and possibly on the livelihoods of licence holders, managers, premises users and members of staff or disrupt a community or charitable event that has been planned for a considerable period of time. It should be noted in this context that premises where a premises licence or temporary event notice has effect will normally be legitimate outlets carrying on the sale and supply of alcohol, providing regulated entertainment or late night refreshment in accordance with their authorisations. The 2003 Act therefore requires the senior police officer to consider whether good or bad practice on the part of the licensee/manager/designated premises supervisor/premises user has been exhibited in the context of the problem being investigated. It is therefore important that not only bad practice is considered; good practice, conduct and intentions should normally weigh in favour of a decision not to proceed by compulsory closure of the premises under a police order. On many occasions, other options will be available to the police, some of which are discussed below.

## **Voluntary co-operation**

- 11.17 The police should, whenever possible, seek the voluntary co-operation of licensees, premises users, designated premises supervisors and managers in resolving incidents of disorder, potential disorder and noise nuisance rather than move directly to a decision to use a closure order.
- 11.18 Police officers should be aware that any decision to deploy the powers available to them to make a closure order under the 2003 Act in respect of premises to which a premises licence relates will almost inevitably lead, after an initial hearing before the courts, to a review by the

licensing authority of the licence which involves determining whether or not it is necessary for the promotion of the licensing objectives to exercise its powers to take any steps in relation to the licence including its revocation. A decision by the licensing authority to proceed on that basis will therefore involve police attendance at the hearing and the preparation of material relating to the review. Senior police officers will only want to commit such resources if necessary and justified in the public interest.

- 11.19 If police officers are aware that any premises are showing signs of problematic behaviour relating to disorder, excessive drunkenness or noise which is disturbing local residents, it is sensible to provide early warnings and reminders to licensees, managers and designated premises supervisors of their responsibilities and duties under licensing law; and of the police powers of closure. It should also be underlined that if the police are obliged to deploy their powers, the ultimate consequences could include revocation of the premises licence, and the continued closure of the premises until the conclusion of any appeal proceedings before the courts.
- 11.20 Similarly, where despite warnings, licensed premises exhibit problems over a period of time, but no single instance is sufficient in itself to justify closure action, it is open to the police to seek a review of the premises licence under Part 3 of the 2003 Act in the normal way.
- 11.21 Where the police attend an incident, following complaints about disorder or noise nuisance to local residents, or attend at the request of the licensee, and a senior police officer of inspector rank or above reasonably believes that closure is necessary under the terms of the 2003 Act, police officers should advise the licence holder, designated premises supervisor, premises user or manager of the premises immediately. Wherever possible, police officers should then give the licence holder, manager, designated premises supervisor or premises user an opportunity to close the premises voluntarily, on police advice, until the following day. A closure order will normally only have to be made if police advice is disputed or rejected and it becomes necessary to take action to impose closure. When giving advice to close voluntarily, police officers should make clear that they are not engaging in a negotiation. The view of the senior police officer will be final until a court decides otherwise.
- 11.22 However, even if the licensee, designated premises supervisor, manager or premises user is willing to close voluntarily, it will remain open to the senior police officer to decide to serve a closure order, if he or she judges that to be the right course of action in all the circumstances. It is recognised that circumstances could arise which necessitate such action.
- 11.23 Against this background, police officers should also note that a decision not to make a closure order or to agree to voluntary closure will not prevent a later decision by the police to seek a review of the premises licence by a licensing authority, if that course of action is judged appropriate.

### **"In the vicinity" of licensed premises**

- 11.24 A closure order may be made on grounds of disorder on or in the vicinity of and related to the premises. A question therefore arises as to how far from the premises incidents can take place which relate to the premises and still fall within the term "in the vicinity of". Whether or not

an incident is “in the vicinity of” and “related to” the licensed premises are ultimately matters of fact to be decided by the courts. However, it is important to note that the provisions require a causal connection between any disorder or likely disorder and the licensed premises themselves. The senior police officer cannot close the premises under this provision unless “closure is necessary in the interests of public safety”. Accordingly, closure of those particular premises must directly impact on the danger to the public safety being caused by the disorder, or likely disorder, taking place or expected imminently to take place on or in the vicinity of and related to the premises. The disorder and the premises must therefore be connected. This issue also arises in the context of any extension of a closure order.

- 11.25 Some licensees, premises users, designated premises supervisors and managers of licensed premises may consider it unfair that they should be held accountable for incidents taking place outside their immediate control. However, as explained elsewhere, closure orders were not designed as penalties but as a means of ensuring public safety and the prevention of public nuisance.
- 11.26 It should also be noted that the interpretation of “in the vicinity” does not arise in the context of “nuisance caused by noise coming from premises” because section 161 of the 2003 Act requires that the noise is emanating from the premises rather than any other source. In other words, noise from the premises itself is relevant: noise from customers in the street beyond the premises cannot be taken into account.

