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**LICENSING SUB-COMMITTEE**

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**MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
WEDNESDAY, 16TH JANUARY, 2013 AT 9.30 AM  
OR AS SOON AS POSSIBLE THEREAFTER**

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**MEMBERSHIP**

**Councillors**

T Hanley - Bramley and Stanningley;  
G Hussain - Roundhay;  
G Hyde - Killingbeck and Seacroft;

# A G E N D A

Item No	Ward	Item Not Open		Page No
1			<b><u>PRELIMINARY PROCEDURES</u></b>  <b>ELECTION OF THE CHAIR</b>	
2			<b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b>  To consider any appeals in accordance with Procedure Rule 25 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)  (*In accordance with Procedure Rule 25, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)	

Item No	Ward	Item Not Open		Page No
3			<p><b>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</b></p> <p>1) To highlight reports or appendices which:</p> <p>a) Officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>b) To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>c) If so, to formally pass the following resolution:-</p> <p><b>RESOLVED</b> – That the press and public be excluded from the meeting during consideration of those parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information</p> <p>2) To note that under the Licensing Procedure rules, the press and the public will be excluded from that part of the hearing where Members will deliberate on each application as it is in the public interest to allow the Members to have a full and frank debate on the matter before them.</p>	
4			<p><b>LATE ITEMS</b></p> <p>To identify any applications as late items of business which have been admitted to the agenda for consideration</p> <p>(the special circumstances shall be identified in the minutes)</p>	

Item No	Ward	Item Not Open		Page No
5			<p><b>DECLARATIONS OF DISCLOSABLE PECUNIARY AND OTHER INTERESTS</b></p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13 -18 of the Members' Code of Conduct. Also to declare any other significant interests which the Member wishes to declare in the public interest, in accordance with paragraphs 19 -20 of the Members' Code of Conduct.</p> <p><b><u>HEARINGS</u></b></p>	
6	City and Hunslet		<p><b>BAR PHONO - APPLICATION FOR A REVIEW OF THE PREMISES LICENCE - INTERIM STEPS HEARING IN RESPECT OF BAR PHONO, 174 LOWER BRIGGATE, LEEDS LS1 6DT</b></p> <p>To consider the report of the Head of Licensing and Registration on an application received under Section 53A of the Licensing Act 2003 for the Summary (interim) Review of the Premises Licence held at the premises known as Bar Phono, 174 Lower Briggate, Leeds. The application has been made by West Yorkshire Police. The Licensing Authority is required to consider the application within 48 hours of receipt of that application</p>	1 - 30



## Report of the Head of Licensing and Registration

### Report to the Licensing Sub Committee

**Date: Wednesday 16<sup>th</sup> January 2013**

**Subject: Review of a Premises Licence - Interim Steps Hearing**

**For: Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT**

Are specific electoral Wards affected?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
If relevant, name(s) of Ward(s):	City & Hunslet	
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 West Yorkshire Police have served an application under section 53A of the Licensing Act 2003, for the Summary Review of a Premises Licence. The application was received on the 15<sup>th</sup> January 2013. West Yorkshire Police are of the opinion that Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT, is a premises associated with serious crime and serious disorder. A Review hearing will be heard within 28 days receipt of the application. Before then an Interim Steps hearing must be held. Members are asked to consider if it is necessary to take interim measures pending the Review Hearing. A recommendation is made that Members undertake this consideration.

## 1.0 Purpose of this Report

- 1.1 This report informs Members of an application for Summary Review in respect of Bar Phono, 174 Lower Briggate, Leeds, LS1 6DT. 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 Ravenpine Ltd, a copy of which can be found at **Appendix A**.
- 1.3 An Interim Steps Hearing must be held prior to the Review Hearing. This report sets out the relevant procedure, considerations and guidance for the Interim Hearing.

## 2.0 Background Information

### The Licensing Authority and Interim Steps

- 2.1 Under section 53A 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 15<sup>th</sup> January 2013 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 16<sup>th</sup> January 2013 until 24<sup>th</sup> January 2013. Representations can be made in relation to the Summary Review within 9 working days from the display of the notice. The notices will be removed at the end of this period.

