

AGENDA

Regulatory Sub Committee

Date: **Thursday 13 August 2015**

Time: **11.00 am**

Place: **Committee Room 1, The Shire Hall, St Peter's Square,
Hereford, HR1 2HX**

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

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Agenda for the Meeting of the Regulatory Sub Committee

Membership

**Councillor BA Durkin
Councillor DW Greenow
Councillor PJ McCaull**

AGENDA

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| 1. ELECTION OF CHAIRMAN
To elect a Chairman for the hearing. | |
| 2. DECLARATIONS OF INTEREST
To receive any declarations of interest by Members in respect of items on the agenda. | |
| 3. REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW IN RESPECT OF: THE ROYAL OAK HOTEL, SOUTH STREET, LEOMINSTER, HR6 8JA - LICENSING ACT 2003
To consider an application for Review of a Premises Licence following the Expedited/Summary Licence Review in respect of 'The Royal Oak Hotel, South Street, Leominster, HR6 8JA. | 9 - 50 |

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HEREFORDSHIRE COUNCIL

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

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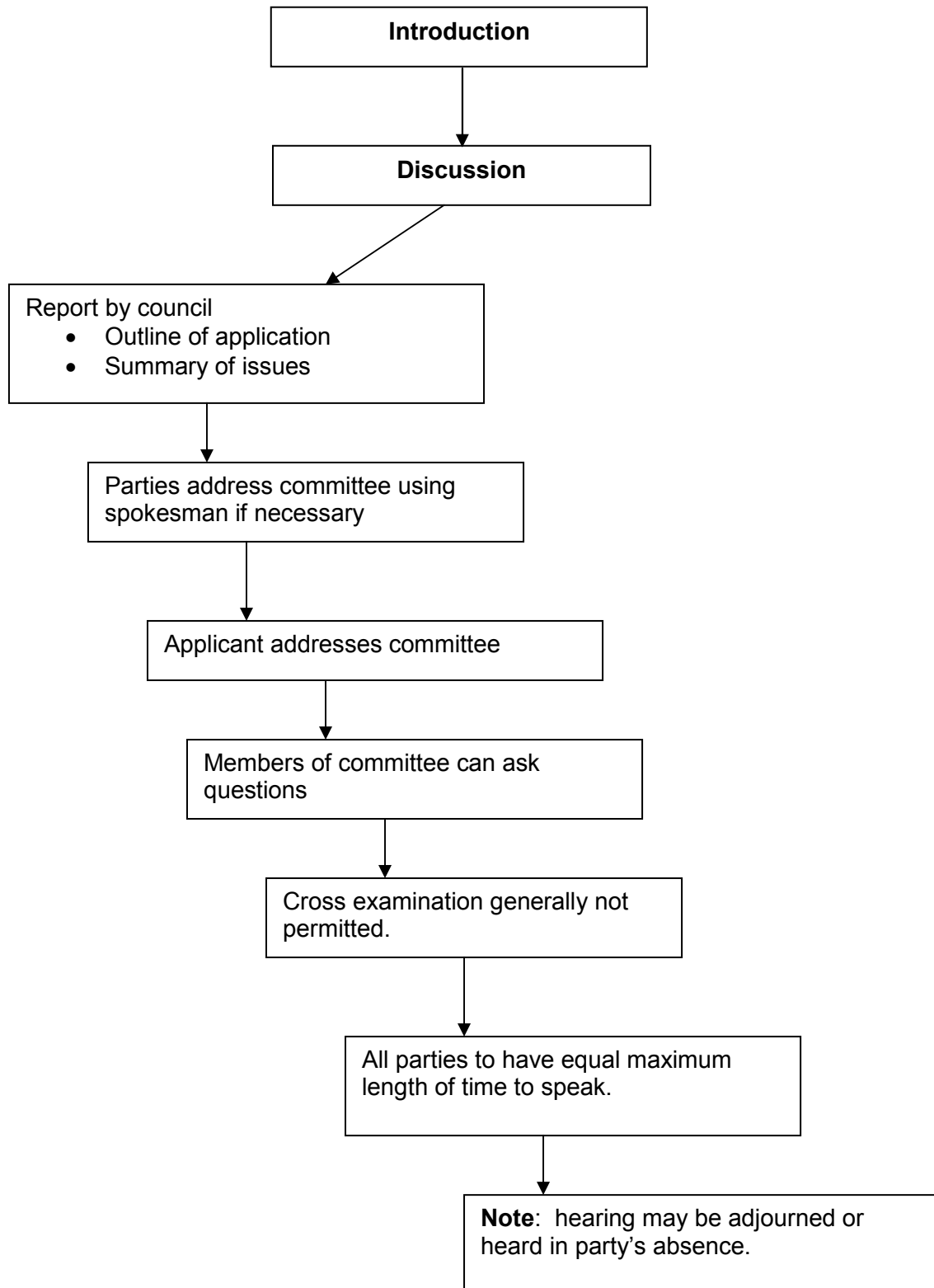
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Licensing Hearing Flowchart





