

Public Document Pack

Additional Representation – Review – Aviator

Licensing Sub Committee – 7th March 2016

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Report of the Head of Licensing and Registration

Report to the Licensing Sub Committee

Date: Monday 7 March 2016

Subject: Review of a Premises Licence – Representation to Interim Steps Decision

For: The Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	Otley and Yeadon	
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If relevant, Access to Information Procedure Rule number:		

Executive Summary

This report advises Members that the premises licence holders of the Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP have served an application under section 53B of the Licensing Act 2003, to make representation against the decision of the Interim Steps hearing held on the 11 February 2016 which was to suspend the licence until the Full Review Hearing. Members are asked to consider the representation to modify the interim steps.

1.0 Purpose of this Report

- 1.1 This report informs Members of an application for Summary Review in respect of The Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP. West Yorkshire Police make this application on the grounds of serious crime or serious disorder or both.
- 1.2 The Licensing Authority is now under a duty to review the premises licence held by Cornertrack Limited. A copy of the current premises licence can be found at **Appendix A**.
- 1.3 An interim steps hearing was held on the 11th February 2016 at which the Members of the Licensing Sub Committee determined that the premises licence be suspended until the full review hearing.
- 1.4 A representation against the outcome of the interim steps hearing must be held prior to the full review hearing. This report sets out the relevant procedure, considerations and guidance for the representation against the decision made at the interim steps hearing.

2.0 Background Information

The Licensing Authority and Interim Steps

- 2.1 Under section 53B of the Licensing Act 2003 ("the Act") the Chief Officer of Police for the Leeds area may apply to the Council for a review of the premises licence if:
- (a) The premises are licensed for the sale of alcohol by retail; and
 - (b) A senior member of that force has given a certificate that it is of the opinion that the premises are associated with serious crime or serious disorder or both and that certificate must accompany the application.
- 2.2 Within 48 hours of receipt of the 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. The Licensing Authority must also, within this period, consider whether it is necessary to take interim steps.

The Interim Steps

- 2.3 The interim steps the Sub Committee must consider taking are:
- The modifications of the conditions of the premises licence.
 - The exclusion of the sale of alcohol by retail from the scope of the premises licence.
 - The removal of the Designated Premises Supervisor from the licence.
 - The suspension of the licence.
- 2.4 Members will note that the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added. Unless specified otherwise, any steps taken will have immediate effect.

- 2.5 The Act does not provide a right to appeal in relation to a decision reached at the interim steps hearing. The premises licence holder can make representations about any decision reached at the interim hearing. If representations are made, then the Licensing Authority must hold a hearing within 48 hours of receiving these representations.

The Application for Summary Review

- 2.6 An application for Summary Review of a premises licence has been brought by West Yorkshire Police. A copy of this application is attached to this report at **Appendix B**.
- 2.7 Members will also note that attached to the application of West Yorkshire Police is a certificate made under Section 53(1B) of the Licensing Act 2003 which confirms that a senior member of West Yorkshire Police is of the opinion that the premises are associated with serious crime or serious disorder. The certificate is attached to this report at **Appendix C**.
- 2.8 Officers confirm that the application and certificate have been served on the premises licence holder and responsible authorities. This was done on the 9th February 2016 in line with the requirement under the Act.
- 2.9 Officers have also advertised the summary review by way of a notice displayed prominently at the premises. This notice will be in situ from 10th February 2016 until 16th February 2016. Representations can be made in relation to the Summary Review within 9 working days from the display of the notice. The notices were removed at the end of this period.

3.0 Main Issues

Considering the Representation to the Interim Steps

- 3.1 Members are now requested to consider the representation against the decision from the interim steps hearing on the 11th February 2016 as to whether it is necessary to revise the interim steps decision pending the determination of the review of this premises licence. This consideration may take place without the holder of the premises licence or West Yorkshire Police in attendance. Attached at **Appendix D** is a copy of the representation.

