

Report of the Assistant Director Environmental & Regulatory Services to the meeting of the Bradford Area Licensing Panel to be held on 1 May 2013.

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Subject:

Consideration of interim steps following an application for a summary review of the premises licence for Club C's, 6/8 Sackville Street, Bradford, BD1.

Summary statement:

Consideration of interim steps under s53B Licensing Act 2008, pending a Summary Review application from the West Yorkshire Police, of the Premises Licence which authorises the sale of alcohol, regulated entertainment and late night refreshment.

John Major
Assistant Director
Environmental & Regulatory Services

Portfolio:
Environment & Waste Management

Report Contact: Tracy McLuckie
Licensing & Land Charges Manager
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Overview & Scrutiny Area:
Environment & Waste Management
Safer & Stronger Communities

1. SUMMARY

Following an application for summary review of the premises licence, the Licensing Panel must consider whether it is necessary to take interim steps, pending the determination of the review applied for.

2. BACKGROUND

2.1 Premises Licence holder & Designated Premises Supervisor

Neal Anthony Allen

2.2 The Premises

Club C's, 6/8 Sackville Street, Bradford, BD1 2AJ

A copy of the Premises Licence is attached at Appendix 1.

3. Current Licence

The Premises Licence permits 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:

Sunday to Wednesday	10.00 to 04.30
Thursday	10.00 to 05.30
Friday and Saturday	10.00 to 08.00
Non standard timings	10.00 to 08.00 <i>(Christmas Eve, Christmas Day, Boxing Day & Statutory Bank Holiday Weekends)</i>

4. Summary Review Application

4.1 West Yorkshire Police

The West Yorkshire Police have requested a summary review of the Premises Licence following five separate incidents of serious violence since 24 February 2013. The West Yorkshire Police are of the opinion that other procedures under the Licensing Act are insufficient in the circumstances, due repetitive incidents within the premises, all of which are serious in nature and currently subject to ongoing police enquiries.

A copy and the application for summary review and the certificate required under s53A (1) of the Licensing Act are attached at Appendix 2.

- 4.2 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 licence. The authority must then undertake the full review within 28 days of receipt of the application.

5. OVERVIEW AND SCRUTINY COMMITTEE CONSIDERATION

Not applicable.

6. OTHER CONSIDERATIONS

Legal Appraisal

- 6.1 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

- 6.2 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 quick process for attaching interim conditions or other measures to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime and/or serious disorder.

- 6.3 The Council must have regard to the guidance issued by the Home Office under Section 182 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.

The guidance relating to summary reviews is attached to this report at Appendix 3.

- 6.4 The licensing authority may consider interim steps without the holder of the premises licence having been given an opportunity to make representations. The Authority must give immediate notice of its decision to take any interim steps and its reasons for doing so, to the holder of the premises licence and the chief officer of police who made the application.

- 6.5 The premises licence holder may make representations against any interim steps taken by the licensing authority. If the authority receives representations from the licensee, a further hearing must be held within 48 hours of receipt to consider these representations. In any event, as stated above, a full review of the licence must subsequently take place within 28 days of receipt of the interim review application.

7. Statement of Policy Issues

- 7.1 The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of Crime & Disorder).

8. OPTIONS

8.1 When considering whether interim steps are required, Members may:

- (a) modify the current conditions of the premises licence;
- (b) exclude the sale of alcohol by retail from the scope of the licence;
- (c) remove the designated premises supervisor from the licence;
- (d) suspend the licence pending the full review hearing.

8.2 Where the Licensing Authority decides to take any interim steps, the decision takes effect immediately, or as soon as the licensing authority may specify.

8.3 There is no right of appeal to a Magistrates Court against the licensing authority's decision at this stage.

9. FINANCIAL & RESOURCE APPRAISAL

There are no apparent finance or resource implications.

10. RISK MANAGEMENT

There are no apparent risk management implications.

11. LEGAL APPRAISAL

Referred to in part 6 of this report.

12. OTHER IMPLICATIONS

12.1 EQUAL RIGHTS

There are no apparent equal rights implications.

12.2 SUSTAINABILITY IMPLICATIONS

There are no apparent sustainability implications.

12.3 GREENHOUSE GAS EMISSIONS IMPACTS

There are no apparent sustainability implications.

