

Report of the Assistant Director Corporate Services to a Hearing before the Bradford Area Licensing Panel to be held on 1 September 2008.

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**Subject:**

Application for a Summary Review of the Premises Licence for Club Icon, 158 Westgate, Bradford

**Summary statement:**

Full review of the Premises Licence (authorising the sale of alcohol, regulated entertainment and late night refreshment) under s53C Licensing Act 2003, following a summary review application from West Yorkshire Police.

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Suzan Hemmingway  
Assistant Director Corporate Services

**Portfolio:**

**Corporate**

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**Improvement Committee Area:**

**Corporate Improvement Committee  
Safer and Stronger Communities**



Suzan Hemmingway, Assistant Director Corporate Services (City Solicitor)



## 1. Summary

### 1.1 The Licensee

Ms Gillian Gordon.

### 1.2 The Premises

Club Icon, 158 Westgate, Bradford, BD1

### 1.3 The Current Licence

The premises have a Premises Licence allowing the sale of alcohol, the provision of regulated entertainment and the provision of late night refreshment (sale of hot food and/or hot drink after 23.00 hours) indoors.

Hours of licensable activities:

#### Sale of Alcohol and Regulated entertainment

Monday to Sunday 19.00 to 06.00

#### Performance of a Play

Sunday 19.00 to 23.00

#### Late Night Refreshment

Monday to Wednesday 23.00 to Midnight

Thursday to Saturday 23.00 to 02.00

Sunday 23.00 to 23.30

Stated opening hours of the premises:

Monday to Sunday 19.00 to 06.00

- 1.4 A copy of the Premises Licence, which details the mandatory and embedded conditions of the licence and the steps agreed by the Licensee to address the Licensing Objectives, is attached at Appendix 1.

## 2. Application Received requesting Summary Review of the Premises Licence

### 2.1 West Yorkshire Police

An application for Summary Review of the Premises Licence was received from the West Yorkshire Police on 5<sup>th</sup> August 2008. This followed an incident on 3<sup>rd</sup> August 2008, which resulted in the fatal shooting of a person within the premises. The West Yorkshire Police are of the opinion that other procedures under the Licensing Act are insufficient in the circumstances, as the premises are now associated with serious crime which is the subject of a major police enquiry.

A copy and the application for Summary Review and the Certificate required under s53A(1) of the Licensing Act are attached at Appendix 2.

- 2.2 On receipt of a valid Summary Review application the licensing authority must, within 48 hours, consider whether it is necessary to take any interim steps pending determination of the review of the premises licence. The authority must then undertake the full review within 28 days of receipt of the application.
- 2.3 At the Licensing Panel hearing on 5<sup>th</sup> August 2008, Members considered whether it was necessary to take any interim steps following the application and resolved to suspend the Premises Licence with immediate effect, pending full review. The Panel considered that the evidence presented by the Police relating to the incident was compelling enough to justify the immediate suspension of the Licence, under the prevention of crime and disorder objective.

A copy of the minutes of the interim meeting are attached at Appendix 3 (to follow).

### 3. **Legal Appraisal**

- 3.1 The Licensing Act 2003 requires the Council to carry out its various licensing functions so as to promote the following four licensing objectives:
  - a) the prevention of crime and disorder
  - b) public safety
  - c) the prevention of public nuisance
  - d) the protection of children from harm
- 3.2 New provisions were inserted in the Licensing Act 2003 by the Violent Crime Reduction Act 2006 (which came into force on 1 October 2007). The provisions allow a fast track licence review process facilitating the attaching of interim conditions or the taking of other measures deemed necessary on application of a Chief Police officer in respect of premises believed to be associated with serious crime and/or serious disorder.
- 3.3 Following the decision to suspend the licence, Members are now required to hold a full review hearing to hear representations from the applicant and the police, and any other interested party making valid representations during the advertisement period.
- 3.4 The Council must have regard to the guidance issued by the Department of Culture Media and Sport under s182 of the Licensing Act 2003 and of the specific guidance relating to expedited/summary licence reviews. Regard must also be taken of the Council's statement of Licensing Policy for the District.

An extract of the Guidance issued under s182 Licensing Act is attached at Appendix 4.

The Guidance relating to Summary Reviews is attached at Appendix 5.

#### **4. Statement of Policy Issues**

- 4.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of crime and disorder).
- 4.2 The Annexes to the Policy sets out various types of model conditions that could be considered.

#### **5. Legal Options**

- 5.1 When considering the full review application, Members may:
  - (a) reinstate the licence but modify the current conditions of the premises licence;
  - (b) reinstate the licence but exclude licensable activities from the scope of the licence;
  - (c) reinstate the licence but remove the designated premises supervisor from the licence;
  - (d) suspend the licence for a further period not exceeding 3 months; or
  - (e) revoke the premises licence.
  - (f) reinstate the licence on the terms of the existing premises licence.
- 5.2 Where Members decide to take steps (a) or/and (b) above, they may provide that the modification or exclusion is to have effect only for a specified period (not exceeding 3 months).
- 5.3 Should the licensee or any other party to the hearing feel aggrieved at any decision with regard to the licence or to any conditions or restrictions attached by Members, they may appeal to the Magistrates Court within 21 days of being notified of the decision.
- 5.4 The decision by Members does not have effect until the end of the period given for appealing against the decision, or until any appeal is disposed of. Any interim steps taken under s53B remain in force over this period of time.

#### **6. Financial and resource appraisal**

- 6.1 There are no apparent finance or resource implications.

#### **7. Other implications**

##### **7.1 Equal Rights**

There are no apparent equal rights implications.

## 7.2 **Community safety implications**

Issues relating to the prevention of crime and disorder are relevant.

## 7.3 **Human Rights Act**

The following rights are applicable:

Article 1 First Protocol to the Convention – Right to peaceful enjoyment of possessions subject to the state’s right to control the use of property in accordance with the general interest.

The Council’s powers set out in the recommendations fall within the states right. A fair balance must be struck between public safety and the applicant’s rights.