### **3.0 Main Issues**

#### Considering the Interim Steps

- 3.1 Members are now requested to consider whether it is necessary to take Interim Steps 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.
- 3.2 Members are asked to consider what steps, if any, are necessary to address the immediate problems at the premises identified by the Police. In particular, Members should consider any steps that will address the likelihood of serious crime and/or serious disorder at the premises.

### **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 D** 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 those interim steps, if any, that are 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.
- 7.3 Members are then requested if they determine an interim step(s) should be taken, when that those steps should take effect.

## **Appendices**

Appendix A	Premises Licence
Appendix B	Summary Review Application
Appendix C	Summary Review Certificate
Appendix D	Summary Review Guidance



## Premises History

On 20<sup>th</sup> November 2006, an application was submitted for a premises licence for the premises formerly known as Oslo, following the liquidation of the previous company operating as Oslo. The applicants were Iniquity Dens Limited. Representations were received to the application from responsible authorities, but agreements were reached and a premises licence was granted as applied for.

On the 6<sup>th</sup> September 2007, a variation application was submitted for the premises, now known as Religion. The application was to request an increase in the licensing hours. Representations were received from other persons. A Sub Committee hearing was scheduled. The Sub Committees decision, was to grant the variation with an added condition that the applicant had offered.

In March 2009, an application was received to transfer the premises licence into the name of Christopher Ayre, this was successful.

On the 10<sup>th</sup> Feb 2010, a letter was received from Mr Nathan-Geary, together with consent to transfer from Christopher Ayre to Vektor Investment Management Limited. The letter informed the Licensing Department that a transfer application would follow within four weeks, as he was close to letting the premises to another tenant. No application was received within the said time and in May 2010, a letter was sent to Christopher Ayre and Raven Pine Ltd (Mr Paul Nathan-Geary), informing them that Mr Ayre was still responsible for the premises and the annual fee was due. A letter was received back from Christopher Ayre, explaining that he no longer had dealings with the premises and had completed all the necessary paper work to transfer.

On 29<sup>th</sup> July 2010, a complete transfer application was received to transfer the licence from Christopher Ayre, to Matthew Powell, with immediate effect, also a DPS change application was received to change the DPS from Christopher Ayre to Lisa Gaskin. The premises were now known as Boudoir. Mr Powell had now acquired the premises licence on an interim basis.

An objection was received from West Yorkshire Police to both the transfer and DPS change applications on the grounds of the prevention of crime and disorder as since Mr Powell had acquired the licence crime prevention conditions on the licence had not been complied with. A Sub Committee hearing was scheduled to decide the applications.

On 13<sup>th</sup> August 2010, an application was received to change the DPS from Lisa Gaskin to Lee Maurice Yates. This application superseded the previous one, therefore the hearing for the DPS change was withdrawn. There was no objection to this application, therefore Lee Maurice Yates became the DPS. The hearing for the transfer of the premises licence still remained, the decision of the Sub Committee was to refuse the application, therefore the transfer which had interim effect ceased on the 6<sup>th</sup> September 2010 and the premises licence holder reverted back to Christopher Ayre.

On 30<sup>th</sup> September 2010, a letter was received from Lee Maurice Yates, requesting to be removed from being the DPS at Boudoir from midnight.

On 6<sup>th</sup> October 2010, another application was received to transfer the premises licence into the name of Matthew Powell, and change the DPS into the name of Matthew Powell, again an objection to both applications was received from West Yorkshire Police. A Sub Committee hearing was scheduled for the 8<sup>th</sup> November 2010.

On 5<sup>th</sup> November 2010, an application to transfer the premises licence to Ravenpine Ltd and change the DPS to Lee Maurice Yates, was received in the Licensing Office. This application now superseded the previous one, therefore the hearing was cancelled. No representations were received to this application and the licence transfer and DPS change were granted. The premises licence holder was now Ravenpine Ltd and the DPS was Lee Maurice Yates.

On the 24<sup>th</sup> Oct 2011, a letter of request was received, to change the name of the premises from Boudoir to Bar Phono.

