

# AGENDA

## Regulatory Sub Committee

Date: **Wednesday 19 October 2011**

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Time: **10.00 am**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

Tel: 01432 261885

Email: [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk)

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Regulatory Sub Committee

## Membership

Councillor PL Bettington  
Councillor JW Hope MBE  
Councillor Brig P Jones CBE

### GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

#### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

#### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

#### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

#### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

**AGENDA**

	<b>Pages</b>
<b>1. ELECTION OF CHAIRMAN</b>	
To elect a Chairman for the hearing.	
<b>2. APOLOGIES FOR ABSENCE</b>	
To receive apologies for absence.	
<b>3. NAMED SUBSTITUTES (IF ANY)</b>	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
<b>4. DECLARATIONS OF INTEREST</b>	
To receive any declarations of interest by Members in respect of items on the Agenda.	
<b>5. APPLICATION FOR A FULL REVIEW OF A PREMISES LICENCE FOLLOWING AN EXPEDITED REVIEW 'NATALKA POLSKIE, 22 EIGN STREET, HEREFORD, HR4 0AB.'</b>	1 - 4
To consider a Full Review of a premises licence following an Expedited Review in respect of: Natalka Polskie, 22 Eign Street, Hereford, HR4 0AB called by Charles Hill, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.	
<b>Background Papers - Natalka Polskie - Application Form</b>	5 - 10
<b>Background Papers - Decision Notice - Natalka Polskie</b>	11 - 12
<b>EXCLUSION OF THE PUBLIC AND PRESS</b>	
In the opinion of the Proper Officer, the following items will not be, or are likely not to be, open to the public and press at the time they are considered.	
<b>RECOMMENDATION:</b>	
<b>that under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following two items of business on the grounds that they involve the likely disclosure of exempt information as defined in Schedule 12(A) of the Act, as indicated below and it is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information.</b>	
<b>1 Information relating to any individual.</b>	
<b>2 Information which is likely to reveal the identity of an individual.</b>	
<b>6. REVIEW OF A DECISION OF THE TAXI &amp; COUNTY TRANSPORT BADGE OFFICER PANEL</b>	13 - 16
To review a decision of the Officer Panel in respect of a taxi driver.	
<b>Appendix 1 - Witness Statement</b>	17 - 18
<b>Appendix 2 - Submission to Taxi Officer Panel</b>	19 - 24
<b>Appendix 3 - Scan of Letter</b>	25 - 26

<b>Appendix 4 - Decision Notice</b>	27 - 28
<b>Appendix 5 - Appeal Letters</b>	29 - 32
<b>Appendix 6 - Penalty Point Notification</b>	33 - 34
<b>Appendix 7 - Warning Letter</b>	35 - 36
<b>Appendix 8 - Copy of letter from client</b>	37 - 38

## **The Public's Rights to Information and Attendance at Meetings**

### **YOU HAVE A RIGHT TO: -**

- Attend all Council, Cabinet, Committee and Sub-Committee meetings unless the business to be transacted would disclose 'confidential' or 'exempt' information.
- Inspect agenda and public reports at least five clear days before the date of the meeting.
- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
- Have a reasonable number of copies of agenda and reports (relating to items to be considered in public) made available to the public attending meetings of the Council, Cabinet, Committees and Sub-Committees.
- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
- Copy any of the documents mentioned above to which you have a right of access, subject to a reasonable charge (20p per sheet subject to a maximum of £5.00 per agenda plus a nominal fee of £1.50 for postage).
- Access to this summary of your rights as members of the public to attend meetings of the Council, Cabinet, Committees and Sub-Committees and to inspect and copy documents.

### **Public Transport Links**

- Public transport access can be gained to Brockington via the service runs approximately every 20 minutes from the City bus station at the Tesco store in Bewell Street (next to the roundabout junction of Blueschool Street / Victoria Street / Edgar Street).
- The nearest bus stop to Brockington is located in Vineyard Road near to its junction with Old Eign Hill. The return journey can be made from the same bus stop.

## **HEREFORDSHIRE COUNCIL**

**BROCKINGTON, 35 HAFOD ROAD, HEREFORD.**

### **FIRE AND EMERGENCY EVACUATION PROCEDURE**

In the event of a fire or emergency the alarm bell will ring continuously.

You should vacate the building in an orderly manner through the nearest available fire exit.

You should then proceed to Assembly Point A which is located in the circular car park at the front of the building. A check will be undertaken to ensure that those recorded as present have vacated the building following which further instructions will be given.