Article 6 – A procedural right to a fair hearing. As refusal of the application is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. If the decision is to refuse then reasons should be given.

## 8. **Not for publication documents**

8.1 None

## 9. **The Role of the Panel**

9.1 Members are invited to consider the information and documents referred to in this report and determine the related application for full review of the premises licence.

## 10. **Appendices**

1. Premises Licence.
2. Application for Summary Review and Certificate from Senior Police Officer.
3. A copy of the minutes of the interim hearing held on 5<sup>th</sup> August 2008 - to follow
4. Government Guidance issued under s182 Licensing Act 2003.
5. Government Guidance on Expedited/Summary Reviews.

## 11. **Background documents**

Licence, application etc.

Licensing Act 2003

**Premises Licence**

**BD/PRA1048**

Part 1 - Premises Details

**POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION**

**Club Icon**

158 Westgate, Bradford, West Yorkshire, BD1 2RN.

**WHERE THE LICENCE IS TIME LIMITED THE DATES**

Not applicable

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**

- a performance of a play
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment facilities for dancing
- provision of late night refreshment
- the sale by retail of alcohol

**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES**

Activity (and Area if applicable)	Description	Time From	Time To
A. Performance of a play (Indoors)	Sunday	7:00pm	11:00pm
E. Performance of live music (Indoors)	Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am
F. Playing of recorded music (Indoors)	Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am
G. Performance of dance (Indoors)	Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am
J. Provision of facilities for dancing (Indoors)	Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am
L. Late night refreshment (Indoors)	Monday to Wednesday Thursday to Saturday Sunday Christmas Eve A further additional hour to those stated above if falling Sunday to Wednesday Boxing Day A further additional hour to those stated above if falling, Sunday to Wednesday. New Years Eve 23:00 hours until the start of permitted hours the following day.	11:00pm 11:00pm 11:00pm	Midnight 2:00am 11:30pm

Original Issue Date: 12/09/2005

(Annual Fee Date under Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

## Licensing Act 2003

### Premises Licence

**BD/PRA1048**

#### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity (and Area if applicable)	Description	Time From	Time To
L. Late night refreshment (Indoors) continued ...	Non Standard Timings: A further additional hour into the morning following on Monday of every statutory Bank Holiday weekend.		
M. The sale by retail of alcohol for consumption ON and OFF the premises	Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am

#### THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Monday to Sunday New Years Eve 10:00 hours until the start of permitted hours the following day.	7:00pm	6:00am

#### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- M. The sale by retail of alcohol for consumption ON and OFF the premises

### Part 2

#### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

Gillian Gordon

61 Lincombe Drive, Leeds, LS8 1PT.  
Telephone 01274 733988

#### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

#### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

Gillian GORDON

61 Lincombe Drive, Leeds, LS8 1PT.  
Telephone 01274 733988

#### PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No. LEEDS/PERL/04219/08

Issued by Leeds

#### ANNEXES

##### Annex 1 - Mandatory Conditions

- No supply of alcohol may be made under the premises licence;-
  - at a time when there is no designated premises supervisor in respect of the premises licence, or
  - at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

Original Issue Date: 12/09/2005

(Annual Fee Date under Statutory Instrument 2005 No. 79 - Licensing Act 2003 (Fees) Regulations 2005)

## Licensing Act 2003

### Premises Licence

BD/PRA1048

#### ANNEXES continued...

2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. All persons primarily engaged under or employed on the premises to vet, regulate and control persons entering the premises; or engaged, used or employed in the supervision of patrons once inside in order to ensure the maintenance of good order, public safety and internal security shall be licensed with the Security Industry Authority.

#### Embedded Conditions

4. No disorderly or indecent conduct of any kind shall be allowed to take place in the said premises.
5. There shall be no exhibition, recitation, acting, gesture, gesticulation, or singing, which is of an obscene or disorderly character, or is in any way offensive to public decency.
6. There shall be no performance, demonstration or exhibition of striptease or similar activities in the licensed premises.
7. No exhibition, demonstration or performance of hypnotism (as defined in Section 6 of the Hypnotism Act 1952) shall be given on any person at the place licensed except with the express written consent of the Licensing Authority and in accordance with any conditions attached to such consent.

An application for consent shall be in writing and signed by the licence holder or his agent and shall be made not less than 28 days in advance of the exhibition, demonstration or performance concerned.

A copy of the application shall at the same time be forwarded to the Chief Officer of Police and the Fire Authority. The application shall contain the following particulars.

- (a) the name and address of the person by whom the exhibition, demonstration, or performance is to be given (hereinafter referred to as "the hypnotist");
  - (b) a description of the proposed exhibition, demonstration or performance; and
  - (c) a statement as to whether, and if so giving full details thereof, the hypnotist has been previously refused, or had withdrawn, a consent by any licensing authority or been convicted of an offence under the Hypnotism Act 1952 or of an offence involving the breach of a condition regulating or prohibiting the giving of an exhibition, demonstration or performance of hypnotism on any person at a place licensed for public entertainment.
8. The Maximum number of persons allowed in that part of the premises where regulated entertainment is provided shall be 200.
  9. At any licensed function no child shall be permitted to occupy any seat in the front row of any balcony, gallery or tier unless accompanied by, or in the charge of a person who appears to have attained the age of 16 years.
  10. The licensed premises shall be provided with adequate safeguards against fire and supplied with ample safe and maintained means of egress for use by the public.
  11. All passages, corridors, ramps and stairways to which the public have access shall, at all times, be kept free from obstruction.
  12. Every door in the premises for use by members of the public leaving the premises shall be constructed so as to open outwards (unless the Licensing Authority are satisfied that this is impracticable in the circumstances), and



## Licensing Act 2003

### Premises Licence

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#### ANNEXES continued ...

shall be capable of being opened easily and immediately from the inside.

