

## Agenda for a meeting of the Bradford District Licensing Panel to be held on Friday, 8 December 2017 at 10.00 am in Committee Room 4 - City Hall, Bradford

### Members of the Committee – Councillors

CONSERVATIVE	LABOUR	INDEPENDENT
BM Smith	M Slater	Morris

### Notes:

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- If any further information is required about any item on this agenda, please contact the officer named at the foot of that agenda item.

### From:

City Solicitor  
 Agenda Contact: Jane Lythgow  
 Phone: 01274 432457  
 E-Mail: jane.lythgow@bradford.gov.uk

### To:



## **A. PROCEDURAL ITEMS**

### **1. DISCLOSURES OF INTEREST**

(Members Code of Conduct - Part 4A of the Constitution)

To receive disclosures of interests from members and co-opted members on matters to be considered at the meeting. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

*Notes:*

- (1) Members may remain in the meeting and take part fully in discussion and voting unless the interest is a disclosable pecuniary interest or an interest which the Member feels would call into question their compliance with the wider principles set out in the Code of Conduct. Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.*
- (2) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations, and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.*
- (3) Members are also welcome to disclose interests which are not disclosable pecuniary interests but which they consider should be made in the interest of clarity.*
- (4) Officers must disclose interests in accordance with Council Standing Order 44.*

### **2. INSPECTION OF REPORTS AND BACKGROUND PAPERS**

(Access to Information Procedure Rules – Part 3B of the Constitution)

Reports and background papers for agenda items may be inspected by contacting the person shown after each agenda item. Certain reports and background papers may be restricted.

Any request to remove the restriction on a report or background paper should be made to the relevant Strategic Director or Assistant Director whose name is shown on the front page of the report.



If that request is refused, there is a right of appeal to this meeting.

Please contact the officer shown below in advance of the meeting if you wish to appeal.

(Jane Lythgow - 01274 432270)

## **B. BUSINESS ITEMS**

### **3. APPLICATION FOR A SUMMARY LICENCE REVIEW - BIJOU**

The report of the Assistant Director, Waste, Fleet and Transport Services

(**Document “F”**) invites Members to consider interim steps under s53B Licensing Act 2003, pending a Summary Review application from West Yorkshire Police, of the Premises Licence for Bijou Cocktail Bar, 10 Chapel Lane, Bingley, which authorises the sale of alcohol and provision of regulated entertainment.

**Members are invited to consider the information and documents referred to in Document “F” and determine if any interim steps are necessary, pending the full summary review hearing.**

(Tracy McLuckie – 01274 432240)

THIS AGENDA AND ACCOMPANYING DOCUMENTS HAVE BEEN PRODUCED, WHEREVER POSSIBLE, ON RECYCLED PAPER



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## **Report of the Assistant Director Waste, Fleet & Transport Services to the meeting of the Bradford District Licensing Panel to be held on 8 December 2017.**

**F**

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### **Subject:**

**Consideration of interim steps following an application for a summary review of the premises licence for Bijou Cocktail Bar, 10 Chapel Lane, Bingley, which authorises the sale of alcohol and provision of regulated entertainment.**

### **Summary statement:**

**Following an application for summary review of the premises licence, the Licensing Authority must consider whether it is necessary to take interim steps under s53B Licensing Act 2003, pending the determination of the full review of the licence.**

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John Major  
Assistant Director  
Waste, Fleet & Transport Services

Report Contact: Tracy McLuckie  
Licensing Manager  
Phone: (01274) 432240  
E-mail: [licensing@bradford.gov.uk](mailto:licensing@bradford.gov.uk)

**Portfolio:**

**Neighbourhoods & Community Safety**

**Overview & Scrutiny Area:**

**Corporate**

## **1. SUMMARY**

An application for a summary licence review of the premises licence for Bijou Cocktail Bar, 10 Chapel Lane, Bingley, has been received from the West Yorkshire Police.

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

## **2. BACKGROUND**

### **2.1 The Premises**

Bijou Cocktail Bar, 10 Chapel Lane, Bingley, BD16 2NG.