4.0 Matters Relevant to the Application

Government Guidance

- 4.1 In making their decision, Members may take into account the guidance issued by the Department of Culture, Media & Sport in relation to summary licence reviews. Although this guidance is not issued under Section 182 of the Act, it will be of some assistance in reaching a conclusion in this matter. A copy of this guidance is attached at **Appendix E** of this report.
- (a) Government guidance suggests that the practical implications of compliance in relation to the premises, be taken into account. For example, to comply with the modification of the conditions of the licence that required the employment of Door Supervisors, those running at the premises may need some time to recruit appropriately qualified and accredited staff.

- (b) Government guidance also suggests careful consideration need to be given to interim steps which require significant costs of permanent or semi-permanent adjustments to the premises. This would be difficult to remove if the outcome of the subsequent summary review hearing was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives, may be disproportionate if they are not likely to be deemed necessary following the full review. The focus for interim steps should be in the immediate measures that are necessary to prevent serious crime or serious disorder occurring.
- (c) Finally the guidance provides that in some circumstances, it may be better to seek suspension of the licence pending the Summary Review, rather than imposing a range of costly conditions or permanent adjustments. It is open to Members having considered the application and representations made, that no steps pending the review should be taken.

5.0 Implications for Council Policy and Governance

5.1 There are no significant implications identified.

6.0 Legal and Resources Implications

6.1 There were no resource implications in determining the interim steps.

6.2 The Act does not provide a right to appeal in relation to a decision at Interim Steps hearing. The Premise Licence holder can make representations about any decision reached at the interim Steps Hearing. If representations are made, then the Licensing Authority must hold a hearing within 48 hours of receiving these representations to consider them.

7.0 Recommendations

7.1 Members are requested to consider the representation against the interim steps deemed necessary pending the summary review. The interim steps the Sub Committee must consider taking are:

- The modifications 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/or
- The suspension of the licence.

7.2 Members will note that the conditions of a premises licence are modified if any of them are altered or omitted or any new conditions are added.

Appendices

Appendix A	Premises Licence
Appendix B	Summary Review Application
Appendix C	Summary Review Certificate
Appendix D	Interim Steps Representation
Appendix E	Summary Review Guidance

Details of premises licence

For: Aviator



This document provides details of the premises licence issued to the stated premises and is not a licence itself.

Licence number: PREM/02218/019

Premises the licence relates to: Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP

Date licence first effective: 28th March 2006

Date current version effective from: January 27, 2016

Licensable activities authorised by the licence:

Sale by retail of alcohol	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Provision of late night refreshment	
Thursday to Saturday	23:00 - 01:00
Sunday to Wednesday	23:00 - 00:00
Exhibition of a film	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Indoor sporting events	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Performance of live music	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Performance of recorded music	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Performance of dance	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00
Entertainment similar to live music, recorded music or dance	
Thursday to Saturday	09:00 - 01:00
Sunday to Wednesday	09:00 - 00:00

Opening hours of the premises:

Details of licence numbered : PREM/02218/019

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Thursday to Saturday
Sunday to Wednesday

09:00 - 01:30
09:00 - 00:30

Premises licence holder(s):

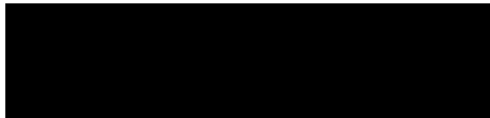
Cornertrack Limited, Sovereign House, 4th Floor, 1-2 South Parade, Leeds, LS1 5QL

Designated premises supervisor:

Mr Peter Jackson

Access to the premises by children

Access to the premises by children is restricted



Annex 1 – Mandatory Conditions

1. Only individuals licensed by the Security Industry Authority may be used at the premises to guard against:-
 - a. unauthorised access or occupation (e.g. through door supervision), or
 - b. outbreaks of disorder, or
 - c. damage
2. No supply of alcohol may be made under this licence
 - a. At a time when there is no designated premises supervisor in respect of the premises licence, or
 - b. At a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.
3. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
4. The admission of children under the age of 18 to film exhibitions permitted under the terms of this licence shall be restricted in accordance with any recommendations made
 - a. By the British Board of Film Classification (BBFC,) Where the film has been classified by the Board, or
 - b. By the Licensing Authority where no classification certificate has been granted by the BBFC, or,
 - c. where the licensing authority has notified the licence holder that section 20 (3) (b) (74 (3) (b) for clubs) of the Licensing Act 2003 applies to the film.
5. The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -

- a. games or other activities which require or encourage, or are designed to require or encourage individuals to -
 - i. drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - ii. drink as much alcohol as possible (whether within a time limit or otherwise);
- b. provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee other public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
- c. provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
- d. selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or

glamorize anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

- e. dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

6. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

7. The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.

The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- a. a holographic mark, or
- b. an ultraviolet feature.