13. All fastenings on exit doors which cannot be immediately released by horizontally applied pressure shall be removed or otherwise rendered inoperative to the satisfaction of the Licensing Authority.
14. All exits used by the public in leaving the premises shall be clearly indicated with the symbol which complies with either The Health and Safety (Safety Signs and Signals) Regulations 1996 or BS 5499. All signs shall comply exclusively with either the regulations or with BS 5499.  
  
Doors and openings other than exits to or from parts of the licensed premises to which the public are admitted shall be provided with notices indicating their uses or shall be marked "private" and wherever practicable shall be kept secured. Where exit doors are fitted with push bars they shall be clearly indicated with the words "PUSH BAR TO OPEN".
15. Where curtains are provided across the exit they shall be divided at the centre and shall not trail the floor.
16. Any seating in the licensed premises shall be so arranged as to allow free access to all the exits therefrom.
17. For a closely seated audience chairs shall be either securely fixed to the floor or alternatively shall be battened securely together in units of not less than four seats. Adequate gangways, not less than 24" wide, unless otherwise approved by the Licensing Authority, shall be provided. The gangways shall lead directly to each exit door and shall be kept free from obstruction. No seat shall be more than twelve feet from any gangway.
18. The licensee shall ensure that there are sufficient numbers of properly trained staff on the premises to assist persons entering or leaving the premises, including those with disabilities or special requirements.
19. Every member of staff shall be instructed in the safety precautions to be observed in the premises so far as those precautions relate to their duties and to the action to be taken by them in the event of fire or emergency.
20. (a) The premises and licensee shall be covered by a Drugswatch Certificate issued by West Yorkshire Police, or such equivalent certificate which may be appropriate to assist in developing a drugs prevention strategy for the venue.  
  
Within six months of receipt of the Drugswatch Certificate the Licensee shall have achieved a "Seal of Approval" under West Yorkshire Polices' Drugswatch Scheme.  
  
(b) The above condition shall apply with respect to premises with occupancy of 400 or more which are within the area of jurisdiction of the Bradford Central Police Sub-Division.
21. The licensed premises shall be provided with fire appliances to the satisfaction of the Licensing Authority. The fire appliances shall be maintained in good working order and shall be available for instant use. The licensee and members of staff shall be properly instructed in the protection of the premises from fire and the use of the fire appliances provided.
22. No curtains, drapes, fabric foliage or decorations shall be placed within the licensed premises unless they are constructed from materials which have passed the British Standard 5867 Part 2 Type B test or have been treated to render them fire retardant to the same standard. In either case written confirmation of compliance shall be furnished to the Licensing Authority.
23. No plastic foliage or plastic decorations of any type shall be placed within the licensed premises.
24. Smoking shall be prohibited in the dressing rooms and notices bearing the words "NO SMOKING" in red letters on a white background shall be conspicuously displayed in those rooms.
25. Smoking shall be strictly prohibited within the stage risk area, except so far as may be necessary on the stage

## Licensing Act 2003

### Premises Licence

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#### ANNEXES continued ...

in connection with the performance. The licensee shall obtain the prior permission of the Licensing Authority before permitting smoking in connection with the performance. "NO SMOKING" signs in red letters on a white background shall be conspicuously displayed at the rear of the stage area and in the wings.

26. Where any open fireplace or high temperature heating appliances are used they shall be adequately protected by a suitable guard. If a central heating system operates on the premises the heating apparatus shall be placed in a separate room from the auditorium. If there is a door between it should be fire-resisting to a one hour standard.
27. Explosives, inflammable liquids or high inflammable articles shall not be brought into or used within any part of the licensed premises. The storage of combustible materials below the stage level shall be prohibited while the public are on the premises.
28. In all parts of the premises to which the public have access, there shall be provided adequate illumination by general lighting to the satisfaction of the Licensing Authority.
29. An adequate safety lighting system shall be provided to enable the public to see their way out of the premises.
30. All notices and exit indications shall be illuminated by both general and safety lighting.
31. The safety lighting shall be kept on at all times when the public are in the premises except in those parts of the building which are lighted equally well by daylight, during daylight hours, or, where the safety lighting system is a maintained system which operates automatically on the failure of the mains supply.
32. The safety lighting shall be provided from a power source other than that of the general lighting.
33. Any battery supplying safety lighting shall be fully charged every day before the public are admitted to the premises and shall be of such capacity and so maintained as to be capable of supplying at normal voltage, the full load of the safety lighting during the whole time that the public are on the premises.
34. If there is a failure of the general lighting and the general lighting is powered by gas, the public in the licensed premises shall be instructed to leave the building immediately.
35. If there is a failure of the general lighting and the general lighting is powered by electricity, the public shall, if the lighting is not restored within one hour, be instructed to leave the premises immediately.
36. If there is a failure of the safety lighting and the safety lighting is not powered by electricity, all parts of the premises required to be illuminated by the safety lighting shall be immediately illuminated by the general lighting and the public shall be instructed to leave the premises immediately.
37. If there is a failure of the safety lighting and the safety lighting is powered by electricity, all parts of the premises required to be illuminated by the safety lighting shall be immediately illuminated by the general lighting and if the safety lighting is not restored within one hour the public shall be instructed to leave the premises immediately.
38. Electrical apparatus and equipment shall not be used for such purpose or in such a manner or when it is in such condition as to cause danger of electric shock, fire or explosion.
39. The electrical installation shall be in the charge of a competent person.
40. All gas burners within reach of the public shall be protected by glass or wire globes and all gas taps shall be guarded in such a manner as to prevent unauthorised interference.
41. The electrical installation shall be in every respect safe and correct; complying fully with the requirements of the Current Edition (including all amendments) of the Regulations for Electrical Installations as published by the

## Licensing Act 2003

### Premises Licence

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#### ANNEXES continued ...

Institution of Electrical Engineers, including all Codes of Practices, Statutory Regulations and associated memoranda scheduled in appendices 1 and 2 of that document.

Where the installation does not comply with the requirements for short circuit or earth fault supply interruption times, prescribed by the Regulations for Electrical Installations then the small power installation shall be protected by means of a residual current device, in the following manner:

- a) The small power circuit shall be protected by a device having a rated residual operating current not exceeding 30m/amps

alternatively

- a) Each individual socket outlet shall be protected by an integral residual operating current not exceeding 30m/amps.