### **2.2 Premises Licence holder**

Mr Rory Procter

### **2.3 Designated Premises Supervisor**

Mr Jonathan Dawkins

A copy of the Licence is attached at Appendix 1.

### **2.4 Summary Review Application**

#### **West Yorkshire Police**

The West Yorkshire Police have requested a summary review of the premises licence following a serious assault at the premises in the early hours of Saturday 25 November 2017. The West Yorkshire Police are of the opinion that other procedures under the Licensing Act are insufficient in the circumstances, due to the seriousness of the incident and potential for further disorder at the premises as a result of the incident.

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

- 2.5** 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.

### **3. OTHER CONSIDERATIONS**

#### **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 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.

**3.3** 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 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.

**3.4** 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.

**3.5** 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.

#### **Statement of Policy Issues**

**3.6** The following parts of the Licensing Policy are of particular importance; Part 4 (prevention of Crime and Disorder).

### **4. FINANCIAL & RESOURCE APPRAISAL**

There are no apparent finance or resource implications.

### **5. RISK MANAGEMENT AND GOVERNANCE ISSUES**

There are no apparent risk management implications.

## **6. LEGAL APPRAISAL**

Referred to in part 3 of this report.

## **7. OTHER IMPLICATIONS**

### **7.1 EQUALITY & DIVERSITY**

The Council has to comply with the public sector equality duty in s149 Equality Act 2010.

### **7.2 SUSTAINABILITY IMPLICATIONS**

There are no apparent sustainability implications.

### **7.3 GREENHOUSE GAS EMISSIONS IMPACTS**

There are no apparent implications.

### **7.4 COMMUNITY SAFETY IMPLICATIONS**

When determining the application the Licensing Authority is required to pay due regard to the licensing objectives referred to in 3.1 of this report.

### **7.5 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.

### **7.6 TRADE UNION**

Not applicable.

### **7.7 WARD IMPLICATIONS**

Ward Councillors have been notified of receipt of the application.

## **8. NOT FOR PUBLICATION DOCUMENTS**

None.



## **9. OPTIONS**

**9.1** 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.

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

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

## **10. 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.

## **11. APPENDICES**

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

## **12. BACKGROUND DOCUMENTS**

Licence, application etc.

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**Licensing Act 2003 - Premises Licence****Licence No: 073416****Date Issued: 9 September 2015****Part 1 - Premises Details****POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDANCE SURVEY MAP REFERENCE OR DESCRIPTION****Bijou Cocktail Bar**  
Chapel Lane, Bingley, BD16 2NG**WHERE THE LICENCE IS TIME LIMITED THE DATES**

Not applicable

**DATE FIRST GRANTED - ANNUAL FEE DATE**

Licensing Act 2003 Fees Regulations 2005

31/10/2014

**LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE**An Indoor Sporting Event  
A Performance of Live Music  
Any Playing of Recorded Music  
The Supply of Alcohol**THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES**

An Indoor Sporting Event Indoors	Mon 17:00-23:00 Tue 17:00-23:00 Wed 17:00-23:00 Thu 17:00-23:00 Fri 15:00-23:00 Sat 12:00-23:00 Sun 12:00-23:00
A Performance of Live Music Indoors	Thu 19:00-00:00 Fri 19:00-00:00 Sat 19:00-00:00
Any Playing of Recorded Music Outdoors	Thu 19:00-02:00 Fri 19:00-05:00 Sat 19:00-05:00

The Supply of Alcohol	Mon 17:00-23:00 Tue 17:00-23:00 Wed 17:00-23:00 Thu 17:00-01:30 Fri 15:00-04:30 Sat 12:00-04:30 Sun 12:00-23:00 Non Standard Timings: 12:00- 04:30 On the day prior to any Bank/Public Holiday.
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THE OPENING HOURS OF THE PREMISES	
	Mon 17:00-23:00 Tue 17:00-23:00 Wed 17:00-23:00 Thu 17:00-02:00 Fri 15:00-05:00 Sat 12:00-05:00 Sun 12:00-23:00 Non Standard Timings: 12:00- 05:00 On the day prior to any Bank/Public Holiday.