On the 26<sup>th</sup> July 2012, an application for review of the premises licence was submitted by West Yorkshire Police. The grounds for review relate to *the performance of the premises over approximately the last twelve months, and police issues not yet satisfactorily resolved and encompassing the areas of:*

- *Unsuitable security provision for high-risk gigs held at the club*
- *Allegations of assault, some serious, including two allegations of sexual assault by on-duty club staff*
- *Public disorder in the street emanating from the club-even as late as 7 to 8am on weekdays*
- *Uncooperative doorstaff and management*
- *CCTV missing/unavailable to officers after serious assaults took place*
- *Allegations that doorstaff attempted to allow suspects to evade justice*

*The building housing PHONO, and its previous incarnations have been controlled for a number of years by the present Premises Licence Holders but this application relates only to incidents that have occurred when it has operated under its present name and with the present DPS and on-site management.*

*The operator/DPS that ran the premises before the current incumbents incurred a number of issues with the police, and following consultation the Premises Licence Holders terminated their agreement with them and installed the current DPS Lee Yates and his management team partner Lisa Gaskin. At about that time in November 2010 the Premises Licence Holder's representative Mr Paul Nathan-Geary told police licensing officers in a meeting that he would now be much more careful with who he allowed to operate out of the premises and would only consider a lease arrangement after a twelve month probationary period by the new operators.*

*Towards the end of 2011 into 2012 police became concerned at certain criminal elements connected to serious crime frequenting Phono, and reports of violence occurring, not all of which were being reported to the police. In addition, these violent acts were spilling out into the street, sometimes as late as 8sm during weekdays when commuters were travelling to work. There was a connection between entertainment provided at the club, the client base, and the nature and severity of the incidents.*

*The club management were spoken to by licensing police officers about these matters, and also complaints from operational officer about the management and CCTV issues at the club. They were clearly told this situation must improve. The other complaints encompassed the late provision of CCTV evidence for crime investigation on request, or a total failure to provide CCTV footage with a number of reasons given that were not acceptable. In addition officers formed the opinion that door staff and club management were occasionally deliberately thwarting police attempts to investigate crime properly. Thaw attitude and conduct of door staff and in particular*

*the DPS to investigating officers and those visiting the premises on licensing visits was uncooperative and poor.*

*Police concerns were communicated to the club management and Premises Licence Holder.*

*It was clear to officers that the criminal element were not being sufficiently supervised and controlled in the club and doubt was cast on the ability of the management and door staff to retain control.*

*It is the opinion of the police that some members of the door team know, and are too close to the client base of the club, and that club management are not strong enough to, or do not choose to supervise their clients or manage their door staff in a satisfactory manner.*

*In 2012 crime and disorder, and consequently police concerns about the club began to rise and further meetings held and police visits made to Phono were increased.*

*Despite this, however, on 20 April 2012 a serious sexual offence allegation was made against a door staff member by a female alleging she was assaulted by him in the club toilets. A male staff member was arrested for this offence and is still on bail for it while the criminal investigation continues.*

*Crimes continue to be committed in the club including two nasty assaults and a robbery in May/June 2012 and police visits to the premises repeated.*

*At about 5am on the morning of Saturday 14<sup>th</sup> Jul 2012 two serious incidents occurred connected with Phono. In the first, a male was involved in an assault/disturbance inside and then chased into the street by a number of males, dragged out of a taxi and assaulted, during which time he sustained serious facial injuries.*

*In the second, a female contacted the police after leaving the club asking for officers to speak to her, as she was alleging that a member of door staff had committed a serious sexual offence against her, once again in the club toilets.*

*Both offences are currently under investigation, although the former investigation is not being assisted by the non-cooperation of the victim.*

*The investigation of the sexual offence has been subject of an attempt to pervert the course of justice by a member of club management who rang up the door staff suspect and tipped him off that the police were coming to arrest him. Despite this, the suspect has been arrested and is on police bail pending further enquiries.*

*Clearly, despite police interaction, this club is not being managed satisfactorily and public safety is being put at risk therefore a review of the premises licence is applied for'.*

On 16<sup>th</sup> August 2012, an application to change the DPS from Lee Maurice Yates to Maritn Andrew Baxter, was submitted to have immediate effect, no representations were received to this application and the licence was issued.

A review hearing was set for the 17<sup>th</sup> September 2012. Following discussion with West Yorkshire Police and the management of the premises, a request was made for the hearing to be adjourned to give the new management further time to satisfy the police that they were promoting the licensing objectives. This was agreed and a new hearing date of the 4<sup>th</sup> December 2012 was agreed.