12.4 COMMUNITY SAFETY IMPLICATIONS

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 6.1 of this report.

12.5 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 suspension of the licence is an option, adherence to the Panels’ usual procedure of affording a hearing to the applicant is very important. If the decision is to suspend the licence then reasons should be given.

12.6 TRADE UNION

Not applicable

12.7 WARD IMPLICATIONS

Ward Councillors have been notified of receipt of the application.

13. NOT FOR PUBLICATION DOCUMENTS

None.

14 RECOMMENDATIONS

Members are invited to consider the information and documents referred to in this report and determine if any interim steps are necessary, pending the full summary review hearing.

15. APPENDICES

1. Premises Licence
2. Application for summary review and certificate
3. Government Guidance on summary reviews.

16. BACKGROUND DOCUMENTS

Licence, application etc.

Licensing Act 2003
Premises Licence

BD/PRA1097

Date Issued: 03/04/2013

Part 1 - Premises Details

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

Club C's

6/8 Sackville Street, Bradford, West Yorkshire, BD1 2AJ.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- 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
E. Performance of live music (Indoors)	Sunday to Wednesday	10:00am	4:30am
	Thursday	10:00am	5:30am
	Friday and Saturday	10:00am	8:00am
	Christmas Eve and Boxing Day	10:00am	8:00am
	Christmas Day	10:00am	8:00am
	New Years Eve	10:00am	8:00am
	Non Standard Timings:	10:00am	8:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		
F. Playing of recorded music (Indoors)	Sunday to Wednesday	10:00am	4:30am
	Thursday	10:00am	5:30am
	Friday and Saturday	10:00am	8:00am
	Christmas Eve and Boxing Day	10:00am	8:00am
	Christmas Day	10:00am	8:00am
	New Years Eve	10:00am	8:00am
	Non Standard Timings:	10:00am	8:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		
G. Performance of dance (Indoors)	Sunday to Wednesday	10:00am	4:30am
	Thursday	10:00am	5:30am
	Friday and Saturday	10:00am	8:00am
	Christmas Eve and Boxing Day	10:00am	8:00am
	Christmas Day	10:00am	8:00am
	New Years Eve	10:00am	8:00am
	Non Standard Timings:	10:00am	8:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		
H. Entertainment of a similar description to that falling within E, F, or G (Indoors)	Sunday to Wednesday	10:00am	4:30am

Licensing Act 2003 Premises Licence

BD/PRA1097

Date Issued: 03/04/2013

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

Activity (and Area if applicable)	Description	Time From	Time To
H. Entertainment of a similar description to that falling within E, F, or G (Indoors) continued ...			
	Thursday	10:00am	5:30am
	Friday and Saturday	10:00am	8:00am
	Christmas Eve and Boxing Day	10:00am	8:00am
	Christmas Day	10:00am	8:00am
	New Years Eve	10:00am	8:00am
	Non Standard Timings:	10:00am	8:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		
L. Late night refreshment (Indoors)			
	Sunday to Wednesday	11:00pm	4:30am
	Thursday to Saturday	11:00pm	5:00am
	Christmas Eve and Boxing Day	11:00pm	5:00am
	Christmas Day	11:00pm	5:00am
	New Years Eve	11:00pm	5:00am
	Non Standard Timings:	11:00pm	5:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		
M. The sale by retail of alcohol for consumption ON the premises only			
	Sunday to Wednesday	10:00am	4:30am
	Thursday	10:00am	5:30am
	Friday and Saturday	10:00am	8:00am
	Christmas Eve and Boxing Day	10:00am	8:00am
	Christmas Day	10:00am	8:00am
	New Years Eve	10:00am	8:00am
	Non Standard Timings:	10:00am	8:00am
	On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
Sunday to Wednesday	10:00am	4:30am
Thursday	10:00am	5:30am
Friday and Saturday	10:00am	8:00am
Christmas Eve and Boxing Day	10:00am	8:00am
Christmas Day	10:00am	8:00am
New Years Eve	10:00am	8:00am
Non Standard Timings:	10:00am	8:00am
On Friday, Saturday, Sunday & Monday of every statutory Bank Holiday weekend.		