The correct operation of all residual current devices shall be checked regularly by pressing the test button. If the device does not switch off the electricity supply, an approved grade electrician shall be consulted and at the same time the associated circuit and accessories shall be isolated.

#### Notes:

- i) The use of single pole residual current devices is not acceptable; all protective devices shall be multipole, operated so as to isolate both live and neutral conductors.
- ii) The use of "plug in" residual current devices will not satisfy the aforementioned requirements.
- iii) The use of a single residual current device to protect a group of circuits is not advisable, since it may introduce a degree of danger or inconvenience in the event of a fault or accidental tripping.

#### General Note

Total compliance with wiring regulations or the installation of residual current devices, whilst providing an added degree of electric shock and fire protection, will not remove any basic risks; these measures cannot eliminate all electrical hazards. The Licensee has a responsibility to ensure that any electrical equipment, appliance apparatus or accessory that is either permanently or temporarily connected to the electrical installation is safe, free from fault and in good working order.

The responsibility for any failure, accidental damage, and injury, fatal or otherwise, interruption to electricity supplies and damages or injuries arising therefrom is entirely the responsibility of the licensee or building owner. The Licensing Authority cannot accept any responsibility for any damage or injury arising from any matter relating to or associated with the electrical installations in licensed premises.

42. Means of access, egress and emergency egress and facilities shall be provided and maintained in accordance with any recommendations of the Licensing Authority and the Fire Authority to enable disabled people to partake of the entertainment in the premises. Such means of access and egress may include the making of physical adaptations to the licensed premises or any other steps directed by the authority concerned.
43. All exits and emergency exits at ground floor level shall be provided with a ramp or some other means of unobstructed egress for the benefit of disabled people and these ramps or other measures kept free from obstruction at all times.
44. All or any of the Conditions above regarding access may be waived only in circumstances where the Licensing Authority issues a Certificate in writing confirming that it is not reasonably practicable for the Licensee to comply with them.

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### Premises Licence

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#### ANNEXES continued ..

45. All potential noise sources shall be assessed. Such assessments shall take account of amplified and non-amplified music, singing and speech, plant and machinery, use of outdoor areas and car parks, delivery and collection vehicles and access to and from the premises.
46. Noise control measures and systems for monitoring and reviewing those controls shall be put into place. Such control measures and systems shall be reviewed periodically, (at least once per year) and whenever new noise sources and/or controls are introduced or following receipt of complaint or when monitoring procedures identify that controls are inadequate.
47. Control measures shall be designed to ensure that noise from any potential noise source is kept to a minimum or is eliminated.
48. Where premises having the benefit of a premises licence are not intended or likely to be used for the provision of specific entertainment on more than 20 occasions during the relevant year, the Fire Authority shall be given 14 clear days notice of every intended performance or event.

#### Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

49. The Licensee shall ensure that adequate supervision of the premises is maintained at all times during the carrying out of licensable activities and that any staff are trained in ensuring compliance with the licensing objectives at all times.

#### **The Prevention of Crime & Disorder:**

50. All existing external security lighting shall be maintained in good working order and used where appropriate at all times the premises remain open to the public.
51. The existing CCTV System installed at the premises shall be maintained in good working order and used at all times the premises remain open to the public for licensable activities. Any CCTV footage shall be kept for at least 28 days and available to the Licensing Authority or a Responsible Authority on request.
52. The Licensee and staff shall be adequately trained about how to ensure that service is refused to anyone who is drunk, behaving in a violent or threatening manner or who they have reasonable knowledge that they have been convicted of behaving in a violent or threatening manner on licensed premises.
53. The Licensee shall at all times maintain a "zero tolerance" policy with regard to illegal drugs (including appropriate staff training in detection and prevention); and shall co-operate with the West Yorkshire Police's "Drugs Watch" initiative or any similar scheme.
54. The Licensee shall enforce an effective recognised "proof of age policy" at all times and ensure appropriate staff training in its operation.
55. Registered door staff shall be employed on Thursdays, Fridays and Saturdays between 21.00 hours and close of premises to supervise entry.
56. Alcoholic and other drinks may not be removed from the premises in open containers.
57. West Yorkshire Police shall be notified seven days in advance of any special functions or events involving outside organisers who propose to hold events at the premises which extend beyond 03.00 hours, and that they complete and submit risk assessment forms in respect of these events.

Licensing Act 2003

**Premises Licence**

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ANNEXES continued ...

**Public Safety:**

58. All emergency lighting; illuminated fire exit signs; fire alarm system and fire fighting equipment shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use and about the evacuation procedures for the premises.
59. All emergency lighting and first aid facilities shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use and about the evacuation procedures for the premises.

**The Prevention of Public Nuisance:**

60. All existing external security lighting shall be maintained in good working order and used where appropriate at all times the premises remain open to the public.
61. The Licensee shall ensure that staff monitor, on a regular basis, noise emanating from the premises from regulated entertainment to ensure that neighbouring residents are not disturbed.
62. The Licensee shall ensure that the external areas of the premises are kept clear of litter and refuse.
63. The Licensee shall ensure that loading/unloading takes place at the rear of the premises.

**The Protection of Children from Harm:**

64. Persons under 18 years of age shall not be allowed access to the premises when licensable activities are taking place.
65. No regulated entertainment of an adult or sexual nature shall be provided at any time in the licensed premises.

**Annex 3 - Conditions attached after a hearing by the Licensing Authority**

Not Applicable.

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# INTENDED EXTENSION

HARMONY SCHOOL OF DANCING  
HARMONY BALLROOM  
158 WESTGATE  
BRADFORD  
BD 1 2RN.