Meeting:	REGULATORY SUB-COMMITTEE
Meeting date:	13 AUGUST 2015
Title of report:	REVIEW OF A PREMISES LICENCE FOLLOWING THE EXPEDITED/SUMMARY LICENCE REVIEW IN RESPECT OF: THE ROYAL OAK HOTEL, SOUTH STREET, LEOMINSTER, HR6 8JA - LICENSING ACT 2003
Report by:	HEAD OF TRADING STANDARDS AND LICENSING

Classification

Open

Key Decision

This is not an executive decision.

Wards Affected

Leominster East

Purpose

To consider an application for Review of a Premises Licence following the Expedited/Summary Licence Review in respect of 'The Royal Oak Hotel, South Street, Leominster, HR6 8JA.

Recommendation

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.

They should give appropriate weight to:

- The steps that are appropriate to promote the licensing objectives
- The Guidance issued to local authorities under Section 53A of the Licensing Act 2003 by the Violent Crime Reduction Act 2006 (Appendix 3)
- The Police application made in respect of the expedited review together with the Superintendent's Certificate
- The representations (including supporting information) presented by all parties, and
- The Herefordshire Council Licensing Policy.

Options

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

Where the authority takes a step mentioned in subsection (a) or (b) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.

Reasons for Recommendations

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

Key Considerations

3. 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.

Applicant	Chief Constable – West Mercia Police Represented by: - Inspector Barnett
Premise Licence Holder	Minster House (Leominster) Limited Meriden House, 6 Great Cornbow, Halesowen, West Midlands. B63 3AB

Solicitor	N/K	
Type of application: Expedited Review	Date received: 20/7/2015	End of 28 day period 17/08/2015

4. The application for an expedited review was received on 20 July 2015.
5. A hearing was held on 22 July 2015 within the required 48 hours.
6. At that hearing the sub-committee heard from the police. The premises licence holder did not attend.
7. The sub-committee decided to suspend the licence with immediate effect until such time as:
 - a) The present Designated Premises Supervisor (DPS) has been removed and a new DPS appointed.
 - b) CCTV camera equipment shall be fitted, operating and approved by the Council's Licensing officer to all appropriate parts of the premises including Bar 44.

The conditions of the licence to be modified to require that:-

- a) a minimum of two SIA registered door staff be employed from 21:00hrs on Fridays and Saturdays and on all occasions when regulated entertainment takes place until the conclusion of licensable hours and activities.
 - b) a personal licence holder be on the premises at all the above times (noted in the previous condition).
8. Copies of the application and certificate were sent to the premise licence holder and responsible authorities.
 9. At the time of writing this report:
 - The Designated Premises Supervisor has been replaced

But

- Whilst some additional CCTV cameras have been installed the CCTV system still does not cover all appropriate part of the premises and therefore the system cannot be approved by the Council's Licensing officer.
10. The Licensing Officer has written to the premises licence holder and has advised them that the requirement of the Licensing Authority is that:
'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. Cameras shall encompass all ingress and egress to the premises, fire exits, outside areas, and all areas as shown on the premises plan (which forms part of the licence) where licensable activities take place. 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

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

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'

11. The last contact with the premises was by the Licensing Officer, by email (appendix 4) on 3th August advising that the requirements still had not been met. At this time no response has been received.
12. There have been a number of emails exchanged between the Licensing Officer and the premises.
13. **Current Licence**
The current licence authorises the following licensable activities during the hours shown: -

A performance of live music; Any playing of recorded music;; Other entertainment facilities; Sale by retail of alcohol
Monday-Thursday: 09:00 - 23:30
Friday-Saturday: 09:00 - 01:00
Sunday: 09:00 - 00:00