On the 4<sup>th</sup> December the review hearing took place. Members heard representations from both WYP and the premises licence holder's legal representative. The Licensing Sub Committee resolved that it was appropriate for the promotion of the Licensing Objectives to modify the licensing conditions by adding a new condition prohibiting admittance to the premises after 04:00 hours, on any night of the week.

## Public Register Copy

Initial licence from:

9th January 2007

Current Licence effective from:

4th December 2012

**Premises Address** Phono, 174 Lower Briggate, Leeds, LS1 6DT

### Licensable activities authorised by this licence

Sale by retail of alcohol, Provision of late night refreshment, Performance of live music, Performance of recorded music, Performance of dance, Provision of facilities for making music, Provision of facilities for dancing

### Times the licence authorises the carrying out of licensable activities

#### *Sale by retail of alcohol*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

#### *Provision of late night refreshment*

Every Day 23:00 - 05:00

#### *Performance of live music*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

#### *Performance of recorded music*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

#### *Performance of dance*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

#### *Provision of facilities for making music*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

#### *Provision of facilities for dancing*

Friday & Saturday 11:00 - 08:00  
Sunday to Thursday 11:00 - 06:00

### The opening hours of the premises

Friday & Saturday 11:00 - 09:00  
Sunday to Thursday 11:00 - 07:00

Alcohol is sold for consumption on and off the premises

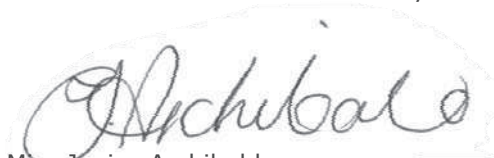
**Premises licence holder(s):** Ravenpine Limited, 4 Harewood Yard, The North Range, Harewood, Leeds, LS17 9LF,

**Registered number of holder(s):** 2316059

**Designated premises supervisor:** Mr Martin Andrew Baxter

**Access to the premises by children is prohibited.**

Licence Issued under the authority of Leeds City Council



Miss Janice Archibald  
Licensing Officer  
Entertainment Licensing  
Licensing and Registration

Licence produced on 16/01/2013 at 09:55  
by Mr Matthew Nelson

## 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 responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children -

- a. games or 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 to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
- 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;
- d. provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -
  - i. the outcome of a race, competition or other event or process, or
  - ii. the likelihood of anything occurring or not occurring;
- e. 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 glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

5. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
6. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
7. The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

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 a holographic mark.

8. The responsible person shall 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. 1/2 pint;
    - ii. gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - iii. still wine in a glass:125 ml; and
  - b. customers are made aware of the availability of these measures

## **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

#### Performance of live music

Location of activity: Indoors

#### Performance of recorded music

Location of activity: Indoors

#### Performance of dance

Location of activity: Indoors

#### Provision of facilities for dancing

Location of activity: Indoors

#### All activities

Non standard timings: On 31st December each year to 06:00 hours on 2nd January the following year unless 2nd is a Friday or Saturday then it will be 08:00 hours.

Concerns in respect of children: None defined

## **Conditions consistent with the operating schedule relating to the licensing objectives**

### **The prevention of crime and disorder**

9. Adopt the Check 21 proof of age scheme in accordance with guidance issued by West Yorkshire Police.
10. Participate in a local pub watch scheme or licensing association which is recognised by West Yorkshire Police.
11. Implement a dispersal policy agreed with West Yorkshire Police.
12. Agree protocols and call priorities with local taxi firms. Ensure transport options are suitably advertised at the venue and staff are aware.
13. Participate in a radio or other communications system in accordance with guidance issued by West Yorkshire Police and the service providers instructions.
14. Operate an effective CCTV system to be maintained in accordance with guidelines issued by West Yorkshire Police. Security footage will be made secure and retained for a period of not less than 31 days.
15. Provide a suitable receptacle (ie drugs safe) for the safe retention of any illegal substances. The method of safe disposal to be agreed with West Yorkshire Police.
16. Implement a policy that no glasses or bottles will be allowed to be taken by customers from the premises.
17. Maintain an incident report register, recording incidents such as anti-social behaviour and ejections from the premises. The incident report register will contain consecutively numbered pages, the date, the time and location of the incident, to whom reported and badge numbers of any door staff involved. It will be produced for inspection on the request of a police officer or council licensing enforcement officer.
18. The company constantly monitor the premises and door staff will be employed at the premises.

