

# AGENDA

## Regulatory Sub Committee

Date: **Friday 6 February 2015**

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Time: **2.30 pm**

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Place: **Committee Room1, The Shire Hall St Peter's Square  
Hereford HR1 2HX**

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

For any further information please contact:

**Clive Lloyd, Governance Services**

Tel: 01432 260249

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

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If you would like help to understand this document, or would like it in another format, please call Clive Lloyd, Governance Services on 01432 260249 or e-mail [Clive.lloyd@herefordshire.gov.uk](mailto:Clive.lloyd@herefordshire.gov.uk) in advance of the meeting.

# **Agenda for the Meeting of the Regulatory Sub Committee**

## **Membership**

**Councillor Brig P Jones CBE  
Councillor A Seldon  
Councillor CM Bartrum**

## 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 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. TO CONSIDER REPRESENTATION AGAINST THE INTERIM STEPS IMPOSED ON 4 FEBRUARY 2015 BY THE REGULATORY SUB-COMMITTEE FOLLOWING AN APPLICATION FOR AN EXPEDITED/SUMMARY LICENCE REVIEW OF THE PREMISES LICENCE IN RESPECT OF: THE DUCKING STOOL, 11 SOUTH STREET, LEOMINSTER, HR6 8JA - LICENSING ACT 2003</b>  To consider representation against the Interim Steps imposed on 4 February 2015 by the Regulatory Sub-Committee following an application for an expedited/summary licence review of the premises licence in respect of: The Ducking Stool, 11 South Street, Leominster, HR6 8JA.	9 - 38



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**SHIRE HALL, ST PETERS SQUARE, HEREFORD HR1 2HX.**

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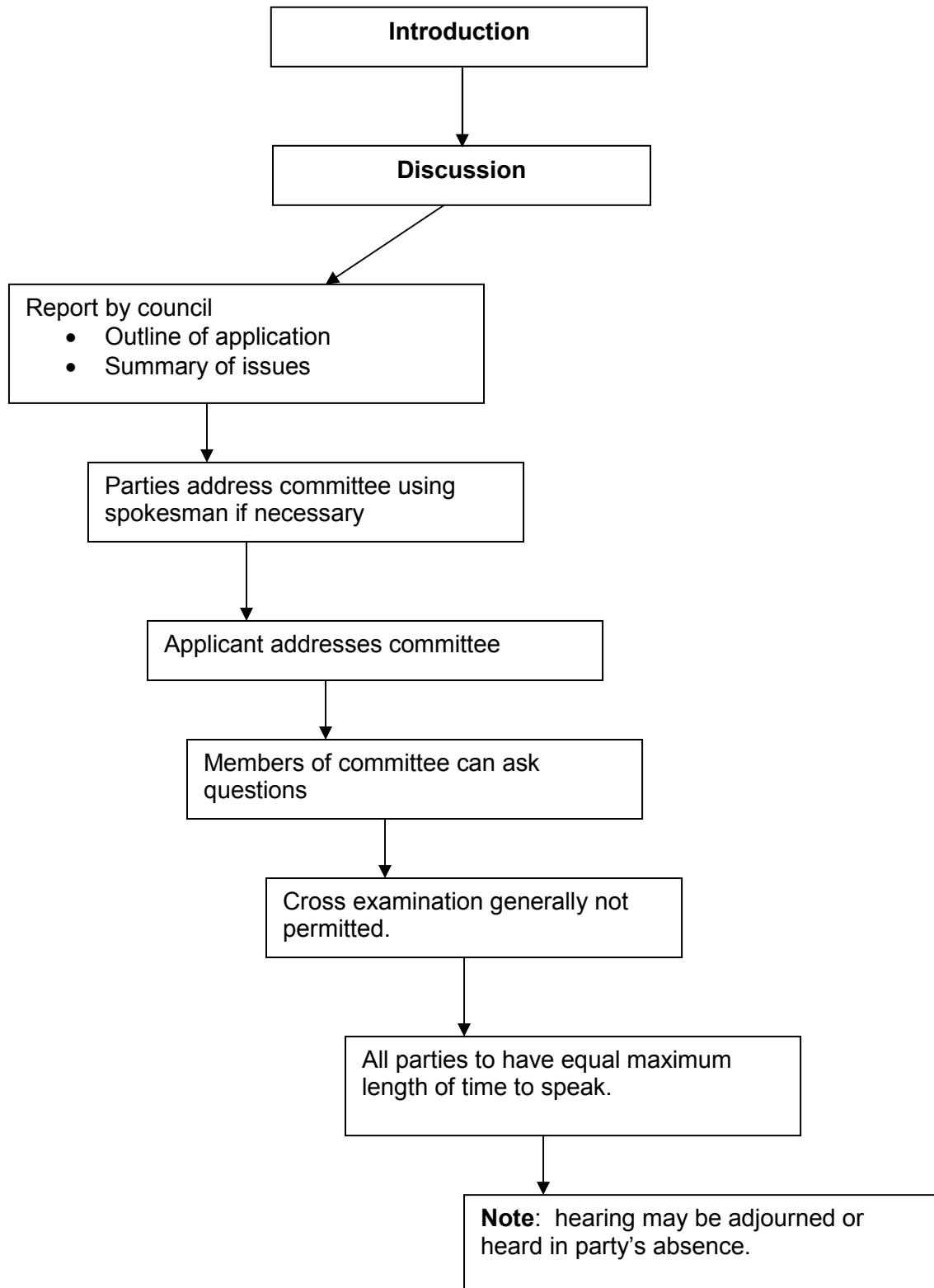
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## Licensing Hearing Flowchart