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 the premises only

Part 2

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

Neal Anthony Allen

73 Salts Street, Bradford, West Yorkshire, BD8 8BH.

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

Date First Granted: 03/01/2006

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

Licensing Act 2003 Premises Licence

BD/PRA1097

Date Issued: 03/04/2013

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

Neal Anthony ALLEN

73 Salts Street, Bradford, West Yorkshire, BD8 8BH.

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. BD/PER3638

Issued by Bradford

ANNEXES

Annex 1 - Mandatory Conditions

1. No supply of alcohol may be made under the premises licence;-
 - (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
 - (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on-
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;

Date First Granted: 03/01/2006

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

Licensing Act 2003
Premises Licence

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ANNEXES continued

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

4. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
6. (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
7. The responsible person shall ensure that-
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.
8. 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 -
 - (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
 - (b) be entitled to carry out that activity by virtue of section 4 of that Act.

Annex 2 - Conditions Consistent with Operating Schedule

All four Licensing Objectives:

None

The Prevention of Crime & Disorder:

9. 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.
10. Any 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.
11. Staff shall be trained in efficient methods for ensuring customers leave the premises in a quiet and orderly

Licensing Act 2003

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ANNEXES continued ...

fashion.

12. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions. Cameras shall encompass all ingress and egress to the premises and all areas where the sale/supply of alcohol occurs. Equipment must be maintained in good working order, be correctly time and date stamped and be kept for a period of 28 days. The premises licence holder must ensure at all times the DPS or appointed member of staff is present on the premises and capable and competent at downloading CCTV footage in a recordable format, either DISC or VHS to the Police or Licensing Authority on request. The recording equipment and tapes/discs shall be kept in a secure room under the control of the DPS or responsible member of staff. An operational daily log must be maintained and endorsed by signature, indicating that the CCTV system has been checked and is compliant. In the event of any failings of the CCTV system, this shall also be recorded and in the event of technical failure, the premises licence holder/DPS must report the failure to the Bradford South Police Licensing Officer and the Local Authority immediately.
13. Thursday evening - A minimum of TWO SIA registered door staff shall be employed at the premises from 22.00 hours, until all licensable activities cease and the premises are closed for business.

Friday and Saturday evening - A minimum of TWO SIA registered door staff shall be employed at the premises from 22.00 hours, increased to THREE SIA registered door staff from 23.00 hours until all licensable activities cease and the premises are closed of business. The THREE SIA registered doorstaff shall remain on the premises until all members of the public have left, if the premises remain open until 08.00 am on these evenings.
14. No persons under the age of 18 years shall be allowed onto the premises between 20.00 hours and 08.00 hours daily.
15. All persons under the age of 18 years shall be accompanied with an adult during all licensable activities up to 20.00 hours.
16. No admission for NEW PATRONS will be allowed to the premises after 07.00am and only existing patrons whose hand will be stamped by a member of staff, who step outside (i.e. smoking) will be allowed to return after that time.
17. The DPS/staff members and door staff shall ensure that No vessels are taken off the premises by customers.
18. A Challenge 21 policy shall be implemented.
19. A drug safe shall be installed at the premises with access only by authorised persons from the premises and West Yorkshire Police.
20. The premises shall be a member of City Centre Beat (radio link) and have on the premises the radio to link them with other members of the City Centre Beat and City CCTV control room.
21. An incident book shall be kept and maintained on the premises at all times. The book shall detail in brief, incidents of injury/ejection/refusals/drugs misuse/seizure/age challenge. Such matters shall be timed, dated and signed by the author and produced to the Police/Local Authority upon request.
22. No entertainment of an adult nature shall take place on the premises.
23. The police shall be notified seven days in advance of dates when it is intended to operate the premises for licensable activities between 03.00am and 08.00am.

Licensing Act 2003
Premises Licence

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ANNEXES continued

24. The DPS or a Personal Licence Holder shall be present between the hours of 22.00 and 08.00 on a Friday and Saturday when the premises are open until 08.00 hours both days.
25. Premises shall remain closed to all members of the public/customers and will not allow any members of the public/customers to remain in the premises between 08.00am and 10.00am.

Public Safety:

26. Access and egress doors into and out of the premises shall be kept clear and free from obstruction at all times.
27. All fire fighting equipment and first aid facilities (including the accident book) shall be maintained in good working order and all staff (including temporary staff) adequately trained in their use.
28. The maximum occupancy of the premises shall not exceed;

Ground Floor	100 persons
First Floor	60 persons

The Prevention of Public Nuisance:

29. Notices shall be displayed in prominent positions near exists reminding patrons to leave in a quiet and orderly manner.