WHERE THE LICENCE AUTHORISES SUPPLY OF ALCOHOL WHETHER THIS IS ON AND/OR OFF SUPPLIES
The Supply of Alcohol On Premises

## Part 2

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

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
Mr Jonathan William Dawkins

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 Number: 200810 <span style="float: right;">Issued By: Bradford</span>

**Annex 1 – Mandatory Conditions**

REQUIREMENT FOR A DESIGNATED PREMISES SUPERVISOR

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.

AUTHORISATION OF PERSONAL LICENCE HOLDER

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

IRRESPONSIBLE PROMOTIONS

The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

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-

- 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 in a manner which carries a significant risk of undermining a licensing objective,
- 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 in a manner which carries a significant risk of undermining a licensing objective,
- d) 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,
- e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

DRINKING WATER

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

## AGE VERIFICATION

The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

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 either –

- a) a holographic mark, or
- b) an ultraviolet feature.

## DRINKS MEASURES

The responsible person must 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: half pint
- (ii) gin, rum, vodka or whisky: 25ml or 35ml and
- (iii) still wine in a glass: 125 ml

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises, and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

## DUTY & TAX

A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1:

(a) 'duty' is to be construed in accordance with the Alcoholic Liquor Duties Act 1979,

(b) 'permitted price' is the price found by applying the formula 'P' equals 'D' plus ('D' times 'V'), where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol,

(c) 'relevant person' means, in relation to premises in respect of which there is in force a premises licence-

- (i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or  
(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence,

(d) 'relevant person' means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question, and

(e) 'value added tax' means value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ('the first day') would be different from the permitted price on the next day ('the second day') as a result of a change to the rate of duty or value added tax.

The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

#### SECURITY INDUSTRY AUTHORITY

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**

1. The Premises Licence Holder will ensure close liaison with other Premises Licence Holders in the area and will co-operate with any local "Pub Watch" schemes or similar schemes being promoted by West Yorkshire Police or other local Premises Licence Holders.

2. The Premises Licence Holder shall ensure that all staff employed at the premises receive appropriate training concerning the need not to serve, allow to remain in the premises or allow entry to any person who appears unfit through drink or drugs or who is behaving in a violent or threatening manner.

##### **The Prevention Of Crime And Disorder**

3. The Premises Licence Holder shall at all times maintain a "zero tolerance" policy with regard to illegal drugs (including appropriate staff training in detection and prevention).

4. All external and internal security lighting shall be maintained in good working order and used, where appropriate, at all times the premises remain open to the public.

## **Public Safety**

5. All emergency lighting; fire fighting equipment and first aid facilities shall be maintained in good working order and all staff (including temporary staff) adequately trained about the evacuation procedures for the premises.

## **The Prevention Of Public Nuisance**

6. The Premises Licence Holder shall ensure that the external areas of the premises are kept clear of litter and refuse.

## **The Protection Of Children From Harm**

None.

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

7. 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 recordings 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. In the event of technical failure of the CCTV equipment, the premises licence holder/DPS must report the failure to the Bradford South Police Licensing Officer immediately.

8. 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 midnight until close of business on Fridays and Saturdays when the premises are open for licensable activities.

9. No persons under the age of 18 years shall be allowed onto the premises when licensable activities are taking place.

10. A Challenge 25 policy shall be implemented.

11. 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/Licensing Officers upon request.

12. No entertainment of an adult nature shall take place on the premises.

13. The police shall be notified seven days in advance of dates when it is intended to operate the premises for licensable activities between 02.00 am and 05.00am.

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



- Select Protective Marking -



## 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 serious disorder or both)

*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, Daniel Greenwood

(on behalf of) the Chief Officer of Police for the Bradford District 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:

Bijou Cocktail Bar and Nightclub  
10 Chapel Lane

Town/City: Bingley

Postcode: BD16 2NG

#### Part 2 – Premises licence details

Name of premises licence holder (if known):

Mr Rory PROCTOR

Number of premises licence (if known): 073416

#### 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 associated with serious crime or serious 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)

The premises benefits from a Premises Licence which authorises the sale of alcohol for consumption ON premises along with regulated entertainment between the following hours:

Monday to Wednesday 17.00-23.00  
Thursday 17.00-01.30  
Friday 15.00-04.30  
Saturday 12.00-04.30  
Sunday 12.00-23.00  
Bank holidays 12.00-04.30

#### The grounds for review are as follows:

In the early morning of Saturday 25<sup>th</sup> November 2017, an incident occurred within the premises involving the victim of an assault. The victim had been ejected from the premises and at some point he received a serious head injury which ultimately led to his death.