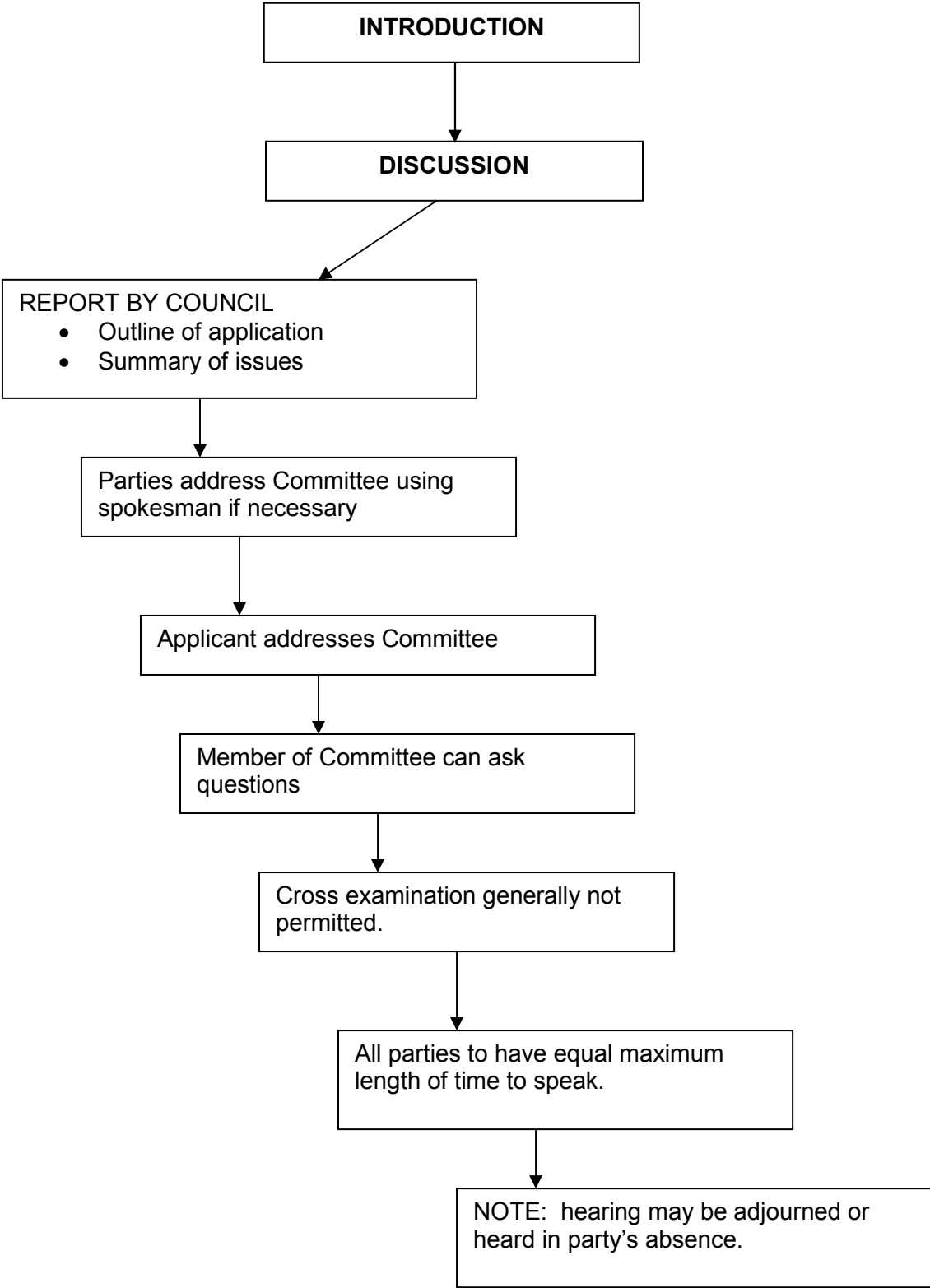
Please do not allow any items of clothing, etc. to obstruct any of the exits.

Do not delay your vacation of the building by stopping or returning to collect coats or other personal belongings.