<b>Meeting:</b>	<b>Regulatory Sub-Committee</b>
<b>Meeting date:</b>	<b>6<sup>th</sup> February 2015</b>
<b>Title of report:</b>	<b>To consider representation against the Interim Steps imposed on 4 February 2015 by the Regulatory Sub-Committee following an application for an Expedited/Summary Licence Review of the Premises Licence in respect of: The Ducking Stool, 11 South Street, Leominster, HR6 8JA - Licensing Act 2003</b>
<b>Report by:</b>	<b>Head of Trading Standards and Licensing</b>

### **Classification**

Open

### **Key Decision**

This is not an executive decision.

### **Wards Affected**

Leominster

### **Purpose**

To consider representation against the Interim Steps imposed on 4 February 2015 by the Regulatory Sub-Committee following an application for an expedited/summary licence review of the premises licence in respect of: The Ducking Stool, 11 South Street, Leominster, HR6 8JA.

### **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
- Any representation made by the premises licence holder

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

- The steps that are necessary to assist with the prevention of serious crime and disorder,
- 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.

## 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.

The following are options in respect of modification

Take no action or

Take any of the following steps: -

- (a) to modify the conditions of the licence;
- (b) the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Where the authority takes a step mentioned in subsection (a) or (b), it may provide that the modification or exclusion is to have effect until the full review hearing.

## Reasons for Recommendations

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

## Key Considerations

3. Application received for an expedited review on 3<sup>rd</sup> February 2015.
4. Hearing held on 4<sup>th</sup> February 2015 within the required 48 hours.
5. Copies of application and certificate sent to the premise licence holder and responsible authorities.
6. Application against interim steps received on 4<sup>th</sup> February 2015.
7. 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:

- 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.
8. 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. The expedited review hearing was held on 4<sup>th</sup> February 2015 where the committee considered an application made by the Chief Constable of the West Mercia Police.
  10. At that hearing the committee decided that the licence should be suspended forthwith and that Janet Morris be removed as the Designated Premises Supervisor.
  11. On 4<sup>th</sup> February 2015 an application was received to make representation against the interim steps from the premises licence holder, Janet Morris.

12. **Current Licence**

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

A Performance of Live Music

Sunday – Thursday 20:00 – 23:00

Friday, Saturday 20:00 – 02:00

Any playing of Recorded Music

Sunday – Thursday 11:00 – 23:30

Friday, Saturday 11:00 – 02:00

Sale by retail of alcohol

Sunday-Thursday 11:00-00:00

Friday, Saturday 11:00-02:30

13. **The Grounds for the Review**

The grounds for the review and the Superintendent's authority are contained in Appendix 1 and 2 of the background papers.

14. The committee have to decide what action should be taken, if any, to prevent further outbreaks of serious crime and disorder and to promote the four licensing objectives in accordance with the recommendation.

## Community Impact

15. As Leominster is a small market town the incident is having a big impact on the Community as so many people know each other. It is understood that tensions are running high.

## Equality duty

16. There are no equality or human rights issues in relation to the content of this report.

## Financial implications

17. There are unlikely to be any financial implications for the authority at this time.

## Legal Implications

18. The premise licence holder may make representations against the interim steps taken by the licensing authority. There is not a time limit for the premises licence holder to make representation on the interim steps, although this would be within the normal review period of 28 days. On receipt of representations and if they are not withdrawn, a hearing must be arranged within 48 hours of receipt.
19. There is not right of appeal to the magistrates court.
20. 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.

## Risk Management

21. There is little risk associated with the decision at this time as the legislation allows representation to be made against the interim steps.

## **Consultees**

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

## **Appendices**

23. Application for expedited review
24. Superintendent's certificate
25. Summary Review Guidance issued by the Home Office
26. Decision notice from expedited review hearing of 4<sup>th</sup> February.

## **Background Papers**

None.