The Protection of Children from Harm:

30. The Licensee shall enforce a recognised and effective proof of age policy in the premises in order to ensure unaccompanied under aged children are not allowed access when alcohol sales are taking place in the premises.

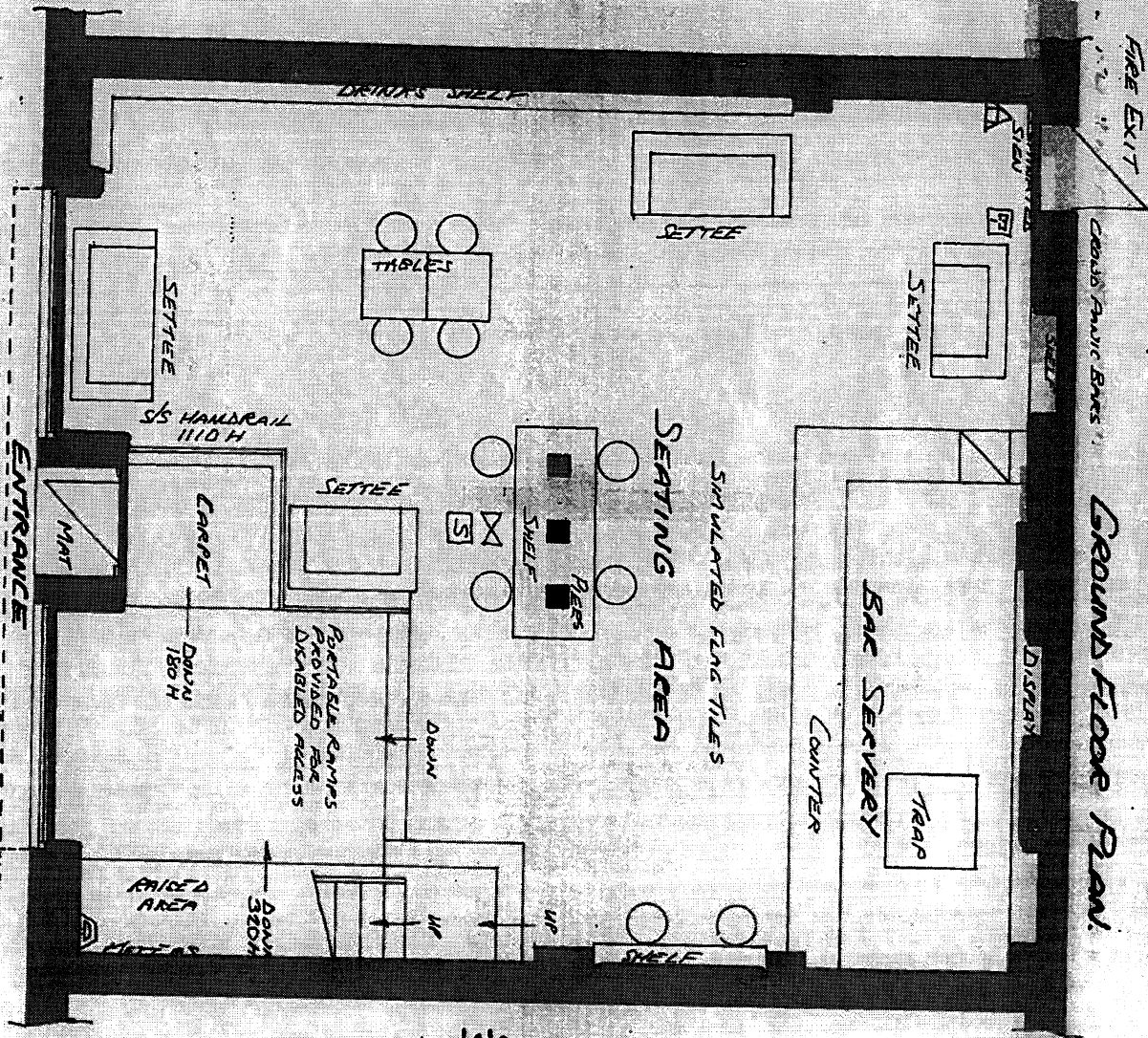
Annex 3 - Conditions attached after a hearing by the Licensing Authority

Not Applicable.