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# LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>19 OCTOBER 2011</b>
<b>TITLE OF REPORT:</b>	<b>FULL REVIEW FOLLOWING AN EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: NATALKA POLSKIE DELIKSTSEY, 22 EIGN STREET, HEREFORD, HR4 0AB</b>
<b>PORTFOLIO AREA:</b>	<b>ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Hereford

### **Purpose**

To consider a Full Review of a premises licence following an Expedited Review in respect of: Natalka Polskie, 22 Eign Street, Hereford, HR4 0AB called by Charles Hill, Superintendent of the West Mercia Constabulary and represented by Mr James Mooney, Police Licensing Officer.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT Sub-Committee determine the steps that are necessary to prevent serious crime or serious disorder at the premises and to promote the licensing objectives in the overall interests of the local community. They should give appropriate weight to:

- The steps that are necessary to assist with the prevention of serious crime and disorder,
- The representations (including supporting information) presented by all parties,
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006, and
- The Herefordshire Council Licensing Policy.

### **Key Points Summary**

- Application received for an expedited review on 28 September 2011
- Interim Steps Hearing held on 29 September 2011 within the required 48 hours.
- Decision made to suspend the licence pending the full review
- 29 September 2011 - Copies of application and certificate sent to the premise licence holder

Further information on the subject of this report is available from  
Fred Spriggs – Licensing Officer 01432 383542

- and responsible authorities.
- Copy of decisions notice sent on 29 September.

## Options

- 1 There are a number of option open to the committee:
- the modification of the conditions of the premises licence;
  - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
  - the removal of the designated premises supervisor from the licence;
  - the suspension of the licence for a period not exceeding 3 months; and
  - the revocation of the licence.

## Reasons for Recommendations

- 2 Ensures compliance with the Licensing Act 2003 and the Crime & Disorder Act 2006.

## Background Information

- 3 The powers to call for an Expedited review are contained in Section 53A of the Licensing Act as amended by the Violent Crime Reduction Act 2006. 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.

4

Applicant	<b>Charles Hill – Superintendent West Mercia Constabulary</b>	
	<b>Represented by: - James Mooney – Police Licensing Officer</b>	
Premise Licence Holder	<b>Kazimierz DUBINSKI</b> <b>Natałka Polskie Deliktsey, 22 Eign Gate, Hereford HR4 0AB</b>	
Solicitor	<b>Not known</b>	
Type of application:	Date received:	Interim Steps Hearing 48 hours
<b>Expedited Review</b>	<b>28/9/2011</b>	<b>29/9/2011</b>
<b>Review Period</b>	<b>29/9/2011</b>	<b>12/10/2011</b>

- 5 The expedited review hearing was held on 29 September 2011 where the committee considered an application made by the Chief Constable of the West Mercia Police. At that hearing it was decided that the premises licence should be suspended forthwith. At that time

the premises licence holder Kazimierz DUBINSKI, Nataalka Polskie Deliktsey, 22 Eign Gate, Hereford HR4 0AB was not present.

6 A notice of the full review was placed on the premises as required by law.

### **Current Licence**

7 The current licence authorises the following licensable activities during the hours shown: -

Sale by retail of alcohol (Off Premises only)  
Monday – Sunday 0600 – 23:00

8 The grounds for the review are contained in Appendix 1 and 2 of the background papers. The decision notice is attached at Appendix 3.

### **9 Representation**

Copies of the application and certificate have been sent to the responsible authorities.

No further representation has been received at this time.

## **Key Considerations**

10 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 an interested party (who is not also a responsible authority).

## **Community Impact**

11 It is felt that any decision will have little effect on the local community.

## **Legal Implications**

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

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

## **Consultees**

14 Responsible authorities and persons living within the vicinity or with a business interest within the vicinity of the premises.

15 The notice of review was displayed on the premises which invited representation between 29<sup>th</sup> September and 12<sup>th</sup> October 2011. The notice was also displayed at the offices of the

Licensing Authority at Bath Street.

## **Appendices**

- 16 a. Application Form for Expedited Review
- b. Certificate
- c. Decision Notice Interim Steps

## **Background Papers**

**Background papers are available for inspection in the Council Chamber, Brockington, 35 Hafod Road, Hereford 30 minutes before the start of the hearing.**

## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Herefordshire District Council

Licensing Authority

PO Box 233

Hereford. HR1 2ZF

**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 James MOONEY	[on behalf of] the chief officer of police
for	
the West Mercia	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:

**Natalka Polskie Deliktsey**

**22 Eign Gate**

**Hereford**

Post town: Hereford

Post code (if known): **HR4 0AB**

**2. Premises licence details:**

Name of premises licence holder (if known): Kazimierz DUBINSKI

Number of premises licence holder (if known): PR01165

**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]

On Friday 23 September 2011, a joint operation took place between West Mercia Police, Herefordshire Trading Standards and HMRC officers. This operation was lead by HMRC. A warrant was executed at a commercial premises known as Natałka Polskie Delikatsey, located in Eign Gate, Hereford. During the search of the premises 36 bottles of 70cl vodka were found and seized. These items had not been subject to UK tax and are viewed as contraband goods. In addition a small quantity of rolling tobacco (3 pouches) was also found and seized for the same reason. A search of the premises also found approximately £15000 in cash in locked safe. It is the view of West Mercia Police that the finding of such items indicates serious criminal activity resulting in significant financial gain through the non payment of relevant UK taxes. There is an on going investigation into the activities of the premises and those who are involved in its operation.

Signature of applicant: 

Date: 28.09.11

Capacity: Police Licensing Officer

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

Address:

Herefordshire Territorial Policing Unit

Hereford Police Station

Bath Street

Hereford.

Telephone number(s): 01432 347102

Email: [herefordandworcesterlicensing@westmercia.pnn.police.uk](mailto:herefordandworcesterlicensing@westmercia.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 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.

West Mercia Police  
Herefordshire Territorial Policing Unit  
Bath Street  
Hereford.

**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>1</sup>.

*Premises*<sup>2</sup>:  
Nataalka Polskie Delikastey  
22 Eign Gate  
Hereford. HR4 0AB

Premises licence number (if known): PRO1165

Name of premises supervisor (if known): Robert STULIGLOWA

I am a Superintendent Charles HILL<sup>3</sup> in the West Mercia 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>4</sup>:

On Friday 23 September 2011, this premises was subject to a joint HMRC, Herefordshire Trading Standards and West Mercia Police operation, where a warrant was executed at the premises. Alcohol, tobacco and cash was seized from the premises, all of which is suspected of being contraband goods and proceeds of crime.

The amount of alcohol, tobacco and cash seized from this premises indicates a level of serious criminal activity resulting in significant financial gain. There is a on going investigation into the activities of this premises and those who own and operate it. This will be a lengthy investigation due to other factors that have

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<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

<sup>3</sup> Insert rank of officer giving the certificate, which must be superintendent or above.

<sup>4</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.



come to light.

It is felt that other procedures are inappropriate due to the level of criminal activity that has been established and is still being uncovered.

Chubbick Sgt 944 28<sup>9</sup>/11  
(Signed) (Date)



**HEREFORDSHIRE COUNCIL**
**REGULATORY COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)**

<b>PREMISES</b>	Natalka Polskie Deliktsey
<b>PREMISES LICENCE HOLDER</b>	Mr Kazimierz Dubinski
<b>APPLICANT'S NAME</b>	West Mercia Police
<b>APPLICATION TYPE</b>	Summary Review
<b>PANEL MEMBERS</b>	Councillor JW Hope MBE (Chairman) Councillor PL Bettington Councillor Brig P Jones CBE
<b>DATE OF MEETING</b>	29 September 2011

Members of the Licensing Panel of the Council's Regulatory Committee considered the above application, full details of which appeared before the Members in their agenda and the background papers.

Prior to making their decision the Members heard from James Mooney, representing West Mercia Police.

Having carefully considered those matters brought before them and in reaching their decision, the Members had full regard to both the provisions of the Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Council's Licensing Policy. The Members made the following decisions in order to promote the licensing objective of the prevention of crime and disorder.

**DECISION**

- 1 It is the decision of the Committee that the premises licence Natalka Polskie Deliktsey be suspended forthwith subject to further review.

**REASON**

- 1 The Committee has found that there has been serious crime at the premises and has made its decision having heard evidence from West Mercia Police and in accordance with the guidance issued under Section 53A of the Licensing Act 2003 as amended. The Committee therefore decided that to promote the licensing objective of the prevention of crime and disorder the licence should be suspended.

**HEREFORDSHIRE COUNCIL****REGULATORY COMMITTEE DECISION NOTICE  
(THE LICENSING ACT 2003)****ADDITIONAL INFORMATION**

- 1 The Committee is required to review the premises licence in full within 28 days of the application for a summary licence review made on 28 September 2011.
- 2 The Licensee may make representations to the licensing authority in respect of the interim steps at any stage prior to the review. These representations must be heard by Committee within 48 hours (When calculating the 48 hour period any non-working day will be disregarded).
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

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