Provision of facilities for Dancing; Making music
Monday-Thursday: 09:00 - 23:30
Friday-Saturday: 09:00 – 01:00
Sunday: 09:00 - 00:00

Provision of late night refreshment
Monday-Thursday: 23:00 - 23:30
Friday-Saturday: 23:00 - 01:00
Sunday: 23:00 - 00:00

Non standard timings: All of the above
On the Sunday before a Bank Holiday Monday until 01.00.
14. **The Grounds for the Review**
The grounds for the review and the Superintendent's authority are contained in Appendix 1 and 2.
15. The licensing authority has received 1 public representation in relation to the review application. (appendix 5).
16. No representation has been received from any of the responsible authorities.

Community Impact

17. Any decision is unlikely to have any significant effect of the local community.

Equality duty

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

Financial implications

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

Legal Implications

20. An appeal may be made within 21 days of the licence holder being notified of the licensing authority's decision to a magistrates' court.
21. An appeal may be made by the premises licence holder, the chief officer of police and/or any other person who made relevant representations.
22. 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.

Risk Management

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

Consultees

24. Copies of the application and certificate have been sent to the responsible authorities. A notice has been displayed at the premises, at the offices of the Licensing Authority and details have been shown on the council website.

Appendices

1. Application for expedited review
2. Superintendent's certificate
3. Summary Review Guidance issued by the Home Office
4. Email from Licensing Officer dated 3 August 2015
5. Public Representation
6. Regulatory sub-committee decision notice 22 July 2015

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 District Council Licensing Authority

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 Chief Inspector Adam Thomas [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 Royal Oak Hotel
South Street
Leominster HR6 8JA**

Post town: Leominster

Post code (if known): **HR6 8JA**

2. Premises licence details:

Name of premises licence holder (if known):

Minster House (Leominster) ltd.

Number of premises licence holder (if known):

PRO1333

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 Royal Oak Hotel is an established business in the market town of Leominster.

The venue is licensed for the sale/supply of alcohol and regulated entertainment on Friday and Saturday nights until 0100hrs. The final terminal hour for the public to be on the premises licence for these dates is 0130hrs

At weekends it runs late night entertainment - usually in the form of a disco in the cellar bar.

At 0125hrs on Saturday 18 July 2015, a telephone call was received by the police by someone called Charmaine - it is believed that this female is Charmaine Brooks, the manageress of the premises. She is not named on the premises licence and does not hold a personal licence issued by any licensing authority.

The call stated 'I have been told to ring the police and ask you to come asap to the outside of the hotel as its kicking off'.

Officers did attend with a number arriving a short time later and quickly established that a male had received a serious injury to his head after being struck by a bottle.

It was further established that the injured male was employed at the premises, working as a DJ in the cellar bar - a bar commonly known as Bar 44. It appears that between 0100hrs and 0115hrs the disco was still going, with the bar full of customers. A fight broke out involving a number of people, and the victim stepped in to break it up. He was then hit on the back of the head with a bottle causing a 2" gash.

The victim has no idea who hit him, and has stated that he was on the floor and was attempting to get to his feet when he was struck.

The following has been established -

There is no premises CCTV in the the cellar bar of the premises.

The designated premises supervisor Russell Stevens was not on the premises at the time of the incident.

There is no information that any SIA registered door supervisors were working at the premises - this however needs to be clarified.

4. Details of association of the above premises with serious crime, serious disorder or both:

[Please read guidance note 2]

From reviewing the premises licence for the venue, it includes a condition that states -

'That a CCTV system is installed which meets the requirements of the Police and the Licensing Authority. To be installed by 01 May 2009'.

There have been a number of police and Licensing Authority interventions with the premises licence holder in recent years. The most recent being a premises visit and inspection by the Licensing Authority on the 26 March 2015, with a follow up letter sent dated 14 April 2015. This letter covered a number of licence breaches - including the fact that CCTV did not meet the requirements of the authority - specifically coverage of Bar 44 (the cellar bar) and its approaches for customers.

An e-mail was received in response by the authority dated 30 April 2015. This was sent by Charmaine Brooks in her capacity as manager. Amongst other things it indicated that CCTV was on order and would be fitted as soon as it was received.