Q:\LLC & Licensing\Licensing\TEMPLATE\Operating Schedules\CLUB C'S - BDPRA1097

Annex 4.

SHEET 1 OF 2 GROUND FLOOR PLAN (LICENSING).



DRAWING SHEET
SHEET 1 OF 2. GROUND FLOOR PLAN.
SHEET 2 OF 2. FIRST FLOOR PLAN.

Reduce To 1:100.

LICENSING PLAN.
SACKVILLE STREET,
LONDON. BD1 2AJ.

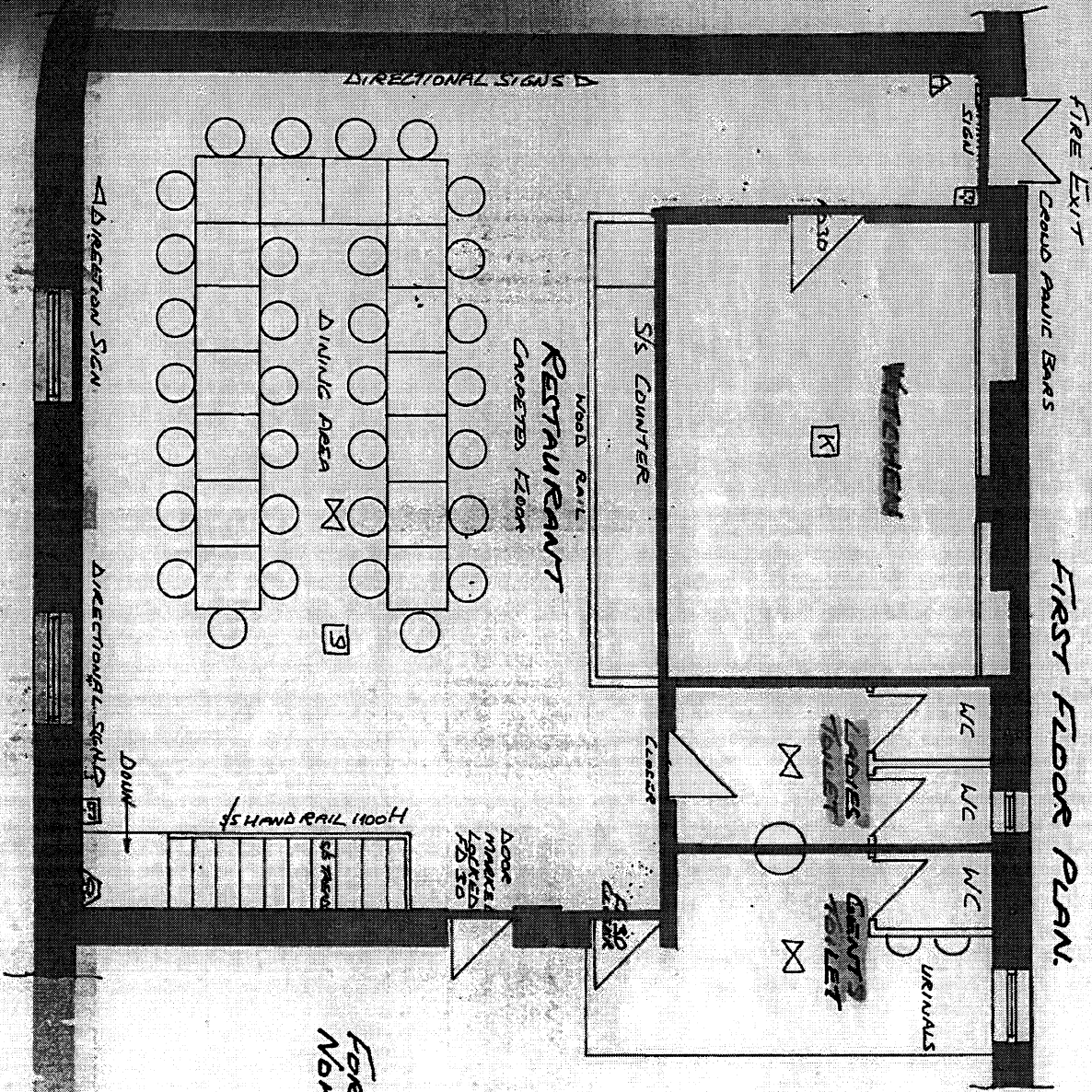
FOR
MRS PAULETTE
JOHNSON

DRAWN
H.G. WAGHORN.
NOV 2005

TEL/FAX 01753 543001
SCALE 1:100.