### **Public safety**

19. Written records of all accidents and safety incidents involving members of the public will be kept. These will be made available at the request of an authorised officer.
20. A suitably trained and competent person must ensure regular safety checks of the premises including decorative and functional fixtures, floor surfaces and equipment (including electrical appliances) to which the public may come into contact are undertaken. Records of these safety checks must be kept and made available for inspection by an authorised officer.
21. Electrical installations will be inspected on a periodic basis (at least every 3 years, or at a frequency specified in writing) by a suitably qualified and competent person. If used, any temporary electrical wiring and distributions will also be inspected. Inspection records/certificates will be kept. These will be made available at the request of an authorised officer.
22. A written spillage policy will be kept to ensure spillages are dealt with in a timely and safe manner.
23. A suitably trained First Aider or appointed person will be provided at all times when the premises are open.
24. Adequate and appropriate First Aid equipment and materials will be available on the premises.



25. A procedure for dealing with unwell members of the public will be in place, including those who appear to be affected by alcohol and drugs. Staff will be appropriately trained in such procedures.
26. Where strobes, lasers, smoke machines or any other special effects equipment may be used, a written health and safety policy covering all aspects of their use will be provided, and staff will be appropriately trained.
27. No strobes, lasers, smoke machines or any other special effects, will be used at the premises unless there is a clearly displayed warning at the entrance to the premises that such equipment is used.

### **The prevention of public nuisance**

28. Ensure that no nuisance is caused by noise and vibration emanating from the premises.
29. Noise from the premises shall be inaudible 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.
30. Ensure all licensable activities are conducted and operated so as to prevent the transmission of audible noise or perceptible vibration through the fabric of the building or structure to adjoining properties.
31. No bottles shall be placed in the external receptacle after 23:00 hours to minimise noise disturbance to adjoining properties.
32. Ensure that the rating level of noise from plant and machinery is no higher than 5dB below the lowest background level at the most affected noise sensitive premises during the operation of the plant. Plant and machinery shall be regularly serviced and maintained to continue to meet the rating level.
33. There shall be no external loud speakers.
34. Queues shall be restricted to cordoned areas to prevent them obstructing footpaths and spilling out onto roads, 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.
35. A cooling down period with reduced music volume shall be operated before the premises close.
36. 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 or adjoining properties.
37. 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.
38. Ensure that business waste is stored inside closed containers awaiting collection; that litter arising from people using the premises is cleared away regularly; that promotional materials such as flyers do not create litter; and that other street advertising is carried out lawfully.
39. Noise and vibration from the premises will be maintained at a level that will not cause a nuisance to neighbouring premises.
40. Doors and windows will be kept closed whenever necessary.
41. Staff pick up litter outside the premises.

## **The protection of children from harm**

42. Children will not be allowed on the premises.

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

### **General – All four licensing objectives**

43. **Condition attached after a review hearing on 4th December 2012.**

There should be no admission to the premises after 04:00 hours on any night of the week.

## **Annex 4 – Plans**

The plans for these premises are as those submitted with the application. A copy of which is held by Leeds City Council licensing authority.

**RESTRICTED****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 disorder)

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

Leeds City Council, Civic Hall, LEEDS LS1 1UR

**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, Police Sergeant 4581 Robert Geoffrey FULLILOVE, West Yorkshire Police

(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:

Bar PHONO  
174 Lower Briggate

Town/City: LEEDS

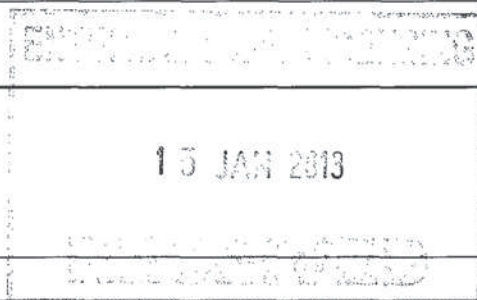
Postcode: LS1 6DT

**Part 2 – Premises licence details**

Name of premises licence holder (if known):

Ravenpine Ltd  
4 Harewood Yard  
The North Range  
Harewood  
LEEDS LS17 9LF

Number of premises licence (if known): PREM/02363/VO1



**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 are associated with serious crime or 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)**

Bar Phono is a small, independent nightclub in Leeds City Centre owned and operated by Ravenpine Limited.