West Mercia Police are of a view that the incident on the 18 July 2015, is a serious crime incident that involved the use of a bottle as a weapon that resulted in a serious injury to the victim. The level of injury could result in a prison custodial sentence of 3 years or more on conviction.

The breaches of licence conditions are also serious, in particular the failure of the premises licence holder to address the major concern over CCTV coverage.

Due to this incident and the lack of control and management by the premises licence holder, there are concerns that the venue will continue to flout the law and therefore undermine the licensing objectives and put the public at risk.

West Mercia Police would therefore request the following interim steps be put in place -

1. The designated premises supervisor be within the licensable area of the premises from 2000hrs on Friday and Saturdays and at all times when regulated entertainment takes place, until the conclusion of licensable hours and activities.
2. That the licensable area of the premises be restricted to the ground floor lounge area and the Acorn bar as indicated on the premises plan
3. That a minimum of 2 (two) SIA registered door supervisors be employed at the premises from 2100hrs on Friday and Saturdays and on all occasions when regulated entertainment takes place until the conclusion of licensable hours and activities.

It is the view of the police that these interim steps are proportionate and necessary to promote the licensing objectives and to protect the public from harm.



Signature of applicant:

Date: 20 July 2015

Capacity: *OPERATIONS CHIEF INSP*

Contact details for matters concerning this application:

Address:

**Harm Reduction/Community Safety Department
Hereford Police Station
Bath Street
Hereford HR1 2HT**

Telephone number(s): 01432 347102

Email: HerefordAntiSocialBehaviour@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
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~~¹.

*Premises*²:

The Royal Oak Hotel
South Street
Leominster. HR6 8JA

Premises licence number (if known): PRO1333

Name of premises supervisor (if known): Russell Warren Stevens

I am a Superintendent Mark Travis 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 criminal matter with an assault offence recorded as grievous bodily harm.

The nature and circumstances of the incident are serious and require prompt action. Therefore whilst other procedures have been considered, they are not appropriate in these circumstances

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.



20/7/2015

.....
(Date)



Home Office

Section 53A Licensing Act 2003

Summary Review Guidance

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- 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.¹

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).

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

¹ 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 authority².

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:

² 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 disorder³.

*Premises*⁴:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a _____⁵ 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, because⁶:

.....

³ Delete as applicable.

⁴ Include business name and address and any other relevant identifying details.

⁵ Insert rank of officer giving the certificate, which must be superintendent or above.

⁶ 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.



Home Office



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E-mail from Licensing Officer - 3 August 2015

Good morning Charmain

I need to establish from you who I am actually dealing with in respect of this matter. I therefore need one point of contact - please let me know who that is .

I asked you to provide certain information to me in order to move this matter forward. It is disappointing to note that you failed to provide the correct information. The very fact that the information has changed in such a short space of time raises the question of the validity of that information.

I need to make it absolutely clear to you the seriousness of this whole matter. It would appear that you are not taking the issues seriously and this is supported by your absence from the premises. The issues surrounding these premises clearly demonstrate the poor management at the premises. This is further supported by the continuing issues surrounding fire safety and the lack of engagement with the Fire Authority.

The police, fire authority and Licensing Authority have a duty to promote the Licensing Objectives of the Prevention of Crime and Disorder, Public Safety, Prevention of Public Nuisance and the Protection of Children from Harm. Where the authority cannot be satisfied that these are being promoted they can as the ultimate sanction revoke the premises licence.

Turning to the issue of the cameras:

I note that you say you have one camera in pool/games room (there is no pool/games room shown on the plan) - I need to know where this room is

I also note that there are no cameras covering the upstairs function rooms

I need to be able to confirm the specification of the system fitted at the hotel to ensure that it does record footage for the 31 days. Therefore please provide details of the company who installed it so that I can confirm the specification.

Additionally when I visit there will be a full premises inspection carried out set against the licence and the plan. Any breaches will result in a Closure Notice being issued. I therefore suggest that you ensure everything is in order.