2 OF 2 FIRST FLOOR PLAN (LICENSING)

REDUCE TO 1:100.



FORMALLY RETRO.
NOW CONVICOS.

LICENSING PLAN
35 BRADFORD STREET
BRADFORD, BD1 1AZ.

FOR
MRS PAULETTE
JOHNSON.

DRAWN
MG. NAGHORNE
NOV 2005.

TEL/FAX 0174 403081
SCALE 1:50

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APPLYING FOR A SUMMARY LICENCE REVIEW

Application for the review of a Premises Licence under
Section 53a of the Licensing Act 2003
(premises associated with serious crime or disorder)

Insert name and address of relevant Licensing Authority and its reference number (optional):

City of Bradford Metropolitan District Council

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 this 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.

You may wish to keep a copy of the completed form for your records.

I, **Simon Atkin (Chief Superintendent)**

(on behalf of) the Chief Officer of Police for the Bradford South Police area apply for the review of a premises licence under Section 53a of the Licensing Act 2003.

Part 1 – Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

Club C (Conuco's) 6/8 Sackville Street

Town/City: **Bradford**

Postcode: **BD1 2AJ**

Part 2 – Premises licence details

Name of premises licence holder (if known):

Neal Anthony ALLEN

Number of premises licence (if known): **BD/PRA 1097**

Part 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/her opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application. (Please 'check' the box to confirm)



Part 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 the premises between the hours of 10:00am – 04:30am Sunday to Wednesday 10:00am – 05:30am Thursday 10:00am - 08:00am Friday and Saturday together with other regulated entertainment and the provision of Late Night Refreshment.

The ground for the this review are as follows:-

The holder of the Premises Licence at the current time is **Mr NEAL ANTHONY ALLEN** who is also the Designated Premises Supervisor.

The following is the list of what the police deem to be very serious incidents which have resulted in hospitalisation for all the complainants and the subsequent on going police enquiries.

Sunday 24th February 2013 – 04:36am – Section 18 Wounding

Sunday 24th February 2013 – 04:47am – Section 47 Assault

Saturday 6th April 2013 – 07:11am – Sec 47 Assault

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Sunday 14th April 2013 – 04:35am – Section 18 Wounding

Saturday 27th April 2013 – 04:23am – Section 18 Wounding

All the incidents have required both the premises and also the road to be closed and to become a scene due to the seriousness of each incident more so the 3 Section 18 Wounding – two of which have been stabbings within inside the club.

All have now become criminal investigations and persons are on Police Bail whilst other items of evidence are being obtained, with the outcome being that there will be criminal prosecutions in the future.

The incidents highlighted are all serious and what is more worrying to the police is that they have occurred inside the Licensed Premises.

Documentation was in fact being collated by the Bradford Police Licensing Dept to request a Review of the Licence in normal circumstances but the latest incident on Saturday 27th April 2013 has increased the urgency for Review to take place.

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

Signature of applicant [Signature] Date: 28.4.13.
Capacity: Chief Superintendent.

Contact details for matters concerning this application:

Address: Trafalgar House, Nelson Street, Bradford BD5 0EW
Telephone numbers: 01274 376695 (Licensing Section)
E-mail address: susanne.dawson@westyorkshire.pnn.police.uk

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 18 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.

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CERTIFICATE

Under Section 53a(1)(b) of the Licensing Act 2003

*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.**

Premises details

Premises (include business name and address and any other relevant identifying details):

Club C also known as Conuco's – 6/8 Sackville Street, Bradford BD1 2AJ

I am a (insert rank of officer giving the certificate, which must be superintendent or above):

Simon Atkin - Chief 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).

The following is a list of serious incidents that have recently taken place within the premises known as Club C (Conuco's)

24th February 2013 at 04:36am – Section 18 Wounding

24th February 2013 at 04:47am – Section 47 Assault

6th April 2013 at 07:11am – Section 47 Assault

14th April 2013 at 04:35 – Section 18 Wounding

27th April 2013 at 04:23am – Section 18 Wounding

The seriousness of all the individual incidents and the fact that there has been another Section 18 Wounding over the weekend with another complainant having been hospitalised, has increased the necessity to request the Review.