### “Likely” disorder

- 11.27 A further question arises as to when any future disorder is likely to take place to justify a closure order being made. The 2003 Act requires that the disorder should be likely to be imminent. As said in the geographical context, there also has to be a causal connection between the likely disorder and the particular licensed premises involved, which makes closure of those particular premises under this provision **necessary** in the interests of public safety. This means that the expected incident must be happening or be imminent in which case, closure of the licensed premises should actively diminish the probability that disorder will take place in the immediate future.

### “Public nuisance caused by noise coming from the premises”

- 11.28 The 2003 Act does not define the term “public nuisance”. Parliament has decided not to constrain the interpretation of the term by providing a more restrictive definition. Whether or not there is “public nuisance” will depend upon the circumstances of the particular case. Ultimately any questions of interpretation will be decided by the courts. However this means that senior police officers are required to judge reasonably whether the noise is causing a nuisance. Such judgements will inevitably have a subjective quality and officers will need to bring their experience to bear in making them. However, it is important to note that the “noise” in question must be emitted from the licensed premises. Noise nuisance arising solely from people in the street outside licensed premises would not be sufficient to justify the use of these powers. In addition, the power should only be used where the senior police officer

reasonably believes that a nuisance is being caused to the public. Accordingly, the senior police officer should normally have cause to believe that particular individuals in the vicinity are being annoyed by the noise from the licensed premises. Liaison with local government enforcement officers with existing powers for controlling noise nuisance would therefore be beneficial. It will ultimately be for senior police officers to decide, in the circumstances of any case, whether it is appropriate for them to deploy these powers, which are likely ultimately to lead to the review of the premises licence for the premises affected with the possibility of a licensing authority determining that it is necessary for the promotion of the licensing objectives to take steps in relation to that licence, which may include its revocation.

## Enforcing a closure order

- 11.29 The 2003 Act does not require the licence holder or the police to clear the premises of customers following the service of a closure order. It is assumed that normally premises would empty, there being no purpose to the presence of customers if items, licensable activities or facilities normally sold, supplied or provided on the premises may no longer be sold, supplied or provided. However, a customer commits no offence if he is **not** asked to leave and remains on the premises. The closure relates to the carrying on of the licensable activities. The licence holder, premises user, designated premises supervisor or manager of the premises similarly commit no offence arising from the mere presence of such an individual. However, if an individual who is drunk or disorderly is asked to leave by a constable, a licence holder, premises user, designated premises supervisor or manager and then refuses to leave, he or she does become liable to prosecution. Where a police officer is asked for assistance to remove such a customer, the officer is under a statutory duty to afford that assistance.
- 11.30 The lack of any duty on customers to leave the premises automatically following the service of a closure order is important. The police have existing powers to clear an area if disorder is taking place, and need no additional powers under the 2003 Act to do so. However, it would be equally open to the police to propose a phased emptying of larger premises for the purpose of dispersing, for example, disorderly gangs separately or because it is in the interests of public safety to keep law-abiding customers inside for a temporary period while troublemakers outside are dispersed by the police.
- 11.31 It should also be noted that “premises” for the purposes of the Act includes any place. Some premises licences and temporary event notices relate to places wholly or mainly in the open air, like a park or recreation ground. If the police consider it necessary to clear such an area, they will need to consider carefully the resource implications of enforcement, particularly where there are a large number of ways of accessing the area.
- 11.32 The police officers involved should also recognise that closing premises will sometimes involve putting a potentially volatile and disgruntled group of customers onto the streets. In this context, where possible, it is good practice to ensure that other licensed premises nearby are warned of the action being taken and of licence holders’ and others’ obligations not to allow disorderly conduct on their premises. As stated above, under the 2003 Act, police officers are under a duty, when requested by a licence holder or other person as referred to above, to assist in ensuring that drunken or disorderly persons are expelled from licensed premises, and police

officers should therefore offer assistance when necessary in preventing the entry of troublemakers to other licensed premises who might be seeking to cause new problems elsewhere.

- 11.33 Police officers are also reminded that, particularly where large capacity venues are involved, they may need additional police assistance to clear the resulting crowd and the availability of that assistance should be considered before any decision is made to make a closure order.