## FLOOR PLAN.

SCALE

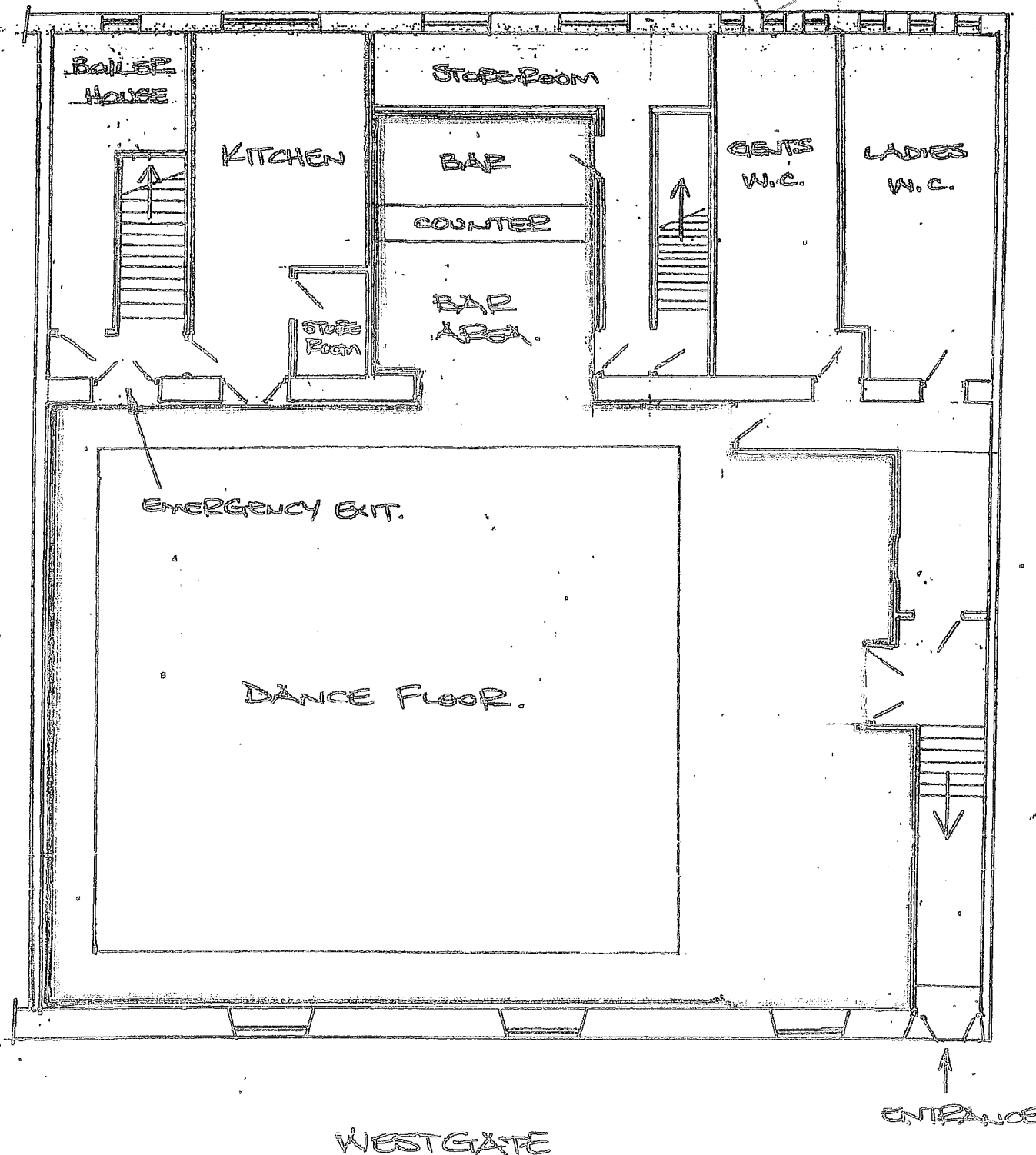
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DATE

29/4/2004

CAR PARK.

12 SEP 2005  
BRADFORD  
LICENSING



## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

I Sarah Brown ~~on behalf of~~ the chief officer of police for the Bradford South Division of West Yorkshire Police police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Club Icon, 158 Westgate**

Post town: Bradford

Post code (if known): **BD1 2RN**

**2. Premises licence details:**

Name of premises licence holder (if known): Ms Gillian Jordan

Number of premises licence holder (if known): BD/PRA1048

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:**

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

**4. Details of association of the above premises with serious crime, serious disorder or both:**

[Please read guidance note 2]

These premises have the benefit of a Premises Licence which authorises the sale of alcohol for consumption ON or Off the premise between the hours of 19:00hrs and 06:00hrs Monday to Sunday together with other regulated entertainment and the provision of Late Night Refreshment.

The grounds for this review are as follows:

The holder of the Premises Licence at the current time is Ms Gillian Gordon and she is also the Designated Premises Supervisor.

At approximately 03:31hrs on Sunday 3<sup>rd</sup> August 2008 the police were informed that a shooting had occurred within the premises.

As a result a police enquiry was commenced and it was ascertained that a male person had been shot on the dance floor and that he had been transferred to the Bradford Royal Infirmary where he died a short time later.

The incident is now considered to be very serious in the scale of occurrences and has been allocated to a Homicide and Major Incident Team for enquiry.

It has been suggested that there has been a tampering of evidence by staff which is frustrating the ongoing investigation. In addition a number of persons have been arrested and are currently on police bail.

To date no one has been charged with any offence in relation to the incident.

Whilst the premises have a licence authorising them to operate until 06:00hrs it is felt that there may have been a breach of condition 57 in particular (events extending beyond 03:00hrs). In addition other licensing enquiries need to be completed.

It is requested therefore that the Premises Licence be the subject of an Expedited Review by the Licensing Authority with a view to the suspension of the licence in the interim period pending a full review of the licence.

Signature of applicant:

Date: 4.8.08

Capacity:

C/Superintendent  
Divisional Commander  
Bradford South



**Contact details for matters concerning this application:**  
**Address: Trafalgar House Police Station, Nelson Street, Bradford, BD5 0EW**

Telephone number(s): 01274 376695 (Licensing Section)

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



\*Delete as applicable.