I consider the this course of action is appropriate under the circumstances in preventing the premises re-opening when there appears to be a continual and repetitive series of incidents within the club, the poor management by persons connected with the club and that by allowing the club to continue to open then it would allow the possibility of further serious Wounding or death!

There is also the strong possibility that there may be reprisals against other customers/witnesses who continue to attend at the premises and also against members of staff that work within Club C.

Signed:

SA

Date: 25.4.13



Home Office

Section 53A Licensing Act 2003
Summary Review Guidance



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- 1. Introduction**
- 2. The Steps – Summary Review**
- 3. The Licensing Authority and the Interim Steps**
- 4. Making representations against the Interim Steps**
- 5. The Review of the Premises Licence**
- 6. Right of Appeal**

ANNEX A

- 1. Certificate Under section 53A(1)(b) of the Licensing Act 2003**

ANNEX B

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

INTRODUCTION

- 1.1 This guidance explains how to use the provisions in the Licensing Act 2003 ("the 2003 Act"), inserted by section 21 of the Violent Crime Reduction Act 2006, 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).
- 1.2 This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the procedures.
- 1.3 The powers are set out in sections 53A to 53C of the 2003 Act and apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The purpose of these powers is to complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. Existing powers in Part 8 of the 2003 Act provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance) and the consequent review of premises licences by the licensing authority. The powers under sections 53A to 53C, which are in Part 3 of the 2003 Act, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.
- 1.4 The powers 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.
- 1.5 In summary, the process is:
- the chief officer of police for the area in which the premises are situated 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 of the time of its receipt 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 after the day of receipt of the application.
- 1.6 The options open to the licensing authority at the interim steps stage include:
- modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - removal of the designated premises supervisor from the licence; and

- suspension of the licence.

1.7 Following the full licence review, the licensing authority may do any of the above or may revoke the licence.

1.8 The purpose of this guidance is to:

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

THE STEPS

2. Triggering the expedited review

2.1 Section 53A of the Licensing Act 2003 sets out who may apply for an expedited review and the circumstances in which it can be used.

Application for expedited review

2.2 The chief officer of police for the area in which the premises are situated 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 A to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) (a) and (b) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
 - (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; and
 - (b) 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 given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which 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 section 53A of the

2003 Act. The application must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). The completed application must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex B 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 to 165 of the 2003 Act 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 considered 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 want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53C, 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 paragraphs 3.6 and 3.7 below).

2.8 However, it should continue to be borne in mind that 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.¹

3.2 The licensing authority may want to consult the police about the steps that it thinks are appropriate, 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 licensing 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 are likely to be taken by a licensing sub-committee. 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 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 the alteration or modification of existing conditions or addition of 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 amended guidance issued under section 182 of the 2003 Act (available at: www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing).

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

¹ 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 it 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 2003 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 may properly 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 to, or not significantly different from, the version given by telephone.

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 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 such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their 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) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply 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 process, 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 the holder a maximum practicable opportunity to prepare for and 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 appropriate 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 after the day 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 appropriate for the promotion of the licensing objectives; and
- decide which interim steps (if there are any) cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of a licensable activity 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 the alteration or modification of existing conditions or addition of 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 amended guidance under section 182 of the 2003 Act.

5.3 The licensing authority must:

- advertise the review inviting representations from any persons 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 licensing authority's website (see regulation 38(1)(b) of the above). 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 any other persons 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 authority².

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). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 4.2 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons 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:

² Responsible authorities are defined under sections 13(4) and 69(4) of the 2003 Act.

- 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 any other person (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 to the magistrates' court within 21 days of the licence holder being notified of the licensing authority's determination on the review. 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 disposal of the appeal.

[insert name and address of police force]

Example Form

Annex A

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder³.

*Premises*⁴:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a ⁵ in the police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁶:

.....

³ Delete as applicable.

⁴ Include business name and address and any other relevant identifying details.

⁵ Insert rank of officer giving the certificate, which must be superintendent or above.

⁶ Give a 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.