Phono was subject of a standard premises licence review initiated in July 2012 following approximately twelve months of issues at the club revolving around excessive crime and disorder rates, predominantly assaults. Two of these assaults were alleged sexual offences committed on separate dates by different door staff members.

Added to the unacceptable crime levels, investigating police officers repeatedly encountered instances where the club's CCTV footage of crimes committed was unavailable or not provided without repeated requests having to be made for it. In addition, management attitude to police was generally hostile and uncooperative. Immediately prior to the premises licence review being instigated a member of management tipped off the potential suspect for the second sexual offence to the fact that the police were going to arrest him. There were clear indications that members of the door team were connected to a number of the crimes and that efforts were being made by them to allow offenders from amongst their own numbers and for their associates to evade justice.

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Two additional factors that contributed to the review proceedings being implemented were the problematic client base being attracted to the club, and its operating hours. Evidence showed that the aggressive, criminal types frequenting Phono were not being satisfactorily managed inside and that disorder then spilled out into the public arena. The time that Phono ceases licensable activities and closes its doors has directly led to repeated disturbances and violent confrontations between its customers in the streets immediately outside and near the club after 4am and as late as 7-8am. These were being witnessed and reported by concerned commuters heading into the city for work and creating an adverse impression of the night time economy and also damaging the Safer Leeds ethos.

At review in August 2012, and with police approval, a three month adjournment of proceedings was made to allow Phono to be given time to re-brand and change its management and operating style and to become a safe and lawful establishment.

At the review hearing on 4 December 2012, based on the times of incidents reported at the club in the described three-month period and calls for police service there, a vast proportion of which occurred after 4am, I asked that two conditions be imposed on the premises licence; (1) Last admission to the premises to be at 3am, and (2) Licensable activities to cease there at 4am and doors closed by 4.30am. This was reasonable and proportionate to protect public safety.

The licensing sub-committee imposed one condition, that the last customer should be admitted no later than 4am. There was no alteration to Phono's operating hours.

In my opinion this measure was insufficient to alleviate the issue my original request was meant to solve and brings us to the incident causing the necessity for supplementary action, which in this case is the instigation of summary premises licence review proceedings.

At just after 7.30am on the morning of Saturday 22 December 2012 a large fight involving 15-20 youths was reported outside Phono. Police officers attended in numbers and spent over twenty minutes bringing the incident under control and arrested six adults for offences of Affray and Assault. The incident was of such severity that baton strikes and empty hand self-defence skills had to be used by officers against some of the participants to bring the incident under control. The disorder was captured by LeedsWatch cameras and is depicted on footage to be presented to this hearing. It depicts a continuing disturbance involving fights and confrontation between essentially the same participants over an extended period in full view of passersby on both foot and in vehicles. At one point some of the protagonists fighting in the middle of the road are in danger of being struck by passing vehicles. The offence of Affray is a serious crime, and this footage evidences that what is portrayed is serious disorder, and as such qualifies an application for a summary premises licence review under this legislation.

Enquiries into the incident continue and a crime investigation has commenced. The arrested persons were wearing Phono wristbands and gave accounts pre-and during interview of being in Phono, and of the fight starting inside the club.

The need for a summary review is heightened by the fact that yet again the CCTV at Phono was found to be inoperable at the time of the incident. Therefore not only was the club operating in breach of its licence condition relating to CCTV, but also no evidential footage of what happened inside is available to the investigating officers. This is unacceptable and casts serious doubt on the honesty of club management. The Designated Premises Supervisor does not accept that any incident occurred inside Phono or that his customers were responsible, and accuses the police of victimisation.

All the evidence points to the fact that Phono's customers are out of control.

This incident would be viewed as serious enough if it occurred during the acknowledged night-time economy trading period but was amplified by two other facts;

(1) This was, on the incident's conclusion, around 8am on a Saturday morning in daylight in a city centre on one of the busiest trading days of the year with people on their way into the city to work and Christmas shop.

(2) It started within a short distance and sight of a cordoned off police crime scene set up the previous

evening to secure the scene where another public disturbance had taken place at which a male received fatal injuries following a fist fight– albeit nothing whatsoever to do with Phono.