8. The responsible person must ensure that -

- a. where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:

- i. beer or cider: ½ pint;
- ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
- iii. still wine in a glass: 125 ml;

- b. these measures are displayed in a menu; price list or other printed material which is available to customers on the premises; and

- c. where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

9. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

For the purposes of the condition set out in paragraph 1 of this condition -

- a. "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- b. "permitted price" is the price found by applying the formula $P = D + (D \times V)$ where -
 - i. P is the permitted price,
 - ii. D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - iii. V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- c. "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
 - i. the holder of the premises licence,
 - ii. the designated premises supervisor (if any) in respect of such a licence, or

- iii. the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- d. "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- e. "value added tax" mean value added tax charged in accordance with the Value Added Tax Act 1994.

Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

- (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 – Conditions consistent with the operating schedule

Additional details in respect of licensable activities authorised by this licence

Provision of late night refreshment

Location of activity: Indoors

Exhibition of a film

Location of activity: Indoors

Performance of live music

Location of activity: Indoors

Performance of recorded music

Location of activity: Indoors

Performance of dance

Location of activity: Indoors

Entertainment similar to live music, recorded music or dance

Location of activity: Indoors

All activities

Non standard timings: From the end of normal permitted hours on New Year's Eve until the start of permitted hours on New Year's Day.

10:00 to 01:00 Bank Holiday Sundays and Mondays,
Christmas Eve and Boxing Day.

Concerns in respect of children: None

Conditions consistent with the operating schedule relating to the licensing objectives

The prevention of crime and disorder

10. A suitable Closed-Circuit Television (CCTV) system will be operational at the premises at all times when licensable activities are being carried out and at any other times where members of the public are present on the premises.
11. The CCTV system will cover the main entrance/s and exit/s and designated emergency egress routes from the premises.
12. The CCTV system will cover all external areas of the premises occupied by the public, i.e. queuing areas, beer gardens, smoking areas and car parks.
13. The CCTV system will contain the correct time and date stamp information.
14. The CCTV system will have sufficient storage retention capacity for a minimum of 31 days continuous footage which will be of good quality.
15. A designated member/members of staff at the premises will be authorised to access the CCTV footage and be conversant with operating the CCTV system. At the request of an authorised officer of the Licensing Authority or a responsible authority (under the Licensing Act 2003), any CCTV footage, as requested, will be downloaded immediately or secured to prevent any overwriting. The CCTV footage material will be supplied, on request to an authorised officer of the Licensing Authority or a responsible authority.
16. The Incident Report Register will contain consecutively numbered pages, the date, time and location of the incident, details of the nature of the incident,, the names and registration numbers of any door staff involved or to whom the incident was reported, the names and personal licence numbers (if any) of any other staff involved or to whom the incident was reported, the names and numbers of any police officers attending, the police incident and/or crime number, names and addresses of any witnesses and confirmation of whether there is CCTV footage of the incident.
17. A suitable purpose made receptacle for the safe retention of illegal substances will be provided and arrangements made for the safe disposal of its contents as agreed with West Yorkshire Police.
18. The PLH/DPS staff will ask for proof of age from any person appearing to be under the age of 25 who attempts to purchase alcohol at the premises.
19. Drinks, open bottles and glasses will not be taken from the premises at any time. Empty bottles and glasses will be collected regularly and promptly. Glass and other sharp objects will be stored and disposed of safely using suitable receptacles. Receptacles will be secured and not accessible to the customers.
20. Participate in a local pubwatch scheme or licensing association (where one exists) that is recognised by West Yorkshire Police.

The prevention of public nuisance

21. Noise from the premises shall be in audible at the nearest noise sensitive premises (i) after 23:00 hours and (ii) at any time when entertainment as defined by paragraph 2 of schedule 1 of the Licensing Act 2003 takes place on more than 30 occasions per year.