I hereby certify that in my opinion the premises described below are associated with \*serious crime/~~serious disorder/ both serious crime and serious disorder:~~

<b>Premises details</b>
Premises (include business name and address and any other relevant identifying details):
<b>CLUB ICON 158 Westgate, Bradford BD1 2RN</b>
<i>I am a</i> (insert rank of officer giving the certificate, which must be superintendent or above):
Jason Galvin, Acting Superintendent in the West Yorkshire Police Force.

**Optional**

*I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because:*

(Give brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned).

At approx 03.31hrs on Sunday 3<sup>rd</sup> August 2008 the police were informed that a shooting had occurred within the above premises. As a result a police enquiry was commenced and it was ascertained that a male person had been shot on the dance floor of the premises and that he died a short while later at Bradford Royal Infirmary.

The incident is now the subject of a major police enquiry. The seriousness of the incident is such that I consider that this course of action is appropriate under the circumstances in preventing the premises re opening when there is a strong possibility of reprisals taking place.

In addition it has been suggested that there has been tampering of evidence by staff which is frustrating the police investigation

Signed:..... <i>A/Supt Galvin</i> .....	Date: <i>4/8/08</i> .....
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# City of Bradford Metropolitan District Council

www.bradford.gov.uk

(mins.dot)

## Record of a Hearing of the Bradford Licensing Panel held on Tuesday 5 August 2008 in City Hall, Bradford

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### Procedural Items

#### DISCLOSURES OF INTEREST

No disclosures of interest in matters under consideration were received.

#### INSPECTION OF REPORTS AND BACKGROUND PAPERS

There were no appeals submitted by the public to review decisions to restrict documents.

### Hearing

**Application for a summary review of the premises licence  
for Club Icon, 158 Westgate, Bradford**

**City**



2006-2007  
Improving Rural Services  
Empowering Communities



INVESTOR IN PEOPLE

Suzan Hemingway, Assistant Director Corporate Services (City Solicitor)



**DECISION OF THE BRADFORD LICENSING PANEL ON 5 AUGUST 2008 IN  
RELATION TO AN APPLICATION FOR A SUMMARY REVIEW OF THE PREMISES  
LICENCE FOR CLUB ICON, 158 WESTGATE, BRADFORD (DOCUMENT "C")**

**Present:**

**Members of the Panel:**

**Bradford Licensing Panel: Councillors Hill (Chair), Flowers and McPhee**

**Representing the Applicant for the Review: John Tyson and PC S Dawson, West Yorkshire Police**

The Council's Licensing Officer reported to Members that West Yorkshire Police had submitted an application for a summary review of the premises licence for Club Icon, 158 Westgate, Bradford, following an incident on 3 August 2008 at the premises which resulted in a fatal shooting. It was explained that in accordance with the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006), on receipt of a valid application, the licensing authority must, within 48 hours, consider whether it is necessary to take any interim steps pending determination of the review of the premises. A full review must then be undertaken within 28 days of the receipt of the application. The required Certificate from the Acting Chief Superintendent was provided which stated that the Police considered that the incident at Club Icon was very serious. In considering whether interim steps should be taken the Panel were advised that it may: (a) modify the current conditions of the premises licence; (b) exclude the sale of alcohol by retail (or other licensable activities) from the scope of the licence; (c) remove the designated premises supervisor from the licence; (d) suspend the licence pending the full review hearing or (e) decide to take no action with regard to the licence.

On behalf of the applicant, the West Yorkshire Police, Mr Tyson indicated that the Police's enquiries were ongoing but it had been identified that the shooting had taken place on the Club Icon premises. The Police considered the shooting incident to be a serious offence and it had taken place on premises which were licensed. A number of persons had been arrested in connection with the matter. Condition 57 attached to the premises licence set out those circumstances that required the Police to be notified in advance if the premises were operating beyond 0300 and the shooting had taken place after that time. It was requested that the premises licence for Club Icon be suspended pending a full review.

Members of the Panel questioned the Police representatives asking if CCTV had been installed on the premises and if registered SIA door supervisors were in attendance at Club Icon. The Police indicated that what had happened to the CCTV recording was being investigated and the presence of door supervisors was yet to be ascertained.

**Resolved –**

**That having considered the evidence supplied by the Police in relation to the application for a summary review the premises licence for Club Icon be suspended with immediate effect pending a full review.**

**Reason:** The Panel considered the evidence presented by the Police relating to a serious incident involving firearms leading to a fatality was compelling enough to justify the immediate suspension of the licence pending a full review - prevention of crime and disorder objective.

**Chair**

**Note:** This record is subject to approval as a correct record at the next meeting of the Licensing Committee.

i:\minutes\lpb5aug

# 11. Reviews

## THE REVIEW PROCESS

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 11.2 At any stage, following the grant of a premises licence, a responsible authority, or an interested party, may ask the licensing authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 In addition, a review of the licence will normally follow any action by the police to close down the premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a notice of magistrates' court's determination sent to the licensing authority.
- 11.4 Licensing authorities may not initiate their own reviews of premises licences. Officers of the local authority who are specified as responsible authorities under the 2003 Act, such as environmental health officers, may however request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 11.5 Representations made by a department of the local authority which is a responsible authority should be treated by the licensing authority in precisely the same way that they would treat representations made by any other body or individual.
- 11.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 11.8 It is important to recognise 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. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. It is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 11.9 Where the request originates with an interested party – e.g. a local resident, residents' association, local business or trade association – the licensing authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.

11.10 Further information for interested parties about the review process is available in "Guidance for interested parties: applying for a review" which can be found on the DCMS website.

### REPETITIOUS REPRESENTATIONS

11.11 Relevance, vexation and frivolousness were dealt with in paragraphs 9.8 – 9.13 above. A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence which has already been determined; or
- representations considered by the licensing authority when the premises licence was first granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement;

and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of the licence.