Many thanks
Fred Spriggs

-----Original Message-----

From: Royal Oak [*****]

Sent: 31 July 2015 17:53
To: Spriggs, Fred
Subject: Royal oak Leominster

Mr Spriggs

I was present when Mr Mckay sent the email it was a over sight on my behalf i
apologies for over sight as myself and john have been working on this together all week

Look forward to receiving a email back Monday morning where myself and Mr McKay
will be happy to help you with anything you need

Many regards
Charmain Brooke
Manageress
John Mckay
DPS

Ms. A. & Mr. P. Falcini



Licensing Section
Herefordshire Council
Blueschool House
PO Box 233
Hereford
HR1 2ZB



25th July 2015

Dear Sirs

Re: Expedited Review of a Premises License for the Royal Oak Hotel, South Street, Leominster, Herefordshire.

We would like to make a representation to the expedited review of the license in regard to the above premises.

We live directly opposite the premises in a section of South Street close to the Royal Oak Hotel, a mixed area of commercial and residential properties.

We are concerned with;

- 1) **Prevention of Crime and Disorder** – There has been an increase in anti-social behavior since the change in license in 2009 at the premises. This includes violent conduct and shouting & disruption as customers leave the premises in the early hours. For example on the 12/04/14 we witnessed a fight involving about ten people in the street that came from the Royal Oak (please reference the entry on the attached Royal Oak Log).
- 2) **Public Safety** – With fights and disturbances caused by an excess of alcohol there is an increasing risk to members of the public both inside the premises and outside of it.
- 3) **Public Nuisance** – Since the license change in 2009, there has been a consistent increase in the disturbance caused by loud music, live and recorded, being played in the premises at unacceptable levels that have caused us disturbed nights. For example in 2014 there were regular incidents of excessive noise that we logged (see Royal Oak Log attached to this letter).

On the 04/05/14 a live band, Spirit Krek were playing at the front of the property from 21.15pm until 23:00 with decibel recordings of between 86-96 outside the pub window. These decibel recordings were made on my mobile phone using a decibel measuring app. Inside our house we recorded measurements of

between 53 -68 db. The main front double door was open with the internal door closed. This impacts upon our evening as the noise invades our front rooms where we are unable to watch television or sleep in the front bedroom.

There have been issues with an external speaker situated above the front door, which emits recorded music, and on the 26/05/14 we complained to the Landlady about this speaker. When confronted about this abuse, she admitted she didn't have a copy of the license agreement and didn't know the terms and conditions, (please reference the last entry of the Royal Oak Log and also an attached email of the 26/05/14 to Mr. Arran Semple at Herefordshire Council).

Looking back at the history of the issues with the premises, we note that a letter to the Licensing Officer dated 08/04/09 from Mr. Phillip Cornell that mentions an offer of double glazing being installed, offered by the owner, Mr. Stevens to reduce noise but this was never implemented by him. This at least, would have helped to reduce the impact of noise abuse by activities of the Royal Oak on residents and neighbours.

In conclusion we would be grateful if you could consider all of the issues, which we have highlighted, and the historical evidence we are presenting.

Yours sincerely

Anna & Peter Falcini

Royal Oak Log

Date and Time	Police incident No	Email EHO	Email Licensing	Phone EHO	Phone Licensing	Other notes
4/4/14 9-1am						Recorded music
6/4/14 8-10pm						Disco
12/4/14 9-12 midnight	572/5/110414 Adam Harris PC6981 phoned and gave advice.	yes	yes	no	no	Live band-Spirit Krek,FB claim they would blow the doors off
13/4/14 1.30-2am	Reported to the police in the morning	yes	yes	no	no	Fight outside
18/4/14 9.30- 12.30	no	yes	yes	no	no	DJ recorded music got louder at 10pm Db-70 outside front door
19/4/14 9- 12.30	no	yes	yes	no	no	DJ recorded music 10.35-74 outside front door, 11.15-inside window sill. 54-60, outside front door 72, outside the royal oak- 74-78, 11.35 inside- 53-60, outside front door 69-74, 12.20, inside 48-60.
4/5/14 21.15- 23.00	688/5/040514	yes	yes	no	no	Live band-Spirit Krek- 21.15-front door-74-90 outside pub 86-96 inside house 53-68
17/05/14 21.00 – 24.00 approx.		no	no	no	no	Karaoke event.
23/05/14 21.00 – 24.00		yes	yes	no	no	Live band Spirit Kreek Playing from 21.00 until 22.30 and from 23.00 – 24.00 Inside house recorded 58 –70 db outside our front door 76-84 Outside pub 85 - 94
25/05/14		yes	yes	no	no	Live band started playing at 9.30pm – 10.30pm and then from 10.45 – 12.06. 59 –65 db inside house, 73 –85 db outside on our front doorstep.
26/05/14		yes	yes	no	no	Recorded music being played on an outdoor