22. Clear and legible notices shall be displayed at exits and other circulatory areas requesting patrons to leave the premises having regard to the needs of local residents, in particular emphasising the need to refrain from shouting, slamming car doors, sounding horns and loud use of vehicle stereos and anti social behaviour. The activity of persons leaving the premises shall be monitored and they shall be reminded to leave quietly where necessary.
23. Queues shall be restricted to cordoned areas to prevent them obstructing footpaths and spilling onto road and to keep noise and obstructions away from residential property. Staff shall be trained to intercept and manage any incidents and sufficient staff shall be employed to properly manage queues to prevent noise and aggression.
24. Ensure that the premises are operated so as to prevent the emission of odours which are a nuisance at nearby premises or to persons in the immediate area.
25. There shall be no external loudspeakers.
26. Patrons shall not be allowed to use the beer garden, or any external area after 23:30.
27. Ensure that lighting provided for the purpose of customer and staff safety, for the security of the premises, and lighting associated with activities of entertainment and advertising is of such an intensity, suitably positioned and operated so as not to cause nuisance to neighbouring and adjoining properties.

Annex 3 – Conditions attached after a hearing by the licensing authority

None

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**APPLYING FOR A SUMMARY LICENCE REVIEW**Application for the review of a Premises Licence under
Section 53a of the Licensing Act 2003

(Premises associated with serious crime or serious disorder or both)

*Insert name and address of relevant Licensing Authority and its reference number (optional):***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 this 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.

You may wish to keep a copy of the completed form for your records.

I, [REDACTED]
(on behalf of) the Chief Officer of Police for the West Yorkshire Police area apply for the review of a premises licence under Section 53a of the Licensing Act 2003.

Part 1 – Premises details

Postal address of premises or, if none, Ordnance Survey map reference or description:

Aviator, 16 High Street, Yeadon

Town/City: Leeds

Postcode: LS19 7PP

Part 2 – Premises licence details

Name of premises licence holder (if known):

Cornertrack Limited

Number of premises licence (if known): PREM/02218

Part 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/her opinion the above premises associated with serious crime or serious disorder or both, and the certificate accompanies this application. (Please 'check' the box to confirm)

**Part 4 – Details of association of the above premises with serious crime, serious disorder or both (please read Guidance note 2)**

The Aviator is a large sized public house located on the High Street in Yeadon which West Yorkshire Police Licensing Department have been monitoring closely for some time.

The current Premises Licence Holder (PLH) applied to have the existing licence transferred into their name at the end of September 2014. A meeting was held with the Area Manager, [REDACTED] shortly after this time to discuss previous issues which had occurred at the venue and to discuss concerns which had arisen from a licensing visit that had taken place. West Yorkshire Police were advised that the premises were due to close for refurbishment but would be open for Christmas, and the issues raised would be addressed.

Calls for service at the venue have been monitored and a serious incident occurred on 31st May 2015. Police were called to a male who had been knocked unconscious after being assaulted. Unfortunately the injured party did not survive the attack and died shortly afterwards. After police investigation, it was discovered the incident had started in the Aviator. It transpired that a fight had started inside, due to over intoxication of customers and progressed from there. A male who was on the Pubwatch banned list was socialising in the venue and aggravated the suspect which led to him assaulting a male involved in the initial fight, and then punching the male who died.

An action plan meeting was held with the Area Manager, the DPS, [REDACTED] and the Solicitor and agreements made for conditions to be varied onto the licence to try and prevent these issues from reoccurring. It was agreed that the DPS was to be removed due to him not being strong enough to manage the venue. He had effectively run the pub prior to the PLH taking control of the venue in September 2014. It was agreed that [REDACTED] should be placed as DPS as he was running the venue. This took effect from 22nd June 2015. Six/seven weeks

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later a further DPS change was received for [REDACTED]. The premises also had a change in Area Manager and he was apprised of the issues. Unfortunately the calls for service started to increase again, even though the venue were aware that they were under scrutiny after the one punch incident. It was during this time, on the run up to Christmas that WYP were made aware that the DPS was an absent DPS, and the PLH had placed a manager in charge of the venue. The DPS did not attend the venue due to him running another venue in a different area so any concerns would be addressed to the Manager.

