

AGENDA

Regulatory Sub Committee

Date: **Friday 20 December 2013**

Time: **10.00 am**

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

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

For any further information please contact:

Tim Brown, Democratic Services Officer

Tel: 01432 260239

Email: tbrown@herefordshire.gov.uk

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Agenda for the Meeting of the Regulatory Sub Committee

Membership

**Councillor BA Durkin
Councillor JW Hope MBE
Councillor GA Vaughan-Powell**

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 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. REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW AND REPRESENTATIONS AGAINST THE INTERIM STEPS IN RESPECT OF: THE BREWERS ARMS, EIGN ROAD, HEREFORD To consider the full review of a premises licence following an Expedited/Summary Licence Review and representations against the interim steps in respect of The Brewers Arms, Eign Road, Hereford.	9 - 26

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- 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.
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HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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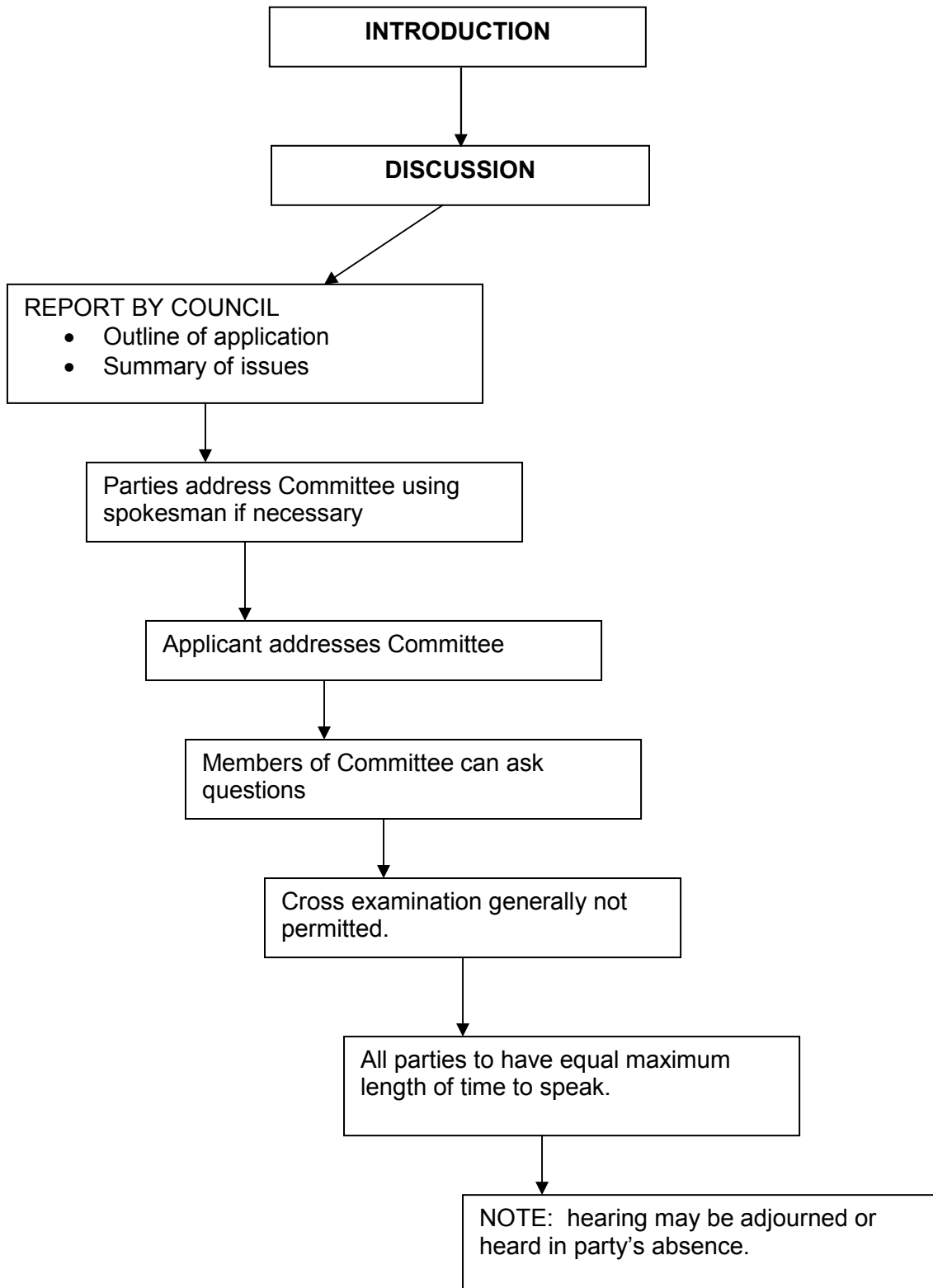
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LICENCING HEARING FLOW CHART



