

AGENDA

Regulatory Sub Committee

Date: **Monday 17 October 2011**

Time: **9.00 am**

Place: **The Committee Room, Brockington, 35 Hafod Road,
Hereford**

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

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 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

	Pages
1. ELECTION OF CHAIRMAN	
To elect a Chairman for the hearing.	
2. APOLOGIES FOR ABSENCE	
To receive apologies for absence.	
3. NAMED SUBSTITUTES (IF ANY)	
To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
4. DECLARATIONS OF INTEREST	
To receive any declarations of interest by Members in respect of items on the Agenda.	
5. REPRESENTATION AGAINST INTERIM STEPS 'NATALKA POLSKIE, 22 EIGN STREET, HEREFORD, HR4 0AB.'	1 - 4
To consider representation received from Dadds Solicitors on behalf of the Premise Licence Holder against the interim steps imposed on 29 September 2011 following the expedited licence review of the premises licence to Nataka Polskie, 22 Eign Street, Hereford, HR4 0AB.	
Background Papers - Letter From Dadds LLP	5 - 6
Background Papers - Statement of DPS	7 - 14
Background Papers - Update from Police	15 - 18

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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.

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- 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.

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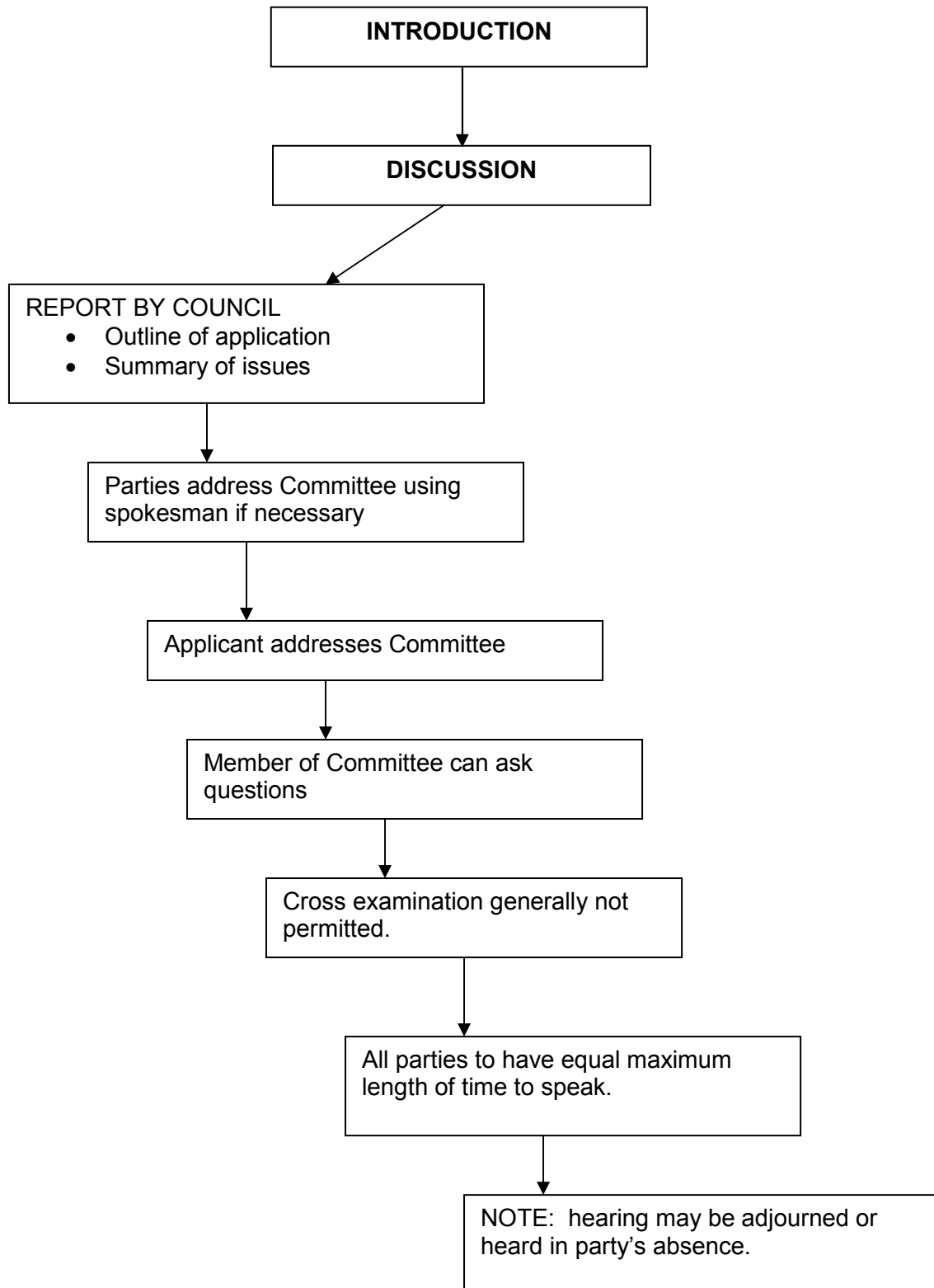
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY – SUB-COMMITTEE
DATE:	17TH OCTOBER 2011
TITLE OF REPORT:	REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 29 SEPTEMBER 2011 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE: NATALKA POLSKIE DELIKSTSEY, 22 EIGN STREET, HEREFORD, HR4 0AB
PORTFOLIO AREA:	ASSISTANT DIRECTOR (EHTS) PUBLIC HEALTH DIRECTORATE