						<p>speaker above the entrance to the pub. Started at 19.00 and continued until approx. 21.30. Pete went to discuss it with the landlady who had no copy of the license and didn't know what the terms and conditions were. She said the speaker was linked to the music inside and could not turn it off.</p>

-----Original Message-----

> From: Peter Falcini [REDACTED]

> Sent: 26 May 2014 22:26

> To: Semple, Arran

> Cc: Spriggs, Fred; Anna Falcini

> Subject: Royal oak

>

> Hi Aran,

>

> I know my wife Anna has been in contact with you about noise/ music from the royal oak this weekend.

>

> Tonight they again have been using there outside speaker by the front door to play music loud, opening the two front doors too, so to attract customers.

>

> I did chat to the landlady about this. She was worried about turning the music down, she felt it would have an impact to trade. I did cover the details about the licence which she was not aware of which was a surprise to me.

>

> Fearing for my safety, I left the pub, as I was getting challenged by other people as we talked.

>

> We have had a bad weekend, which has no end game that I can see....can you tell me when we can have the kit to measure the noise levels? There is another band/ event planned for two weeks time, is that possible then?

>

> We want to get evidence together, as we cannot go on with this.

>

> Hoping you can help....

>

> Thanks peter.

>

From: Anna Falcini [REDACTED] **Sent:** 27 October 2013 22:40 **To:** Licensing **Cc:** Peter Falcini; Jaime Jackson; John Mead; Lesley Prosser; cornellandco@hotmail.com **Subject:** The Royal Oak, Leominster

Dear Madam

I would like to again, register a complaint about the Royal Oak, South street in Leominster following another breach of the license. On Saturday 27th October, music was heard from the premises at 8.30 pm. The license clearly states that music is permitted from 9.00 pm onwards. This is the second week where it has begun at 8.30 pm.

The levels of the music were again loud enough to disturb our evening.

At 10.30 pm, the volume of the music increased. At 11.30 there was another increase in the volume of the music and it became so loud that there were vibrations from the music felt in our house opposite and it was impossible to get any sleep. At this point there were police present in the street attending an incident at The Ducking Stool, further up the street. At 11.55 pm, the police spoke to the security outside the Royal Oak but the issue was not resolved. The music continued until 1.15 am at this level of volume.

To quote from the license conditions - 'Staff shall make regular checks to ensure noise does not emanate from the premises so as to cause a public nuisance.'

'5. noise or vibration shall not emanate from the premises so as to interfere with the use or enjoyment of any neighbouring premises.'

'6. Staff shall check to ensure that noise emanating from the premises does not cause public nuisance at least on an hourly basis whilst recorded music.... Is being played other than background music. If the noise is observed to be at an unacceptable level immediate action must be taken to address the problem.'

No staff were witnessed monitoring the volume of music. No action was taken to lower the volume of music so that it was not emanating from the building.

We would be very grateful if can you advise us of the actions that will be taken in regard to the breach of the license agreement and the issues which this is causing us as residents. Thank you.

With kind regards

Anna & Peter Falcini

From: Anna Falcini [mailto: [REDACTED]]
Sent: 16 October 2013 10:32
To: Customer Resolution Team
Subject: Re: The royal oak

Thank you for passing this on.

I would like to inform the Council of another breach of the license. The Royal Oak in Leominster again had recorded music emanating from the building at an unacceptable level on Saturday the 12th October from 9.30 pm onwards. Again the door was open.

We telephoned the police and have an incident number if you require this.

Best wishes
Anna Falcini

On 16 October 2013 09:20, Customer Resolution Team
<CustomerResolutionTeam@herefordshire.gov.uk> wrote:

Dear Ms Falcini

Thank you for contacting Herefordshire Council.

This has been passed on to our Community Protection Team who will look into and resolve this matter. The case reference number for this is CAS-355344-B4K9K6

This and further information is available on our website.