In the early hours of 1st January 2016, officers were driving down Yeadon High Street when they came across disorder which had spilled out of the Aviator. The officers reported that 10-20 people were fighting in the street and were even using the van to fight against. Due to the severity of the incident, clusters of customers fighting, officers required more units to attend and help calm the situation. It transpired that the Manager on duty that evening, was covering for the usual manager and it was her family that had been involved in the disorder incident. From viewing the CCTV footage from the venue, it appeared that the temporary manager was also involved in the disorder.

On the 19th January 2016, a further Action Plan meeting was held with the Solicitor, DPS and Area Manager to discuss the events of New Year's Day. During that meeting WYP suggested further conditions be applied to the licence which entailed a change in DPS and a reduction in operating hours. On 27th January 2016 the DPS variation was received for the premises and after chasing the Solicitor for an update on the other conditions, the PLH finally agreed to a minor variation to be submitted to prevent WYP from putting in review paperwork on 4th February 2016.

On the evening of 6th February 2016, another serious disorder incident occurred (a copy of the premises CCTV is enclosed with this application). A large scale fight broke out at the venue where glasses were being used as weapons and people were having their heads repeatedly stamped upon. On officers' arrival they located 3 unconscious injured parties and had to deal with a further 7 from the disorder. This is still under investigation. It transpires from enquiries so far, that the new DPS was not present at the time of the incident, there was no personal licence holder on site and the temporary manager, who was involved in the New Year incident was in running the venue again.

A summary review is requested due to the serious nature of incidents occurring, an increase in frequency in the serious incidents, failure by the PLH to ensure that agreements are reached in a timely manner and, once agreed, a failure to ensure that all the agreements are being carried out. Due to the latest disorder incident, only 6 weeks after the last, West Yorkshire Police have real concerns that should another serious incident occur, any injuries could be potentially fatal. Therefore West Yorkshire Police cannot afford to wait and put public safety at risk, which would be the case if we were to consider a standard licence review.

Our application for the summary review allows for the Licensing Sub-Committee to consider an immediate suspension of the premises licence (which given the circumstances, West Yorkshire Police would fully support) until either the Review proper or such steps are taken by the Premises Licence Holder which satisfy the Licensing Authority and West Yorkshire Police that the public safety risk has been significantly reduced.

Signature of applicant: [REDACTED] Date: 9/2/16
Capacity: Licensing Officer

Contact details for matters concerning this application:

Address: Leeds District Head Quarters, Elland Road, LS11 8BU
Telephone numbers: 0113 385 9416
E-mail address: [REDACTED]

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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 18 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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**CERTIFICATE**

Under Section 53a(1)(b) of the Licensing Act 2003

*Delete as applicable.

I hereby certify that in my opinion the premises described below are associated with *serious crime/serious disorder/both serious come and serious disorder.

Premises details

Premises (include business name and address and any other relevant identifying details):

Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP

I am a (insert rank of officer giving the certificate, which must be superintendent or above):

Superintendent

in the West Yorkshire Police Force.

Optional

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because:

(Give 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).

The Premises Licence Holder has been aware of our concerns in relation to the management of the premises since they took over the licence in 2014. There are regular complaints about assaults taking place at the venue, over intoxication and positive drug traces. There was a one punch incident which took place on 31st May 2015 where the assaulted person died due to injuries sustained. In the last 2 months there have been 2 serious disorder incidents which have increased in severity, the latest being 6th February 2016.

I apply for a summary licence review of the premises licence due to the very serious nature of the latest incident on 6th February 2016, where glasses were being used as weapons and injured parties had their heads repeatedly stamped on. Currently West Yorkshire Police are aware of 10 injured parties and are still investigating the incident. West Yorkshire Police have real concerns that if another assault or disorder occurs, the injuries could be significantly worse, if not fatal. West Yorkshire Police therefore cannot afford to wait, which would be the case with a standard review, as public safety is at risk.

Affray is an offence under Section 3 of the Public Order Act 1986. The seriousness of this crime is reflected in the prison sentence such an offence can attract for anyone convicted of such a crime. Upon indictment the maximum sentence is 3 years.