MEETING:	REGULATORY SUB-COMMITTEE
DATE:	20 DECEMBER 2013
TITLE OF REPORT:	REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW AND REPRESENTATIONS AGAINST THE INTERIM STEPS IN RESPECT OF: THE BREWERS ARM'S, EIGN ROAD, HEREFORD
REPORT BY:	LICENSING MANAGER

1. Classification

Open

2. Key Decision

This is not an executive decision.

3. Wards Affected

Tupsley

4. Purpose

To consider the full review of a premises licence following an Expedited/Summary Licence Review and representations against the interim steps in respect of 'The Brewers Arms, Eign Road, Hereford.

5. Recommendation(s)

THAT the Sub-Committee when determining this review must consider:

- **what steps it considers necessary for the promotion of the licensing objectives; and**
- **what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.**

6. Key Points Summary

- 25 November 2013 - Application received for an expedited review form West Mercia Police.
- 25 November 2013 - Copies of application and certificate sent to the premises licence holder by email.

- 27 November 2013 - Hearing held by the Regulatory Sub-Committee within the required 48 hours. The Sub-Committee suspended the licence pending the full review. (The decision notice is at Appendix 3.)
- 28 November 2013. - Application received to make representation against the interim steps.
- 2 December 2013 - Hearing held by the Regulatory Sub-Committee within the required 48 hours. The Sub-Committee agreed further interim steps permitting the premises to re-open subject to conditions. (The decision notice is at Appendix 4.).
- 20 December 2013 – scheduled date of full review hearing.

7. Options

There are a number of options open to the Sub-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; or
- take no further action

8. Reasons for Recommendations

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

9. Introduction and Background

9.1 The powers to call for an expedited review are contained in Section 53A of the 2003 Act by virtue of the Violent Crime Reduction Act 2006. The powers allow:

- i. 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
- ii. The licensing authority to respond by taking interim steps quickly, where appropriate, pending a full review.

Applicant	Ivan Powell – Superintendent West Mercia Constabulary
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Premise Licence Holder	Sean David Harrison & Steven Lloyd Harrison Brewers Arms, 97 Eign Road, Hereford, HR1 2RU	
Solicitor	Not known	
Type of application: Expedited Review	Date received: 25/11/2013	Full Review Hearing 20/12/2013

- 9.2 The requirements of the legislation are that the application must be accompanied by a Certificate signed by a Superintendent. Where that has happened, as in this case, the requirements for launching an expedited review has been met and the Licensing Authority do not have power to question whether such certificate should have been issued by a Superintendent.
- 9.3 The expedited review hearing was held on 27 November where the Regulatory Sub-Committee considered an application made by the Superintendent Ivan Powell of the West Mercia Police. At that hearing the Committee decided to suspend the licence pending the full review on 20 December 2013. (The decision notice is attached at Appendix 3 refers).
- 9.4 On 28 November 2013 an application was received by the Licensing Authority from Sean Harrison (one of the premises licence holders) who wishes to make representation against the interim steps.
- 9.5 A hearing was arranged and heard by the Regulatory Sub-Committee on 2 December 2013 and further interim steps were agreed. These are detailed in the decision notice at Appendix 4.