(Signed)

(Date)

Statutory Form For Applying For A Summary Licence Review

Annex B

[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 [on behalf of] the chief officer of police for
the 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:

Post town:

Post code (if known):

2. Premises licence details:

Name of premises licence holder (if known):

Number of premises licence holder (if known):

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]

Signature of applicant:

Date:

Capacity:

Contact details for matters concerning this application:

Address:

Telephone number(s):

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:

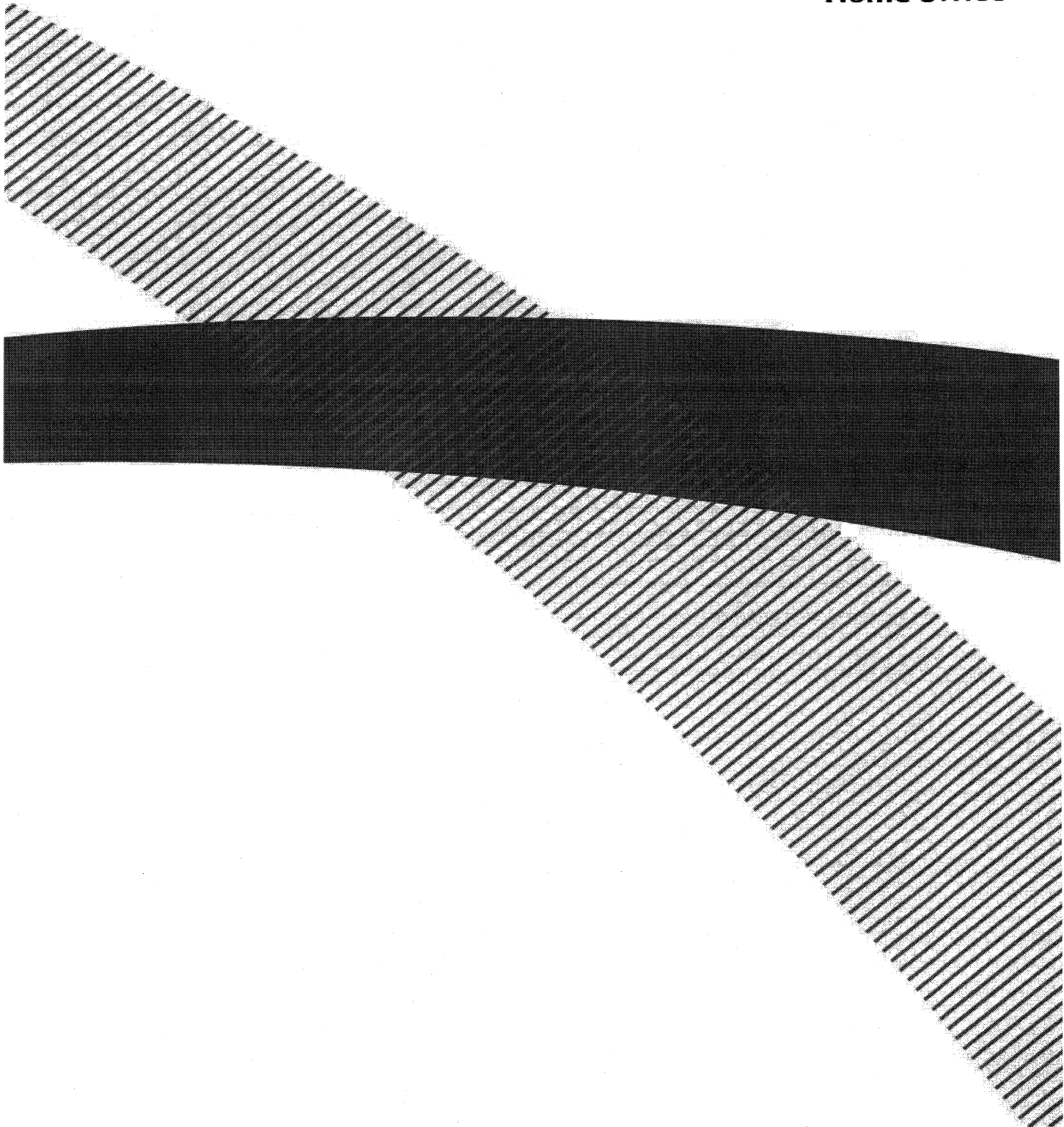
- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and 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.



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