Signed:

Date: 9 Feb 16

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Appendix D

Janice Archibald
Licensing Officer
Entertainment Licensing
Leeds City Council
Civic Hall
Leeds
LS1 1UR

Our ref PW/KW/COR002-10-3/1820

Your ref

03 March 2016

Dear Sirs

Aviator, 16 High Street, Yeadon, Leeds, LS19 7PP

We write with reference to the above matter which is listed for the Final Review under Section 53C of the Licensing Act on Monday 7 March 2016. We should be grateful if you could take this letter as our representations against the interim steps under Section 53B of the Licensing Act 2003. The interim steps were made to suspend the premises licence.

The premise licence holder makes representations against those interim steps on the basis that suspension of the licence should be amended and we would ask for the interim steps to be modified as follows:-

1. The last sale of alcohol be reduced to 23.00 hours daily.
2. The removal of all non-standard timings.
3. The current door staff company to be replaced by a new door staff company.
4. Door staff to be at the premises on Friday and Saturday and bank holiday Sundays from 21.00 hours until all customers have left the building.
5. No customers are allowed to use the front entrance for smoking/drinking area.
6. A personal licence holder will be on site at all times that licensable activities are being carried out.
7. The current designated premises supervisor be removed.
8. A supervisors register will be maintained at the licensed premises, showing the names, addresses and up to date contact details for the DPS and all personal licence holders.
9. Supervisors register will state the name of the person who is in overall charge of the premises at each time that licensed activities are carried out, and this information will be retained for a period of 12 months and produced for inspection on request to an authorised officer.
10. Notices indicating the existence and effect of an alcohol designated public place order will be prominently displayed at the exits to the premises.
11. The premises licence be suspended for 4 weeks (until 4 of April 2016) to allow for the premises to be remodelled and rebranded as a real ale and food public house.

We understand that the police will be requesting that the premises licence is revoked at the hearing on Monday.

We would ask for the interim steps to be heard at the same time as the final review and we would be asking for the interim steps to be modified as above and would be offering the above 11 points as the final resolution of the review.

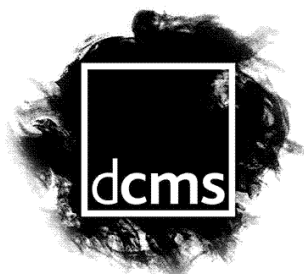
We will make submissions to the Licensing Authority that revocation of the licence would be disproportionate when a complete rebrand and remodelling of the premises with a new management team and door supervisor company would be appropriate to promote the licensing objectives.

Yours sincerely

Woods Whur

THE AVIATOR / YEADON'S YARD		MAIN PROGRAM OF WORKS																			
No	WORKS	CONTRACTOR	MARCH																		
			14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	
			MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	
1	CDM/SITE SET UP/WASTE/H&S CONSTRUCTION FILE																				
2	RIP OUT AND DISPOSAL																				
3	DECORATE CEILINGS																				
4	ELECTRICAL WORKS - CHECK AND FIRST FIX																				
5	MAKE GOOD FLOORING																				
6	UPSTAIRS BUILD																				
7	PLUMBING HEATING CHECK AND MAINTAIN																				
8	FULL DECORATION SKIRTS/DOORS/FRAMES																				
9	PIZZA OVEN INSTALL AND EXTRACTION																				
10	KITCHEN WORKS AND MAINTAIN																				
11	BACK BAR DELIVERY AND INSTALL																				
12	FRONT BAR DELIVERY AND INSTALL																				
13	ELECTRICAL SECOND FIX AND LIGHTING																				
14	FURNITURE DELIVERY AND INSTALL																				
15	EXTERNAL PAINTING AND NEW SIGNAGE																				
16	INTERNAL GRAPHICS/MURALS/MENUS/POS																				
17	FULL SITE CLEAN																				
18	BUILDING REGS/FIRE/LICENCE TO TRADE																				
19	PRE SNAGGING AND HANDOVER																				

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department for
**culture, media
and sport**

LICENSING ACT 2003

(as amended by the Violent Crime Reduction Act 2006)

EXPEDITED/SUMMARY LICENCE REVIEWS GUIDANCE

October 2007

improving
the quality
of life for all

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

INTRODUCTION

1.1 This Guidance explains how to use new provisions in the Licensing Act 2003 (the 2003 Act) 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). These provisions were inserted at section 53A of the 2003 Act by the Violent Crime Reduction Act 2006 and came into force on 1 October 2007. This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the new procedures.