CLASSIFICATION: Open

Wards Affected

Hereford

Purpose

To consider representation received from Dadds Solicitors on behalf of the Premise Licence Holder' Kazimierz Dubinski against the interim steps imposed on 29th September 2011 following the expedited licence review of the premises licence to Natalka Polskie, 22 Eign Street, Hereford, HR4 0AB.

Key Decision

This is not a Key Decision.

Recommendation

At the hearing the licensing authority must:

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

When considering the matter 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 premise licence holder.

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

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

- Expedited review held on 29th September 2011.
- Application received to make representation against the interim steps 13th October 2011
- Hearing arranged for 17th October 2011 within the required 48 hours.
- 13th October 2011 – Advanced notice of hearing sent to the premise licence holder and chief officer of police.

Options

The options that the licensing authority can consider taking are:

- 1 Uphold the interim steps taken on 29th September 2011.
- 2 Withdraw or modify interim steps taken.

Reasons for Recommendations

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

Background Information

- 4 The premises was originally licensed by the Licensing Authority on 11th January 2007. At that time the premises licence holder and designated premises supervisor (DPS) was Robert Stuliglowa.
- 5 On 31st October 2007 the licence was transferred into the name Kazimierz Dubinski. Robert Stuliglowa remained as the DPS.
- 6 Prior to the transfer Mr Dubinski was written to and asked to attend the Licensing Office to discuss the transfer.
- 7 Mr Dubinski failed to attend and at no time has the licensing authority seen or been able to

8 speak to Mr Dubinski.

8 On 28th September 2011 an application for an Expedited Review was made by the Chief Constable for West Mercia Police in respect of the Nataalka Polskie, 22 Eign Street, Hereford, HR4 0AB.

9 This matter appeared before the committee on 29th September 2011 and at that time it was decided to suspend the licence pending the full review, which is arranged for Wednesday 19th October 2011. (A copy of the decision notice is attached).

10 The premise licence holder may make representations against the interim steps taken by the licensing authority up to the time of the full review. Dadd's Solicitors who are acting for Kazimierz Dubinski, the premise licence holder, has made such application.

11 **Pre expedited Licence**

The previous licence authorised the following licensable activities during the hours shown: -

Sale by retail of alcohol

Monday - Sunday: 06:00 - 23:00

Key Considerations

12 To consider what action should be taken, if any, to review the decision made following the expedited review hearing.

Guidance issued by the DCMS in respect of Expedited Reviews states at paragraphs 3.5 – 3.7: -

3.5 If the licensing authority decides to take steps at the interim stage then:
The decision takes effect immediately, or as soon after then as the licensing authority directs; but

The licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who make the application.

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

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to a premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. 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.

Community Impact

13 It is felt that any action taken will have little adverse effect on the local community.

Legal Implications

- 14 There is no right of appeal against the decision of the Licensing Authority at this stage.
- 15 The premises licence could have made representation in respect of the review up until 12th October and no representation was received.
- 16 Follow the review hearing there is a right of appeal to the Magistrates Court.

Consultees

- 17 Responsible authorities and the premise licence holder.
- 18 A copy of the application has been served on the responsible authorities.

Appendices

- 19
 - a. Application form for expedited review
 - b. Certificate
 - c. Decision notice – expedited review
 - d. Representation from Dadds Solicitors acting on behalf of the Premise Licence Holder.

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.

Licensing Section
Herefordshire District Council
County Offices
PO Box 233, Bath Street
Hereford, HR1 2ZF

Our Ref: dd/lb/

Your Ref: PREM/1382

13th October 2011

Fax: 01432 383142
Email: licensing@herefordshire.gov.uk

Dear Sirs,

Re: Review of Premises Licence of Kazimierz Dubinski – PR01165
Natalka Polskie Deliktsey, 22 Eign Gate, Hereford, HR4 0AB

We write with reference to the above and confirm we have been instructed on behalf of the premise licence holder to make representation against interim steps.

We ask that this matter be considered within the next 48 hours of this representation. We ask if the local authority could liaise with ourselves to agree a date. Our dates for availability are Friday 14th October or in the alternative Monday 17th October.

We would also want to provide additional information to the licensing sub-committee against the imposition of the suspension.

We look forward to hearing from you as a matter of urgency.

Yours faithfully



DADDS LLP

Dadds Solicitors

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