Current Licence

- 9.6 The following is authorised under the current licence:
- An indoor sporting event
 - Monday-Saturday: 20:00 - 23:00
 - Sunday: 19:00 - 23:00
 - A performance of live music and Dancing
 - Friday-Saturday: 20:00 - 01:00
 - Sunday: 20:00 – 00:00
 - Any playing of recorded music
 - Monday-Wednesday, Sunday: 12:00 - 01:00
 - Thursday: 12:00 - 02:00
 - Friday-Saturday: 12:00 – 2:30
 - Provision of late night refreshment
 - Monday-Wednesday: 12:00 - 00:00
 - Thursday, Sunday: 12:00 - 01:00
 - Friday-Saturday: 12:00 - 02:00

Sale by retail of alcohol
Monday-Wednesday: 12:00 - 00:00
Thursday: 12:00 - 01:00
Friday-Saturday: 12:00 - 02:00
Sunday: 12:00 - 00:30

The Grounds for the Review

The grounds for the review are contained in Appendices 1 and 2.

Responsible Authorities

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

10. Key Considerations

10.1 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).

10.2 The licensing objectives are:

- The prevention of crime and disorder,
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm

11. Community Impact

It is felt that if no action is taken this could have an adverse effect on the local community.

12. Equality and Human Rights

No implications have been identified.

13. Financial Implications

There are unlikely to be any financial implications at this time to the authority except if the decision is appealed.

14. Legal Implications

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.

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.

15. Appendices

1. Application Form for a Summary Licence Review
2. Certificate under Section 53(A) (1) (b) of the Licensing Act 2003
3. Decision Notice from the Regulatory Sub-Committee hearing – 27 November 2013
4. Decision Notice from the Regulatory Sub-Committee hearing – 2 December 2013.

16. 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.

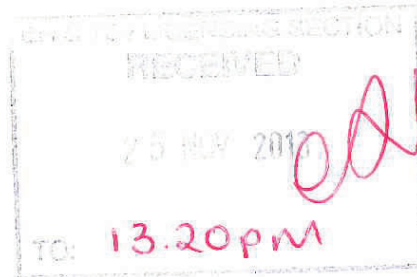
FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Herefordshire 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)

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 Richard REES [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:

**Brewers Arms Public House
97 Eign Road**

Post town: Hereford

Post code (if known): **HR1 2RU**

2. Premises licence details:

Name of premises licence holder (if known): Sean David HARRISON and Steven Lloyd HARRISON

Number of premises licence holder (if known): PR00047

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]

The premises is a licensed public house, a short distance from Hereford city centre.

It is a well established business serving a wide cross section of the community.

In recent months there has been heightened tension between rival criminal motorcycle groups in the city. Two incidents of disorder and assault occurred in the last 3 months where weapons had been used to cause harm. These two matters did result in police investigations, however there is little or no co-operation between the victims and witnesses who are known associates of each group.

In order to provide public reassurance and support for the licensing trade, a process has been put in place to increase police visits to locations where it is known the groups congregate.

One of these locations is the Brewers Arms Public House.

At 0447hrs on Sunday 24 November 2013, a report was received from the ambulance service with regards to a 'serious stabbing' at the Brewers Arms. Officers attended and found a male victim being treated for a serious stomach wound that had been caused by a bladed weapon.

Near to the scene a male and female were found - both were arrested on suspicion of attempted murder. Both are known to be connected to the 'biker groups'.

This is an on going police investigation, but it can be stated that the incident occurred inside the licensed premises at about 0445hrs. At this time the premises should have been closed - as it is licensed for licensable activities up until 0200hrs. Police investigations has established that both the victim and the suspects had been drinking inside the premises at the time of the incident, in company of other members of the public. An argument took place between two males.

A third male got involved in an attempt to stop the argument, however this resulted in one of the others producing a knife and stabbing him in the stomach. This resulted in a serious injury. One of the other males was also assaulted with minor injuries.

It is the view of the police that the premises licence holders and the designated premises supervisor have failed to have regard to the operating hours of the premises and therefore have failed to promote the licensing objectives. It has been established that the DPS Sean Harrison on his own admission is not often at the premises and states he has no knowledge of after-hours drinking at the location.

The premises licence for the location is an 'old licence' which includes conditions which are no longer relevant for this location. However it does have a number of conditions that are relevant and quite clearly are not being complied with. The most relevant being the provision of CCTV to cover the main entrance/exit door. There is NO CCTV at the premises whatsoever.

The view of the police is that this is a serious assault involving disorder and the use of a bladed weapon and therefore a serious criminal matter which could result in a prison sentence of 3 years or more on first conviction.

