

# AGENDA

## Regulatory Sub Committee

Date: **Monday 18 October 2010**

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Time: **3.00 pm**

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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 SPA Daniels  
Councillor JW Hope MBE  
Third Member TBC

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

The Council's Members' Code of Conduct requires Councillors to declare against an Agenda item(s) the nature of an interest and whether the interest is personal or prejudicial. Councillors have to decide first whether or not they have a personal interest in the matter under discussion. They will then have to decide whether that personal interest is also prejudicial.

A personal interest is an interest that affects the Councillor more than most other people in the area. People in the area include those who live, work or have property in the area of the Council. Councillors will also have a personal interest if their partner, relative or a close friend, or an organisation that they or the member works for, is affected more than other people in the area. If they do have a personal interest, they must declare it but can stay and take part and vote in the meeting.

Whether an interest is prejudicial is a matter of judgement for each Councillor. What Councillors have to do is ask themselves whether a member of the public – if he or she knew all the facts – would think that the Councillor's interest was so important that their decision would be affected by it. If a Councillor has a prejudicial interest then they must declare what that interest is. A Councillor who has declared a prejudicial interest at a meeting may nevertheless be able to address that meeting, but only in circumstances where an ordinary member of the public would be also allowed to speak. In such circumstances, the Councillor concerned will have the same opportunity to address the meeting and on the same terms. However, a Councillor exercising their ability to speak in these circumstances must leave the meeting immediately after they have spoken.

## AGENDA

	Pages
<p><b>1. ELECTION OF CHAIRMAN</b> To elect a Chairman for the hearing.</p>	
<p><b>2. APOLOGIES FOR ABSENCE</b> To receive apologies for absence.</p>	
<p><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.</p>	
<p><b>4. DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.</p>	
<p><b>5. EXPEDITED / SUMMARY LICENCE REVIEW OF PREMISES LICENCE: THE CROWN &amp; SCEPTRE INN, MARKET PLACE, ROSS-ON-WYE, HR9 5NX</b>  To consider a representation made by Sarah Dean, the premises licence holder, against the interim steps imposed on 6 October 2010 following the expedited licence review of her premises licence for 'The Crown &amp; Sceptre Inn', Market Place, Ross-on Wye, HR9 5NX.</p>	1 - 4
<b>Background Papers - Crown &amp; Sceptre - Police Certificate</b>	5 - 6
<b>Background Papers - Crown &amp; Sceptre - Application Form</b>	7 - 10
<b>Background Papers - Crown &amp; Sceptre - Representation</b>	11 - 12



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- 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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## **HEREFORDSHIRE COUNCIL**

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

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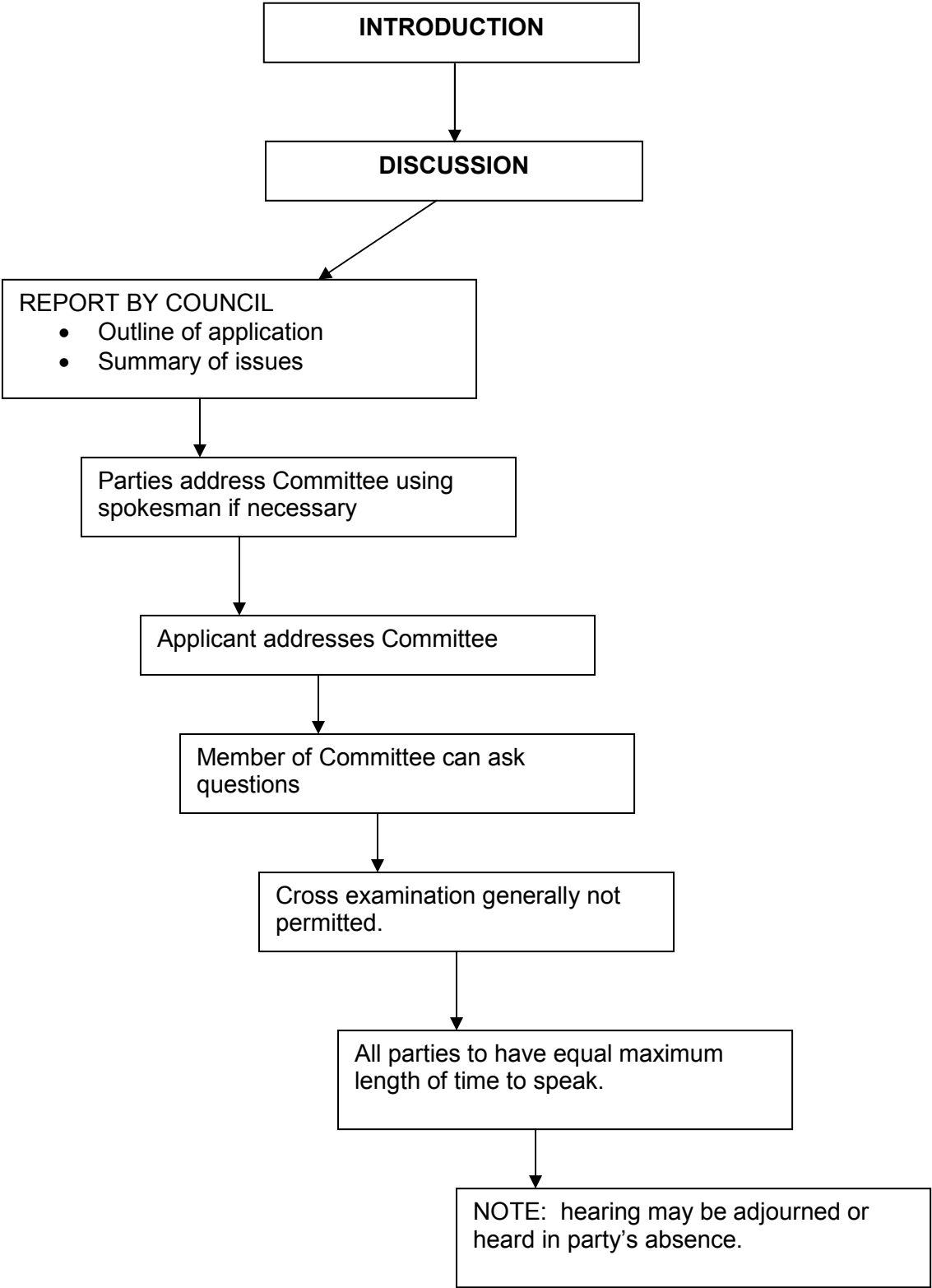
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# LICENCING HEARING FLOW CHART