11.12 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a second bite of the cherry following the failure of representations to persuade the licensing authority on earlier occasions. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Secretary of State recommends that more than one review originating from an interested party should not be permitted within a period of twelve months on similar grounds save in compelling circumstances or where it arises following a closure order.

11.13 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one request for a review of a premises within a 12 month period.

11.14 When a licensing authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures described in Part 8 of the 2003 Act, it must arrange a hearing. The arrangements for the hearing must follow the provisions set out by the Secretary of State in regulations. The details may be viewed on the DCMS website. The Secretary of State considers it particularly important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal representatives have therefore been able to prepare a response.

### POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW

11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing

objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

- to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.

11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.



## REVIEWS ARISING IN CONNECTION WITH CRIME

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.
- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;

- for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

## REVIEW OF A PREMISES LICENCE FOLLOWING CLOSURE ORDER

11.28 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it 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 five clear working days between the giving of the notice and the start of the hearing.



department for  
**culture, media  
and sport**

# LICENSING ACT 2003

(as amended by the Violent Crime  
Reduction Act 2006)

EXPEDITED/SUMMARY LICENCE REVIEWS GUIDANCE

October 2007

improving  
the quality  
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

## INTRODUCTION

1.1 This Guidance explains how to use new provisions in the Licensing Act 2003 (the 2003 Act) which allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both). These provisions were inserted at section 53A of the 2003 Act by the Violent Crime Reduction Act 2006 and came into force on 1 October 2007. This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the new procedures.

1.2 The new powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, nor to those operating under a club premises certificate. The purpose of the new powers is to complement existing procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and the review of premises' licences by the licensing authority. The new powers, which are in Part 3, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.

1.3 The new powers will allow:

- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with **serious** crime or **serious** disorder (or both); and
- the licensing authority to respond by taking interim steps quickly, **where appropriate**, pending a full review.

1.4 In summary, the process is:

- a local chief officer of police may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both);
- on receipt of the application and the certificate the licensing authority must within 48 hours consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days of receipt of the application.

1.5 The range of options open to the licensing authority at the interim steps stage are:

- modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- removal of the designated premises supervisor from the licence; and
- suspension of the licence.

1.6 Following the full licence review the Licensing Authority may do any of the above or may revoke the licence.

1.7 The purpose of this guidance is to:

- set out the circumstances where the power might be used; and
- outline the process and the steps at each stage.

1.8 The process is set out in the diagram at Annex A.

## THE STEPS

### 2. Triggering the expedited review

2.1 Section 53A of the Licensing Act 2003 determines who may apply for an expedited review and the circumstances where it might be used.

#### Application for expedited review

2.2 The chief officer of police for the local area may apply to the relevant licensing authority for an expedited licence review if a **senior member** of the force has issued a **certificate** that in his/her opinion a licensed premises is associated with **serious crime or serious disorder (or both)**.

2.3 The key definitions used above are:

- **Senior member of the force:** this must be an officer of the rank of superintendent or above.
- **Certificate:** this is a formal note which identifies the licensed premises and includes a signed statement by a senior officer that he believes the premises is associated with serious crime, serious disorder or both. **This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is attached at annex B to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in Section 81(3)(a) and (b) of the Regulation of Investigatory Powers Act (2000). Those tests are: (a) that the conduct constitutes an offence for which a person 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 or more years or (b) that the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.
- **Serious Disorder:** There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be understood in its ordinary English sense, as is the case under section 12 of the Public Order Act 1986, where it is also used.
- **The Application for a summary or expedited review:** this is an application made by, or on behalf of, the Chief Officer of Police under s.53A of the Licensing Act 2003. The application must be made on a form prescribed by Schedule 8A to the

Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). Schedule 8A was inserted by the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 (SI 2007/2502), and must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex C of this guidance.

2.4 In deciding whether to sign a certificate the senior officer will want to consider the following (as applicable):

- the track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises – it is not expected that this power will be used as a first response to a problem;
- the nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
- should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in Sections 161 – 165 in Part 8 of the Licensing Act 2003 to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers? For example modifying licence conditions following the use of a closure power.
- what added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?

2.5 It is recommended that these points are addressed in the Chief Officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not felt to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review.

2.6 In triggering the process, the police will wish to take into account the fact that an intended use of the power is to tackle the use of dangerous weapons and the violence they fuel. For example, in appropriate circumstances the police might wish to make representations to the licensing authority suggesting that they modify the conditions of premises' licence to require searches of customers for offensive weapons upon entry. Under the new power this could be done on an interim basis, pending a full hearing of the issues within the prescribed 28-day timeframe.

2.7 Similarly, the power could, **where appropriate**, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paras 3.6 and 3.7 below).

2.8 However, as the explanatory notes that accompanied the Violent Crime Reduction Act state: 'These are selective measures. It is not the aim to require all licensed premises to undertake these searches or use toughened glass. Rather, the policy aim is to provide a selective tool, to be used proportionately, to limit this condition to those pubs that are at

risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises’.

### **3. The Licensing Authority and the interim steps**

3.1 Within 48 hours of receipt of the chief officer’s application, the Licensing Authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps. When calculating the 48 hour period any non-working day can be disregarded.<sup>1</sup>

3.2 The licensing authority may wish to consult the police about the steps that it thinks necessary, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. (This does not, of course mean that the authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances).

3.3 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions must be taken by the relevant licensing sub-committee, or by the authority acting as a whole (see new section 10(4)(via) of the 2003 Act). It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

3.4 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

3.5 If the licensing authority decides to take steps at the interim stage then:

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<sup>1</sup> This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.



- the decision takes effect immediately, or as soon after then as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who is empowered to act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example by email or fax) which is identical, or not significantly different from the version given by phone.

3.6 The licensing authority in deciding when its decision on interim steps should take effect should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

#### **4. Making representations against the interim steps**

4.1 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of the representations the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of receipt. When calculating the 48 hour period any non-working day can be disregarded.