### **Length of police closure order**

- 11.34 Subject to very limited exceptions, the duration of the order under section 161 of the 2003 Act cannot exceed 24 hours. However, it is important to note that this does not mean that the length of the closure should automatically be set for 24 hours on every occasion. The criteria for making a closure order places an obligation on the senior police officer to close the premises for the period he/she estimates it would take to end the threat to public safety, or as the case may be, the nuisance to the public. In practice, therefore, closure orders could last between 30 minutes and 24 hours depending on the circumstances of each case. An extension to that closure period can be made only if the senior police officer reasonably believes that the court would not have determined its consideration by the end of that period and certain conditions are met. Those conditions are the same as the circumstances which gave rise to the closure order. The extension may be for a further period of up to 24 hours from the end of the closure period.
- 11.35 If, for example, a closure is made at 9pm on a Monday evening because of disorder caused by gangs fighting in a public house, closure might only be appropriate for up to the time when the premises licence requires the premises to close, perhaps midnight. This could be because the senior police officer reasonably believes that there is a threat of gang members (those not arrested) returning to the premises before closing time but after the police have left. However, if the threat is not expected to have subsided by closing time, it may be appropriate to impose a closure for a period extending into the following day.

### **The “manager” of the premises**

- 11.36 The 2003 Act refers to the “manager of the premises” who is defined as any person who works in the relevant premises in a capacity, whether paid or unpaid, which gives him authority to close the premises. This is particularly relevant to the arrangements for serving a closure order. It is not therefore relevant whether or not the individual has the expression “manager” in his or her job title or description. If the holder of a premises licence or the designated premises supervisor or premises user has left any member of staff in charge of the premises, with responsibility at that time for compliance with the licensing laws, that person will normally have been given the authority to close the premises in compliance with the law. Accordingly, the individual would have the delegated authority to close the premises and could therefore be served with notice of a closure order in respect of the premises.

## Service of closure orders when a decision has been made remotely

- 11.37 Where a senior police officer makes a decision to close licensed premises in accordance with the 2003 Act, notice of the closure order, providing the required written details, may be served by **any constable** on the holder of the premises licence, the designated premises supervisor, premises user or the manager of the relevant premises. In this context, it should be noted that the senior police officer does not have to be present at the premises to authorise service of an order. He may make his decision on the basis on information supplied to him by other police officers. The decision remains his and he remains accountable for that decision. This is particularly important in rural areas where an inspector might otherwise need to make a seventy mile round trip to consider making an order allowing an unreasonable period to pass during which public safety might be at risk. A specimen of a closure order is attached to this guidance at Annex L.
- 11.38 Senior police officers should, as a matter of good practice, attempt to attend wherever possible in order to make a full and personal assessment. Parliament considered that only officers of these ranks and experience should make these decisions because of the serious potential consequences of the decision made. As explained above, it is of course recognised that it will be difficult for officers, particularly in rural force areas, to attend on every occasion. Where the relevant senior officer cannot attend, it will be important that the information passed to the relevant senior officer is comprehensive and contemporaneously recorded, so that he or she can be clear about the reasons upon which his or her decision under the terms of the 2003 Act was based when required to present them to the relevant magistrates' court.

## Service of closure orders generally

- 11.39 Notice of a closure order must always be given in writing. "Given", in this context, is the delivery of the notice to the individual. This should normally involve personal service and means therefore that the notice should normally be handed by a police constable to the holder of the premises licence, designated premises supervisor, premises user or the manager of the premises. If a licensee, premises user, designated premises supervisor or manager of the premises refuses to accept the written notice of a closure order, the fact should be noted so that it might be made known to the relevant magistrates' court at the hearing that will follow. The written notice should then be left in plain sight of the relevant person on whom it is being served. He or she should also be advised orally that the notice contains details of his rights and duties under the 2003 Act.

## Relationship with local licensees and managers

- 11.40 It is important that the closure powers should not in any way be allowed to drive a wedge between the police and local licence holders, designated premises supervisors and managers. It would be damaging to the police's capacity to control public order and drunkenness, if licence holders, designated premises supervisors or managers, when appropriate, were reluctant to call the police to attend when incidents are taking place because they feared that the police would close their premises. Licence holders, designated premises supervisors and managers should be encouraged to give the police early warning of developing problems, where appropriate

allowing police intervention before an incident is allowed to get out of hand. The Government fully supports local initiatives like Pubwatch (see Chapter 2 of this Guidance), and wishes to see them develop and thrive.

- 11.41 It is recognised that the role of the police in enforcing licensing law will vary between force areas. For all police forces, resources will be a key issue and senior officers will have to make difficult decisions about prioritisation according to the prevailing circumstances in any area. However, as a minimum, it is good practice to provide a support and advisory role for licence holders, designated premises supervisors and managers. Licensees and others should know what is expected of them by local police officers in terms of clear standards with regard to the prevention of crime and disorder, particularly with regard to alcohol-related crime and disorder and anti-social behaviour. Police officers should therefore always be willing to offer advice to licensees and others on problems associated with these matters.