## 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

Blueschool House

Blueschool Street

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 Robert Barnett [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:

**The Ducking Stool  
11 South Street**

Post town: Leominster

Post code (if known): **HR8 8JA**

**2. Premises licence details:**

Name of premises licence holder (if known): Mrs Janet Morris

Number of premises licence holder (if known): PR00921

**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 is a well established licensed premises in a small market town. It has operated for a number of years, and in recent years it has developed a weekend late night trade.**

**Over the years there have been a number of incidents of disorder at the premises that have resulted in police attendance and intervention.**

**At about 1819hrs on 02 February 2015, a female reported to the police that her son had been assaulted at the venue in the early hours of Sunday 01 February 2015. This was the first time the matter had been brought to the attention of the police.**

**A police investigation has commenced and is still on going. What has been established is that at about 0100hrs on Sunday 01 February 2015, the victim aged 24 was in the premises with others playing pool, a disturbance took place where he was attacked and knocked to the ground. During this attack he received significant injuries to his face and in particular his left eye. Doorstaff were on duty on the night and did intervene in the incident, however it is the view of the police that at least one door supervisor has made an attempt to suppress the matter and has attempted to eject the 'victim' and not the suspects to the attack. It is the view of the police that this has happened as they are friends.**

**As part of the police investigation, CCTV was requested from the venue, whilst the quality is very good, the premises licence holder was not able to download it in viewable format as required by the premises licence. This is not the first occasion this has occurred.**

**The police are of the view that the premises licence holder and therefore the designated premises supervisor have failed to promote the licensing objective of the prevention of crime and disorder. The circumstances of the incident are serious with a number of people - no doubt under the influence of alcohol - attacking one person resulting in serious injury. The degree of injury and the overall circumstances could attract a prison sentence of 3 years or more.**

**The view of the police is that the following interim steps should be taken**

**Premises licence suspended immediately  
Designated premises supervisor removed**



**To put in place these interim steps in the view of the police is necessary due to the seriousness of the incident and the need to protect the public from harm by promoting the licensing objectives.**

Signature of applicant:

Date:

Capacity: Police Inspector 3499

 3/1/15

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

Address:

**Leominster Police Station**

Telephone number(s): 01432 347102

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

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>:

The Ducking Stool  
11 South Street  
Leominster. HR9 8JA

Premises licence number (if known): PR00921

Name of premises supervisor (if known): Mrs Janet Morris

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>:

This is a serious criminal matter of an allegation concerning assault at a level recorded as grievous bodily harm - S18 Offences Against the Persons Act 1861. The view of the police is that other procedures are inappropriate due to the nature and circumstances of the incident and therefore a requirement for urgent action

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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.

(Signed) Johnson (Date) 3/2/15

SUPERINTENDENT S. A. HOUNTS





Home Office

# Section 53A Licensing Act 2003

## Summary Review Guidance

## **CONTENTS**

- 1. Introduction**
- 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**

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

## **ANNEX B**

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

## 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 Part 8 of the 2003 Act 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, which are in Part 3 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 appropriate**, 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.

## THE STEPS

### 2. 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; and
  - (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 sections 161 to 165 of the 2003 Act 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. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance issued under section 182 of the 2003 Act (available at:

[www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing](http://www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing) ).

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

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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.

- 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 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:

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<sup>2</sup> Responsible authorities are defined under sections 13(4) and 69(4) of the 2003 Act.

- 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.

## **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>:

.....

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<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)**

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)*



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

<b>PREMISES</b>	The Ducking Stool
<b>PREMISES LICENCE HOLDER</b>	Mrs Janet Morris
<b>APPLICANT'S NAME</b>	Mrs Janet Morris
<b>APPLICATION TYPE</b>	Expedited/Summary Licence Review
<b>PANEL MEMBERS</b>	Councillor A Seldon (Chairman) Councillor CM Bartrum Councillor P Sinclair-Knipe
<b>DATE OF MEETING</b>	04 February 2015

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 Inspector Bob Barnett, representing West Mercia Police and Mrs Janet Morris, the Premises Licence Holder and Designated Premises Supervisor.

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. The decision of the Regulatory Sub-Committee is that the Premises licence is suspended and that the Designated Premises Supervisor is removed until such time that a full review is convened.

**REASON**

1. The nature of the injuries and apparent non-adherence to the Licensing Conditions is of great concern
2. The Sub-Committee's decision today in no way prejudices what the Sub-Committee's decision may be on any future review within the 28 day period. It will consider the matter on the review date when all relevant evidence must be before it.

**ADDITIONAL INFORMATION**

- 1 The Committee is required to review the premises licence in full within 28 days of the application for an Expedited/Summary licence review made on 3 February 2015.

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

- 2 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.