<b>MEETING:</b>	<b>REGULATORY SUB-COMMITTEE</b>
<b>DATE:</b>	<b>18 OCTOBER 2010</b>
<b>TITLE OF REPORT:</b>	<b>REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 6 OCTOBER 2010 FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW OF PREMISES LICENCE:  THE CROWN &amp; SCEPTRE INN, MARKET PLACE, ROSS-ON-WYE, HR9 5NX</b>
<b>PORTFOLIO AREA:</b>	<b>ASSISTANT DIRECTOR EHTS PUBLIC HEALTH DIRECOTORATE</b>

**CLASSIFICATION:** Open

### **Wards Affected**

Ross on Wye

### **Purpose**

To consider a representation made by Sarah Dean, the premises licence holder, against the interim steps imposed on 6 October 2010 following the expedited licence review of her premises licence for 'The Crown & Sceptre Inn', Market Place, Ross-on Wye, HR9 5NX.

### **Key Decision**

This is not a Key Decision.

### **Recommendation**

THAT the Sub-Committee, when determining this representation against the interim steps, must take into account:

- The senior police officer's certificate that accompanied the application
- The chief officer's representation and
- Any representation made by the premises licence holder

### **Key Points Summary**

- Application received against the interim steps on 14 October 2010.
- Hearing arranged for 18 October 2010, within the required 48 hours of the application being made.

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

## Options

1 The committee must:

- Consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and
- Determine whether or not to withdraw or modify the steps taken.

## Reasons for Recommendations

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

## Background Information

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.

The expedited review hearing was held on 6 October 2010 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, Mr Cousens, was not present.

Sarah Dean has been at the premises since 27 August and as such should have been the premises licence holder and Designated Premises Supervisor (DPS), although no application had been submitted by her solicitor to that effect. At the time of the incident which led to the Expedited Review, she was at and in charge of the running of the premises.

On 13<sup>th</sup> October an application was received by the Licensing Authority from Sarah Dean, for transfer of the premises licence and change of DPS, both into her name, which was to have immediate effect.

The legislation allows the premises licence holder to make representation against the interim steps at any time up to the full review hearing.

The representation against the interim steps was made by Sarah Dean and received by email at the Licensing Authority on 14 October.

The full review hearing has been arranged for Wednesday 27 October at 10 am.

A notice of the full review has been placed on the premises as required by law.

### 3 **Current Licence**

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

An exhibition of a film, an indoor sporting event and any playing of recorded music

Sunday-Thursday: 10:00 – 00:00

Friday-Saturday: 10:00 - 02:30

A performance of live music and other regulated entertainment

Monday- Friday: 19:00 - 00:00

Saturday - Sunday: 12:00 - 00:00

Sale by retail of alcohol

Sunday-Thursday: 10:00 - 00:00

Friday-Saturday: 10:00 - 02:00

The following non standard timings are also attached to the licence:-

- An exhibition of a film, an indoor sporting event, any playing of recorded music and sale by retail of alcohol  
11.00 - 02.00 on Friday, Saturday and Sunday of Bank Holiday weekends.
- Alcohol only: On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

4 The grounds for the review are contained in Appendix 1 and 2 of the background papers. Also attached is the request to make representation against the expedited review.

### 5 **Responsible Authorities**

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

## **Key Considerations**

6 To consider whether the interim steps are necessary for the promotion of the 'Licensing Objectives' and to determine whether to withdraw or modify the steps taken.

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**

- 7 It is felt that if the wrong course of action is taken then this could have an adverse effect on the local community.