Initial enquiries at the scene by attending Police Officers led to the arrest of several males who had been at Bijou that evening.

- Select Protective Marking -

The Premises Licence Holder is Mr Rory PROCTOR and the Designated Premises Supervisor is Mr Jonathan William DAWKINS. It is believed neither were on the premises on the night of the assault.

Following this incident, the community have been very vocal and there have been messages left on social media calling for action to be taken against the club and a petition has also been set up for the closure of the premises.

Threats have been made to persons and property since the incident, which have included threats to smash windows and fire bomb the club as well as attack home addresses. This prompted PROCTOR to increase security at the club last weekend when it re opened as he believed that there would be serious disorder.

Further threats have been received since the death of the victim yesterday, including threats that the club will be burned with persons inside and that the building would be shot at. These threats had been passed by third parties. PROCTOR informed the Police that the threats are genuine.

**The premises is located close to the town centre and there are residents living nearby. Any acts of disorder, arson or other violence would have a major impact on those living in the vicinity and put members of the public in harm.**

**It is requested that the Premises Licence be suspended by the Licensing Authority in the interim period pending a Full Review Hearing, as there are genuine concerns that retribution will be sought for the death of the young man and the premises known as Bijou would be the centre of this retribution.**

Signature of applicant: .....

Date: .....

6/12/2017

Capacity: *Superintendent*

**Contact details for matters concerning this application:**

Address: Trafalgar House Police Station, Nelson Street, Bradford BD5 0EW

Telephone numbers: 01274 376695, 01274 373848

E-mail address:

**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.



**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.**

<b>Premises details</b>
Premises (include business name and address and any other relevant identifying details):
Bijou Cocktail Bar and Nightclub 10 Chapel Lane Bingley BD16 2NG
I am a (insert rank of officer giving the certificate, which must be superintendent or above):
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).

On the morning of Saturday 25<sup>th</sup> November 2017, Police were contacted by the Ambulance Service reporting that a suspected assault had occurred at Bijou and that a twenty four year old male was outside the premises with serious head injuries and was unconscious.

The initial investigation showed that the male had been ejected from the premises and as a result, several males were subsequently arrested on suspicion of serious assault.

The club was closed down and preserved as a crime scene. The victim was transferred to hospital and subsequently died of his injuries on the 5<sup>th</sup> December 2017. An investigation is currently ongoing to establish the facts surrounding this incident.

The seriousness of the incident has increased the request to review the current Premises Licence as community tension is heightened and there is the likelihood of disorder and repercussions.

I consider that this course of action is appropriate under the circumstances in preventing the premises from re-opening, where there is the possibility that there will be reprisals against the premises itself, the owner, and other staff members.

<b>Signed</b>	..... Date: <u>6/12/2017</u> .....
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Home Office

## **Section 53A-C Licensing Act 2003**

### Summary Review Guidance

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- 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**

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

## **ANNEX B**

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

# 1. 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 the Anti-social Behaviour, Crime and Policing Act 2014 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 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 it considers this is necessary**, 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.

## 2. THE STEPS

### 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; or
  - (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 Part 4, Chapter 3 of the Anti-social Behaviour, Crime and Policing Act 2014 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<sup>1</sup>.

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.

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

- 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

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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.

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 authority<sup>2</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). 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:

- 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.

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<sup>2</sup> Responsible authorities are defined under sections 53(4) and 69(4) of the 2003 Act.

## 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 disorder<sup>3</sup>.

*Premises*<sup>4</sup>:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a \_\_\_\_\_<sup>5</sup> 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, because<sup>6</sup>:

.....

<sup>3</sup> Delete as applicable.

<sup>4</sup> Include business name and address and any other relevant identifying details.

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

<sup>6</sup> 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)**

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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)*

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**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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