This matter is serious. Immediate steps are required to prevent Phono causing further adverse effects on members of public using Leeds City Centre, and to prevent further serious violent crime.

Signature of applicant:..... Date: .....  
Capacity: Police Sergeant - Leeds District Licensing Office

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

Address: Millgarth Police Station, Millgarth Street, LEEDS LS2 7HX  
Telephone numbers: 01132 413067  
E-mail address: robert.fullilove@westyorkshire.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 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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**RESTRICTED****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 both serious crime and serious disorder.**

**Premises details**

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

Bar PHONO

174 Lower Briggate

LEEDS LS1 6DT

PREMISES LICENCE NUMBER: PREM/02363/VO1

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

Police 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).

**I am the Operations Commander from West Yorkshire Police's City & Holbeck Division.**

**In July 2012 I instructed my Licensing Department to instigate a standard premises licence review against Phono under Section 51 Licensing Act 2003 following instances of crime and disorder associated with the club, and continually long-standing and unacceptable management actions and interventions. Two of these incidents consisted of serious sexual allegations against separate door staff members on differing dates. Police concerns included the failure of the venue to provide evidential CCTV footage in respect of several incidents, some of which were of a serious nature, namely large disturbances and assaults.**

**The club was allowed a three month period between having review papers served on it and the licence review proper on 4 December 2012. This was in order to give it a chance to make changes in management and procedures in order to allow the licensing objectives to be upheld and for it to operate in a manner satisfactory to the police and other responsible authorities with whom we work in partnership.**

**At the licence review only one minor change was made to the venue's premises licence – a condition that stipulated last customer entry at 0400hrs.**

**Just after 7.30am on Saturday 22 December 2012 a large street fight occurred on Call Lane, Leeds, involving 15- 20 customers who had just left Phono. This lasted around twenty minutes. Police enquiries show that the fight started inside Bar Phono. Evidential footage has been obtained from Leeds City Council Leedswatch cameras – this being the only visual depiction of the incident as Phono's CCTV was found to be "not working" at the time of the incident. Affray is a serious crime which fits the criteria for this summary review procedure. The violence in nature and duration as depicted in the Leedswatch footage is serious disorder. The fact that it occurred on a Saturday morning when shoppers and workers were arriving into the city centre on one of, if not the busiest retail day of the year, exacerbated an already serious incident.**

**Six adult males were arrested for Affray and other offences by attending police officers who had to use baton strikes and empty hand self defence skills against some of the arrested participants and other participants due to the level of force and violence being used against them.**

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**This incident started and partially took place at the edge of a sterile crime scene, put in place to protect a public area where a male received fatal injuries from an on-street disturbance unconnected with Phono earlier that evening.**

**All previous police engagement with the venue to allow them to operate in a safe and legal fashion, either on a voluntary basis or by way of formal proceedings as described above, have failed.**

**A fuller picture of events leading to the application for Summary Review to which this certificate relates is given on the application accompanying this certificate.**

**I endorse the Summary/ Expedited Review procedure as opposed to the other alternatives available due to the urgent and immediate need to have Phono's activities mandatorily regulated. The normal review timeframe parameters including time needed for preparation of case papers, 28-day representation period, interim period awaiting a hearing date being set, plus any subsequent appeals procedures would render expediency impossible when trying to achieve this objective and this matter now requires the urgent action and attention set out by the legislation to which this certificate relates.**

**I am happy that the available evidence meets the criteria required for initiating a review of this type.**

Signed:..... Date:.....





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.<sup>1</sup>

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).

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<sup>1</sup> This means that, for example, if the application was received at 3pm on a Friday, the 48 hour period would cover the remaining 9 hours on that Friday and the remaining 39 hours starting on the Monday morning (provided it was not a bank holiday). In this case the licensing authority would have to decide on interim steps by 3pm on the Tuesday.

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 parties<sup>2</sup> 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 authority<sup>3</sup>.

5.4 A party shall give to the authority a notice no later than two working days before the day or the first day on which the hearing is to be held stating –

- whether he intends to attend or be represented at the hearing;
- whether he considers a hearing to be unnecessary.
- whether he would like permission for any other person (other than the person he intends to represent him at the hearing) to appear at the hearing and, if so, explain on which points that person will be able to contribute.

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). 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

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

<sup>3</sup> 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**