## **Legal Implications**

- 8 There is no right of appeal against the decision of the Licensing Authority at this stage.
- 9 However, the premises licence holder has until 19<sup>th</sup> October to make further representation in respect of the review. Following the review hearing there is a right of appeal to the Magistrates Court.

## **Consultees**

- 10 Responsible authorities and the premises licence holder.
- 11 A copy of the application has been served on the responsible authorities.

## **Appendices**

- 12 a. Application form for expedited review
- b. Certificate
- c. Request to make representation against the 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.**

West Mercia Police  
Territorial Policing Unit - Herefordshire  
Bath Street  
Hereford. HR1 1TA

**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>:

Crown and Sceptre Public House  
Market Place  
Ross on Wye  
Herefordshire. HR9 5NX

Premises licence number (if known): PR000646

Name of premises supervisor (if known):

I am a Superintendent <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>:

The police concerns over crime and disorder in and around this premises have been brought to the attention of the person in charge on 15/09/10 (follow up letter sent). The crime and disorder issues that are occurring have not stopped or reduced.

Serious disorder occurred on 02 October 2010 near to the premises, police

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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.

entered the public house to make an arrest, the customers 'turned on the police' preventing and obstructing them from performing the duty.

The staff and responsible person on the premise were unable to prevent these actions and had no proper control over the running of the premises.

All other intervention by West Mercia Police in an effort to resolve issues at this premises have failed at this stage.

The alleged offences and incidents are so serious in their nature that it is not appropriate to pursue this matter by way of a review of the premise licence under section 51 of the Licensing Act 2003.

The closure order being sought are necessary for the promotion of the licensing objectives of the prevention of crime and disorder

Chubbier Sgt 944                      4<sup>10</sup>/10  
(Signed)    (Date)

## 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 Section

County Offices

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)**

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 - Police Licensing Officer** [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:

**Crown and Sceptre Public House  
Market Place**

Post town: **Ross on Wye**

Post code (if known): **HR9 5NX**

**2. Premises licence details:**

Name of premises licence holder (if known): **Nicholas COUSENS**

Number of premises licence holder (if known): **HARTDC/07/0014**

**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]

**This premises is a medium sized public house in the town centre of Ross on Wye.**

**The premises licence is in the name of Nicholas COUSENS.**

**The premises is owned by Nicholas and Angela COUSENS. They are believed to be living in the Hampshire area.**

**It is believed the premises is being 'managed' by a Claire DEEN, who holds a personal licence**

**West Mercia Police have been concerned for a number of months with the level of crime and disorder that is occurring in or near this premises.**

**On 15 September 2010, a joint visit was made to the premises by the Licensing Authority and West Mercia Police Licensing Officer. They spoke to a Ms Claire DEEN. She holds a personal licence and indicated that she is in the process of taking over the lease of the premises and therefore saw herself as being responsible for the running of the public house. Ms DEEN was informed by the police of their concerns and was put on notice that steps should be taken to prevent or reduce the number of incidents occurring in the premises or nearby that could be attributed to the public house. Ms DEEN was informed that the situation would be reviewed on the 15 October 2010. This was later confirmed in writing to her.**

**Serious disorder took place in Ross on Wye town centre during the evening of Saturday 02 October 2010. This resulted in officers entering the public house in order to effect an arrest. As a result of this a number of the customers interfered with the arrest, obstructed the officers and attempted to effect the release of the detained person. The staff and management of the premises were unable to prevent this happening. As a result of this issue and others which occurred nearby, Ms DEEN agreed voluntary to close the premises.**

**In 2010, there has been in the region of 20 crime and disorder incidents in or near the premises. 11 of these have taken place since the end of June 2010.**

**It is the view of the West Mercia Police that the alleged offences and the cumulative impact of the incidents are of a serious nature and that it is necessary to promote the licensing objectives, and in particular the prevention of crime and disorder.**

**In order to promote the licensing objectives, West Mercia Police are requesting that the Licensing Authority issue an order to close the premises with**



immediate affect. This would allow a fuller review of the issues, management of the premises and the current premises licence.

Signature of applicant:



Date: 04 October 2010

Capacity: Police Licensing Officer

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

Address: **West Mercia Police  
Territorial Policing Unit - Herefordshire  
Hereford Police Station  
Licensing Officer  
Bath Street  
Hereford. HR1 2HT**

Telephone number(s): 01432 347102

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

## Spriggs, Fred

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**From:** sarah dean [sarahdean156@hotmail.com]

**Sent:** 14 October 2010 16:34

**To:** Spriggs, Fred

**Subject:** representation against the interim steps

1. I will employ 2 SIA doorstaff for Friday and Saturday night between 9pm and 12.30am from a company called CMTC phone number 07989745013.
2. I will carry out a risk assesment of this with an open mind to extend these hours if needed or to add an extra door person if required.
3. I propose to reduce the license hours to 10am-11pm Sunday to Thursday and 10am-00.00 Friday and Saturday.
4. I will ensure that either myself or the bar manager are on the premises at all times.
5. The outside area will be closed and locked by 11pm every evening.