The fact that the premises was open to customers at the time of the incident shows a disregard to the law through the operating conditions contained on the premises licence.

The DPS is one of the joint premises licence holders and both have shown a lack of control and management of the premises.

As indicated this is an on going police investigation.

The view of West Mercia Police is that the premises licence should be suspended until a full regulatory licensing hearing.

If however the view is not to suspend the premises licence the view of West Mercia Police is that interim steps should be taken to promote the licensing objectives.

The view of West Mercia Police is that -

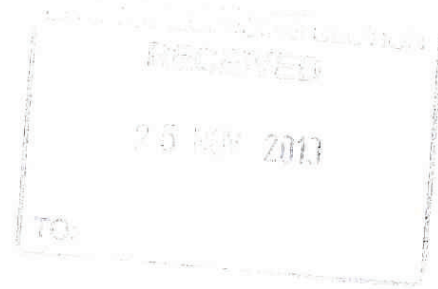
- 1. The terminal hour of the premises should be reduced to no later than 2300hrs**
- 2. CCTV should be provided to a standard agreed by both West Mercia Police and the Licensing Authority**
- 3. That Sean Harrison should be removed as the designated premises supervisor**
- 4. That a personal licence holder should be within the licensable area of the licensed premises at all times when licensable activities are undertaken.**

However it is the strong view of West Mercia Police that interim steps should be taken by suspending the premises licence pending a full regulatory hearing.

Signature of applicant: 
Date: 25 November 2013.
Capacity: Detective Inspector 3199 Richard REES

Contact details for matters concerning this application:

Address:
Hereford Police Station
Bath Street
Hereford. HR1 1HT



Telephone number(s): 01432 347102

Email: licensing.hereford@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:

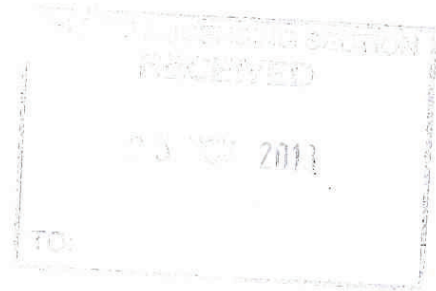
- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and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

ANNEX B

West Mercia Police
Herefordshire Territorial Policing Unit
Bath Street
Hereford. HR1 2HT



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 disorder¹.

*Premises*²:

Brewers Arms Public House
97 mEign Road
Hereford. HR1 2RU

Premises licence number (if known): PR00047

Name of premises supervisor (if known): Sean David HARRISON

I am  Superintendent Ivan POWELL ³ 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, because⁴:

This is a serious assault that took place on licensed premises.

The assault involved the use of a bladed weapon.

One side involved is known to be involved in criminal activity and is connected to organised criminal 'biker groups'.

There has been hightened tension between these groups.

¹ Delete as applicable.

² Include business name and address and any other relevant identifying details.

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

⁴ 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.

At the time of the incident the premises should have been closed, however it was open with customers.

The circumstances of the incident indicate a serious criminal offence and a lack of control and management by the joint premises licence holders and therefore all other procedures are in the opinion of West Mercia Police felt inappropriate.

Greg Snell

(Signed)

25th November 2013

(Date)

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

PREMISES	The Brewer's Arms
PREMISES LICENCE HOLDER	Mr Sean David Harrison and Mr Steve Lloyd Harrison
APPLICANT'S NAME	West Mercia Police
APPLICATION TYPE	Summary Review
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor Brigadier Jones CBE Councillor A Seldon
DATE OF MEETING	27 November 2013

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 and Sergeant Rob Davies representing West Mercia Police.

The Committee noted that the premises licence holders were not present but received confirmation that the papers had been served on them and that they were aware of the hearing.

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 decision in order to promote the licensing objective of the prevention of crime and disorder.

DECISION

- 1 The licence for the said public house premises be suspended forthwith subject to further review.

REASONS

- 1 The Committee accepted that the allegation if proved constituted serious crime which may have been committed on the premises.
- 2 The Committee felt it imperative that members of the public using these premises be protected.
- 3 The Committee also noted with concern clear allegations of recent use of the premises for the sale and consumption of alcohol outside licensing hours.

HEREFORDSHIRE COUNCIL

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

- 4 The above reasons are designed to prevent crime and disorder taking place on the premises.