Herefordshire Council Customer Services

From: Anna Falcini [REDACTED] **Sent:** 03 October 2013 21:23
To: Licensing **Cc:** Info (Shared Mbx) **Subject:** The royal oak

Dear Madam / Sir

The Royal Oak Hotel in South Street, Leominster, continues to abuse its license. Since August there have been 3 incidents of noise abuse. These are as follows:

Saturday 24 th August

From 9 pm until closing time of 1 am there was a DJ playing music at the front of the hotel. It was exceptionally loud so we phoned the police who attended the incident and recorded our complaint. The external door and internal door were both open. We were unable to sit in our front room as it was so invasive.

Saturday 7 th September

Again there was a DJ set up in the front part of the building from 9 pm - 1 am.

The noise from the recorded music was at an unacceptable level, clearly violating the license.

Saturday 27th September

From 9 pm - 11.30 pm there was a live music emanating from the premises.

We have noticed an increase in activity from the Royal Oak and other pubs nearby such as The Ducking Stool, since the nightclub Euphoria has ceased trading. This is in the form of loud music and an increase in negative behaviour in the street on weekends. Whilst we appreciate that there is a need for Leominster to have some venues for entertainment, as residents living close by, we feel that it needs to be in the right kind of buildings which are suitably insulated and managed correctly.

Thank you for your cooperation in this matter.

Yours sincerely
Anna Falcini



**Cornell & Co.
Solicitors**



15 South Street
Leominster,
Herefordshire,
HR6 8JA

Philip. J. Cornell
MA(Oxon)
SOLICITOR – ADVOCATE
(Higher Courts
Criminal Proceedings)

Phone: 01568 612288
Fax: 01568 615843
DX: 27035, LEOMINSTER
Email 2: cornellandco@hotmail.com
Regulated by The Solicitors
Regulation Authority

PC/SEP/
PREM/PRO1333/JLJ
8 April 2009

Mr Fred Spriggs
Licensing Officer. Licensing Section
Environmental Health & Trading Standards
County Offices
PO Box 233
Bath Street
Hereford, HR1 2ZF

Dear Mr Spriggs

RE: THE ROYAL OAK HOTEL, LEOMINSTER

Thank you very much for your letter of 2 April which clarified matters.

Following from that, is there a condition that there is going to be double glazing in the Ballroom? I note that this was offered by the Royal Oak initially at least.

I am sorry to keep pestering you like this but we are so apprehensive in South Street because of the last Managers at the Hotel and I hope that you will bear with us.

Yours sincerely
For CORNELL & CO

PHILIP CORNELL

HEREFORDSHIRE COUNCIL

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

PREMISES	The Royal Oak
PREMISES LICENCE HOLDER	Minster House (Leominster) Limited
APPLICANT'S NAME	Chief Constable – West Mercia Police
APPLICATION TYPE	Expedited/summary licence review
PANEL MEMBERS	Councillor DW Greenow (Chairman) Councillor BA Durkin Councillor PJ McCaull
DATE OF MEETING	22 July 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 Nick Semper and Jim Mooney-representing West Mercia Police; and Mr Fred Spriggs, Licensing Officer Herefordshire Council.

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), the Guidance Issued under Section 182 and the guidance issued under Section 53A of the Licensing Act 2003 as amended and the Council's Licensing Policy.

DECISION

It is the decision of the Regulatory Sub-Committee that:

1. The licence of the Royal Oak be suspended until:-
 - a) The present Designated Premises Supervisor (DPS) has been removed and a new DPS appointed.
 - b) CCTV camera equipment shall be fitted, operating and approved by the Council's Licensing officer to all appropriate parts of the premises including Bar 44.
2. The conditions of the license be modified to require that:-
 - a) a minimum of two SIA registered door staff be employed from 21:00hrs on Fridays and Saturdays and on all occasions when regulated entertainment takes place until the conclusion of licensable hours and activities.
 - b) a personal licence holder be on the premises at all the above times (noted in the previous condition).

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

Note – the Committee expresses its grave concern that CCTV camera facilities should not have been already installed on the premises notwithstanding these requirements made clear for a number of years.

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.

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 21st July 2015.
- 2 The review has been set for 13 August 2015 at 11am.
- 3 There is no right of appeal to a magistrates' court against the licensing authority's decision at this stage.
- 4 The act allows the premises licence holder to make representation against the interim steps by sending notification to the Licensing Authority.
- 5 In such case the authority must hold a hearing within 48 hours to consider it.