1.2 The new powers apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, nor to those operating under a club premises certificate. The purpose of the new powers is to complement existing procedures in the Licensing Act 2003 for tackling crime and disorder associated with licensed premises. The existing powers, in Part 8 of the 2003 Act, provide for the instant closure of premises by the police in some circumstances, and the review of premises' licences by the licensing authority. The new powers, which are in Part 3, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.

1.3 The new powers will 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.

1.4 In summary, the process is:

- a local chief officer of police 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 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 of receipt of the application.

1.5 The range of options open to the licensing authority at the interim steps stage are:

- modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- removal of the designated premises supervisor from the licence; and
- suspension of the licence.

1.6 Following the full licence review the Licensing Authority may do any of the above or may revoke the licence.

1.7 The purpose of this guidance is to:

- set out the circumstances where the power might be used; and

- outline the process and the steps at each stage.

1.8 The process is set out in the diagram at Annex A.

THE STEPS

2. Triggering the expedited review

2.1 Section 53A of the Licensing Act 2003 determines who may apply for an expedited review and the circumstances where it might be used.

Application for expedited review

2.2 The chief officer of police for the local area 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 B to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in Section 81(3)(a) and (b) of the Regulation of Investigatory Powers Act (2000). Those tests are: (a) that the conduct constitutes an offence for which a person 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 or more years or (b) that the conduct 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 understood in its ordinary English sense, as is the case under section 12 of the Public Order Act 1986, where 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 s.53A of the Licensing Act 2003. The application must be made on a form prescribed by Schedule 8A to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). Schedule 8A was inserted by the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007 (SI 2007/2502), and must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex C 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 – 165 in Part 8 of the Licensing Act 2003 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 felt 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 wish to make representations to the licensing authority suggesting that they modify the conditions of premises' licence to require searches of customers for offensive weapons upon entry. Under the new power 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 paras 3.6 and 3.7 below).

2.8 However, as the explanatory notes that accompanied the Violent Crime Reduction Act state: '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 wish to consult the police about the steps that it thinks necessary, 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 authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances).

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.

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 must be taken by the relevant licensing sub-committee, or by the authority acting as a whole (see new section 10(4)(via) of the 2003 Act). 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 (or other licensable activities) 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 altering or modifying existing conditions or adding 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 Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

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 made the application. The 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 is empowered to 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, or not significantly different from the version given by phone.

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 a 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 the representations the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of 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) are disapplied 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 Hearings regulations, 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 him or her the maximum practicable opportunity to 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 necessary 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 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 necessary for the promotion of the licensing objectives; and
- consider what steps should be taken to secure the promotion of the licensing objectives including whether the interim steps should be made permanent.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Modification of the conditions of the premises licence can include altering or modifying existing conditions or adding 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 Guidance to Licensing Authorities issued by the Secretary of State under section 182 of the Licensing Act 2003.

5.3 The licensing authority must:

- advertise the review inviting representations from interested parties² 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 authority's website (see regulation 38(1)(b) of the above Regulations). 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 interested parties 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 authority³.

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). These Regulations apply to final hearings under the new power in a similar way to hearings following closure orders under section 167 of the Licensing Act (it should be emphasised that the truncated version of the Regulations described in paragraph 4.2 above applies to interim hearings only). The issues dealt with by the Regulations include who can make representations and what those representations can be about. It is therefore possible for

² Interested parties are defined under section 13 (3) of the Licensing Act 2003.

³ Responsible authorities are defined under section 13(4) of the Licensing Act 2003.

interested parties or responsible authorities 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:

- relate to one or more of the licensing objectives;
- have not been withdrawn; and
- are made by the premises licence holder, a responsible authority or an interested party (who is not also a responsible authority).

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

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 appeal is disposed of. Any interim steps taken will remain in force over these periods.

EXPEDITED LICENCE REVIEWS: MAIN STEPS