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 25 November 2013.
2. The full review hearing has been set for Friday 20 December at 10:00 am in the Council Chamber, Brockington, 35 Hafod Road, Hereford HR1 1SH
3. 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).
4. There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

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

PREMISES	The Brewer's Arms, 97, Eign Road, Hereford
PREMISES LICENCE HOLDER	Mr Sean David Harrison and Mr Steve Lloyd Harrison
APPLICANT'S NAME	Mr Sean David Harrison
APPLICATION TYPE	Representation Against Interim Steps Following An Application For an Expedited/Summary Licence Review
PANEL MEMBERS	Councillor JW Hope MBE (Chairman) Councillor BA Durkin Councillor GA Vaughan-Powell
DATE OF MEETING	2 December 2013

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 Mr J Mooney and Chief Inspector A Thomas representing West Mercia Police and from Mr Steven Harrison and Mr Sean Harrison, the Premises Licence holders.

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 decision in order to promote the licensing objectives of the prevention of crime and disorder and public safety.

DECISION

1. The terminal hour of the premises should be reduced to no later than midnight on all days of each week (so that sale by retail of alcohol is permitted from mid-day to midnight.)
2. That CCTV should be provided to a standard agreed by both West Mercia Police and the Licensing Authority. This standard is set out in the model pool of licensing conditions contained in the Licensing Policy of Herefordshire Council.

(Model Condition: CCTV will be provided in the form of a recordable system, capable of providing pictures of EVIDENTIAL QUALITY in all lighting conditions particularly facial recognition.

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

Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas where the sale/ supply of alcohol occurs.

A monitor shall be mounted on the wall at the premises where it is clearly visible to all members of the public. The monitor shall show the live CCTV footage being recorded.

Equipment MUST be maintained in good working order, be correctly time and date stamped, recordings MUST be kept in date order, numbered sequentially and kept for a period of 31 days and handed to Police on demand.

The Premises Licence Holder must ensure at all times a DPS or appointed member of staff is capable and competent at downloading CCTV footage in a recordable format EITHER DISC or VHS to the Police/Local Authority on demand.

The Recording equipment and tapes/discs shall be kept in a secure environment under the control of the DPS or other responsible named individual. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant, in the event of any failings actions taken are to be recorded.

*In the event of technical failure of the CCTV equipment the Premises Licence holder/DPS MUST report the failure to the Police on contact number **0300 333 3000** immediately.*

3. That Mr Sean David Harrison should be removed as the designated premises supervisor
4. That a personal licence holder should be within the licensable area of the licensed premises at all times when licensable activities are undertaken.
5. **That before the premises re-open:** all staff should be trained to a standard set within the model pool of conditions contained within the Licensing Policy for Herefordshire Council. This standard is set as BIIAB level 1 licensing training or a standard agreed by Herefordshire Council Trading Standards.

(Model condition: All bar staff engaged in the sale of alcohol to be trained in Responsible alcohol retailing to the minimum standard of BIIAB level 1 or any other training recognised and agreed with Herefordshire Council Trading Standards. Training records shall be kept on the premises and shall be produced to the police or an 'authorised person' (as defined by Section 13 of the Licensing Act 2003) or an authorised Trading Standards Officer of Herefordshire Council on demand.)

6. That the premises licence holders will be an active member of any 'pub watch' scheme that is operating within the Hereford city area for the duration of its existence.
7. Upon the Licensing Manager in consultation with West Mercia Police being satisfied that a suitable Designated Premises Supervisor has been appointed and sufficient suitably trained bar-staff have been identified (as set out in paragraph 5 above) then the premises may reopen for the licensing hours as specified in paragraph 1 above.

HEREFORDSHIRE COUNCIL

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

8. The above conditions are subject to further review on Friday 20 December 2013.

REASONS

- 1 To protect the public.
- 2 To ensure that properly trained staff are in place on the premises. This is necessary because the premises recently suffered an incident of serious crime and disorder.
- 3 To promote the relevant licensing objectives

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 25 November 2013.
2. The full review hearing has been set for Friday 20 December at 10:00 am in the Council Chamber, Brockington, 35 Hafod Road, Hereford HR1 1SH
3. There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.