4.2 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) are disapplied in order to streamline the hearing process. One result of this is that licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend at the scheduled time, as is the case under the

normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified Hearings regulations, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford him or her the maximum practicable opportunity to attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

4.3 At the hearing the licensing authority must:

- consider whether the interim steps are necessary for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

4.4 When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

4.5 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

## **5. The review of the premises licence**

5.1 The licensing authority must hold a review of the premises licence within 28 days of receipt of the chief officer's application. This must take place even if the chief officer asks to withdraw his application or representations. At the hearing, the licensing authority must consider:

- what steps it considers necessary for the promotion of the licensing objectives; and
- consider what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

### 5.3 The licensing authority must:

- advertise the review inviting representations from interested parties<sup>2</sup> for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42), and, if applicable, on the authority's website (see regulation 38(1)(b) of the above Regulations). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- advertise that any representations made by the premises licence holder, responsible authority and interested parties should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority<sup>3</sup>.

### 5.4 A party shall give to the authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –

- whether he intends to attend or be represented at the hearing;
- whether he considers a hearing to be unnecessary.
- whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). These Regulations apply to final hearings under the new power in a similar way to hearings following closure orders under section 167 of the Licensing Act (it should be emphasised that the truncated version of the Regulations described in paragraph 4.2 above applies to interim hearings only). The issues dealt with by the Regulations include who can make representations and what those representations can be about. It is therefore possible for interested parties or responsible authorities to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.

### 5.6 The licensing authority must take into account any relevant representations made. Relevant representations are those that:

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<sup>2</sup> Interested parties are defined under section 13 (3) of the Licensing Act 2003.

<sup>3</sup> Responsible authorities are defined under section 13(4) of the Licensing Act 2003.

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

5.7 The licensing authority must notify its decision and the reasons for making it to:

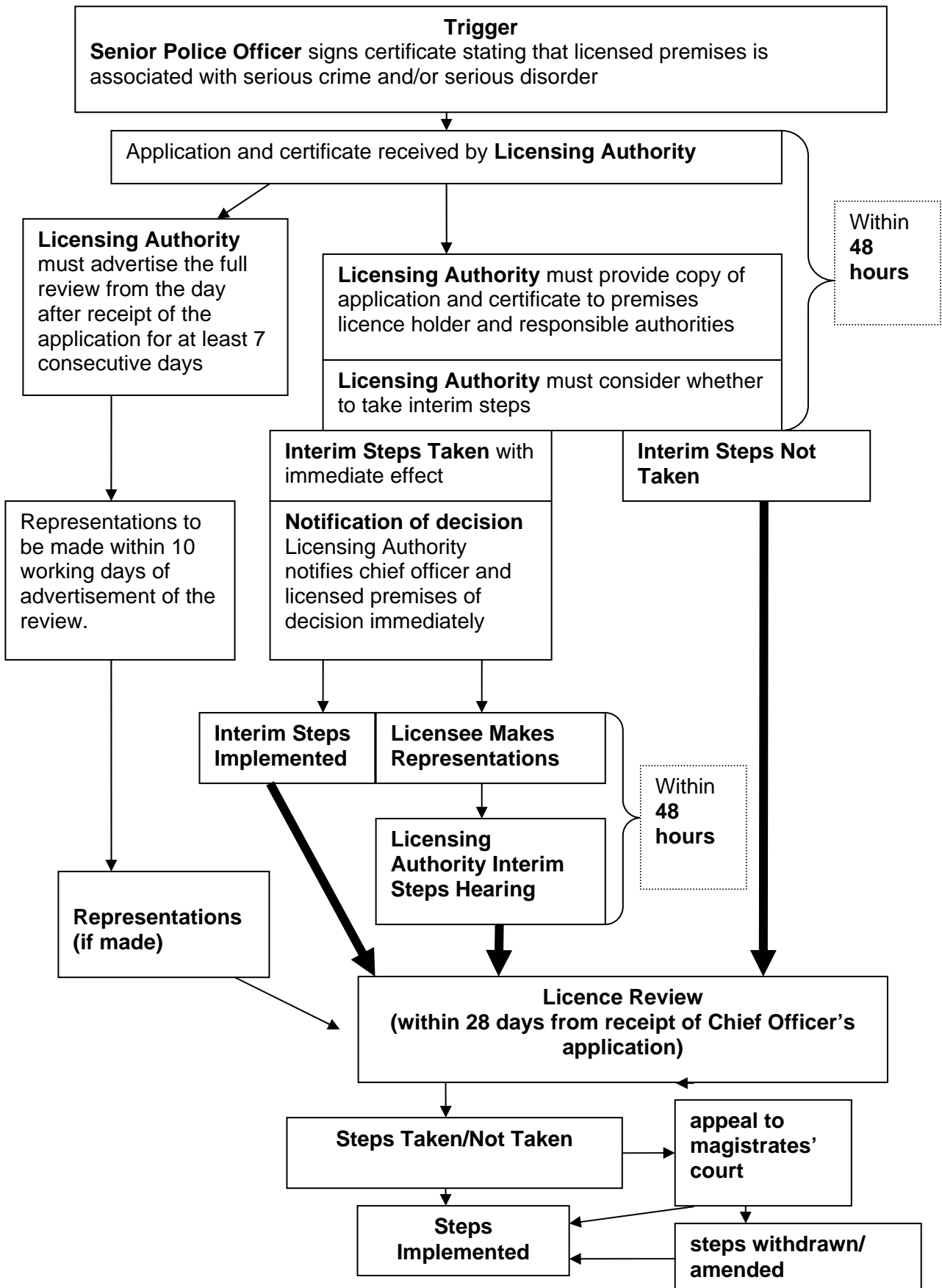
- the holder of the premises licence;
- any person who made relevant representations; and
- the chief officer of police who made the original application.

## **6. Right of Appeal**

6.1 An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.

6.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the appeal is disposed of. Any interim steps taken will remain in force over these periods.

**EXPEDITED LICENCE REVIEWS: MAIN STEPS**





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