### **Nearby licensed premises**

- 11.42 Where disorder is taking place or is expected to take place imminently in the vicinity of several adjacent or closely situated premises, there are likely to be occasions when the responsible senior police officer reasonably concludes that the closure of all the closely situated licensed premises is necessary in the interests of public safety. However, the same course of action in the case of each of the premises should not necessarily be automatic. For example, if one of the designated premises supervisors is prepared to close his premises voluntarily or has been more proactive than another in seeking to prevent disorder, the senior police officer may reasonably decide not to make a closure order in respect of those premises, while deciding to impose the closure of others. Where several closures are pursued simultaneously, a separate closure order must be made in respect of each of the licensed premises, and each would be the subject of the court processes which automatically flow from such action.

### **Noise nuisance and liaison with the local authority**

- 11.43 The powers include the capacity to close licensed premises to prevent nuisance to the public which is the result of noise coming from the premises. The 2003 Act does not define what constitutes nuisance and it will bear its common law meaning. Ultimately, nuisance will be a matter of fact to be decided by the courts in any case. However, senior police officers will need to use their own experience and common sense to decide when noise levels reaching outside the premises have become unacceptable.
- 11.44 The enforcement of the law relating to statutory noise nuisance legislation is primarily a matter for local authority officers, sometimes working in tandem with police officers. Their powers to take quick action to resolve noise nuisance are however limited, particularly where the noise from commercial premises is caused by people rather than amplified electronic equipment. The powers in the 2003 Act offer a means of resolving noise nuisance problems from licensed premises quickly.
- 11.45 The 2003 Act anticipates that any noise coming from the premises should be disturbing members of public, for example, in the street or residing locally – otherwise it could not

constitute a nuisance. In practice therefore, it is likely to be that the police will usually take action under their powers following complaints made by the general public. Such complaints may, in certain circumstances, be channelled to the police by local authority officers who may initially be the natural point of contact for a complainant. However, the decision as to whether the noise constitutes a nuisance for the purposes of the exercise of the powers in the 2003 Act is a matter for the senior police officer himself or herself to decide, and no formal complaint from any individual is necessary before the powers may be exercised. Given their experience of noise problems, the officer may find it helpful to consult local authority enforcement officers, if available, before making a decision about the level of noise involved. In addition, under the Environmental Protection Act 1990, local authority enforcement officers have powers to confiscate, for example, noisy equipment which may be causing the problem and avoid the need to close the premises. On occasions, such consultation in respect of an incident which is ongoing may prove impossible without an unacceptable delay.

- 11.46 There is therefore some advantage in police forces discussing these matters generally with the local authority to draw on their experience and establish guidelines for officers about noise issues. Chief officers of police may find it valuable and helpful to agree a protocol with the local authority for the handling of noise nuisance issues associated with premises licensed under the 2003 Act or in respect of premises operating under temporary event notices. This would enable a consistent approach to be taken by the police and other local authority enforcement officers.
- 11.47 Where problems are noise related, there should often be scope for resolving the problem without the need to impose a closure order. In this context, police officers should consider those parts of this Guidance dealing with voluntary co-operation. For example, noise problems can arise during summer months because of doors or windows left open or customers drinking or enjoying entertainment in the garden area of the premises. It would be open to the police to request the licensee, designated premises supervisor, premises user or manager of the premises to close the doors and windows, or to require customers to remain inside. If they comply and the officer is then satisfied that these actions would prevent further nuisance to the public, there may be no need to make a closure order.

### **Stating the effects of sections 162 to 168 of the 2003 Act**

- 11.48 A closure order must contain details of the premises which are to be closed; the period for which the order is requiring them to be closed for up to 24 hours; the grounds or reasons for the decision; and the effect of sections 162 to 168 of the 2003 Act. Annex L to this Guidance provides a specimen of what a closure order should look like, and provides a statement of the effect of sections 162 to 168 of the 2003 Act. It is open to the police forces to take their own legal advice as to what the statement should include. However, it is important that it covers the crucial areas shown in Annex L and in particular, that licence holders, designated premises supervisors, premises users and other managers of licensed premises or premises being used under the authority of a temporary event notice fully understand the consequences of committing the offences associated with failure to comply with a closure order made by the police and extended by the police or the courts.

## Anti-Social Behaviour Act 2003

11.49 Police, licensing authorities and licensees need to be aware that following its commencement on the 20th January 2004, a new power is available under the Anti-Social Behaviour Act 2003 to close premises whether there is the production, supply or use of class A drugs and serious nuisance or disorder. This power provides an extra tool to the police to enable rapid action against a premises where there is a Class A drug problem, enabling its closure in as little as 48 hours should this be necessary. Police authorities are advised to consult the Notes of Guidance on the use of this power (Home Office, 2004) available on the Home Office website. These powers will also be covered in brief in the update to Safer Clubbing available in 2004.