



## LICENSING SUB-COMMITTEE

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MEETING TO BE HELD IN CIVIC HALL, LEEDS ON  
THURSDAY, 2ND FEBRUARY, 2017 AT 10.00 AM

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### MEMBERSHIP

#### Councillors

M Harland – Kippax and Methley  
B Selby – Killingbeck and Seacroft  
G Wilkinson - Wetherby

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**Agenda compiled by:  
Governance Services  
Civic Hall  
LEEDS LS1 1UR  
Tel No: 3788662**

# A G E N D A

Item No	Ward	Item Not Open		Page No
2			<p data-bbox="678 322 1134 356"><b><u>PRELIMINARY PROCEDURES</u></b></p> <p data-bbox="678 427 1075 461"><b>ELECTION OF THE CHAIR</b></p> <p data-bbox="678 533 1401 602"><b>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</b></p> <p data-bbox="678 642 1382 788">To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an Appeal the press and public will be excluded)</p> <p data-bbox="678 826 1385 972">(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	

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 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 13-16 of the Members' Code of Conduct.</p> <p><b><u>HEARINGS</u></b></p>	
6	City and Hunslet		<p><b>REVIEW OF A PREMISES LICENCE - INTERIM STEPS HEARING</b></p> <p>To receive and consider the attached report of the Head of Elections, Licensing and Registration for the review of a Premises Licence – Interim Steps Hearing for One Fusion Restaurant , First Floor, 58 Roseville Road, Leeds, LS8 5DR.</p> <p><b><u>Third Party Recording</u></b></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties – code of practice</p> <ul style="list-style-type: none"> <li>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</li> <li>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</li> </ul>	1 - 26

**Report of the Head of Elections, Licensing and Registration**

***Report to the Licensing Sub Committee***

**Date: Thursday 2<sup>nd</sup> February 2017**

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

**For: One Fusion Restaurant, First Floor, 58 Roseville Road, Leeds, LS8 5DR**

**Electoral Wards Affected:**

City & Hunslet

Ward Members consulted  
(referred to in report)

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

**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, on the Council. The application was served on the 31<sup>st</sup> January 2017. West Yorkshire Police are of the opinion that One Fusion Restaurant, First Floor, 58 Roseville Road, Leeds, LS8 5DR is a premises associated with serious crime and disorder. A summary review hearing will be heard within 28 days of the 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 steps pending the Summary 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 a Summary Review in respect One Fusion Restaurant First Floor, 58 Roseville Road, Leeds LS8 5DR. West Yorkshire Police make this application on the grounds of serious crime and serious disorder.
- 1.2 The Licensing Authority is now under a duty to review the Premises Licence held by Mr Musse Gerezgiher. A copy of the current Premises Licence can be found at **Appendix A**.
- 1.3 An Interim Steps Hearing must be held prior to the Summary 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 step taken, will have immediate affect.
- 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 Act, that 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 31<sup>st</sup> January 2017 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 relevant premises. This notice will be in situ from the 1<sup>st</sup> February 2017 until 9<sup>th</sup> February 2017. Representations can be made in relation to the Summary Review with 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 In reaching a conclusion on which interim steps, if any, are necessary pending the review determination. Members are invited to take into account not only the application, but those matters raised by West Yorkshire Police at the hearing.
- 3.3 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 used 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, but 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.
  - 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 is 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

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# Details of premises licence

For: **One Fusion Restaurant**



**Leeds**  
CITY COUNCIL

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

**Licence number:** PREM/03371/004

**Premises the licence relates to:** One Fusion Restaurant, First Floor, 58  
Roseville Road, Leeds, LS8 5DR

**Date licence first effective:** 30th September 2013

**Date current version effective from:** May 3, 2016

## Licensable activities authorised by the licence:

### Sale by retail of alcohol

Monday to Thursday	12:00 - 02:00
Friday & Saturday	12:00 - 05:00
Sunday	12:00 - 04:00

### Provision of late night refreshment

Monday to Thursday	23:00 - 02:00
Friday & Saturday	23:00 - 05:00
Sunday	23:00 - 04:00

### Performance of recorded music

Friday	12:00 - 01:00
Saturday	12:00 - 02:00
Sunday to Thursday	12:00 - 23:00

## Opening hours of the premises:

Monday to Thursday	12:00 - 02:30
Friday & Saturday	12:00 - 05:30
Sunday	12:00 - 04:30

## Premises licence holder(s):

**Mr Musse Gerezgiher, 27 Appleton Close, Appleton Way, Burmantofts, Leeds, LS9  
7RT**

## Designated premises supervisor:

Mr Fabien Pompidou Dacleu

## Access to the premises by children

Access to the premises by children is restricted

Details of licence numbered : PREM/03371/004

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

7. 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.

8. 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.



crime number, names and addresses of any witnesses and confirmation of whether there is CCTV footage of the incident.

18. The Incident Report Register will be produced for inspection immediately on the request of an authorised officer.
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. A minimum of 1 SIA registered security staff will be deployed from 23:00hrs until close of business on every Friday, Saturday and Sunday and will only perform security staff duties.
21. The Premises Licence Holder (PLH/Designated Premises Supervisor (DPS) will ensure that a 'Daily Record Register' is maintained on the premises by the door staff.
22. The Daily Record Register will contain consecutively numbered pages, the full name and registration number of each person on duty, the employer of that person and the date and time he/she commenced duty and finished duty (verified by the individuals signature).
23. The Daily Record Register will be retained on the premises for a period of twelve months from the date of the last entry.
24. Security staff/designated supervisors will be familiar with the premises policy concerning the admission, exclusion and safeguarding of customers whilst in the premises.
25. A policy for searching patrons at the entrance to premises to the premises will be adopted and prominently displayed on the premises.
26. 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 or British Transport Police.
27. The PLH/DPS will belong to a recognised trade body or Pub Watch Scheme where one exists, whose aims include the promotion of the licensing objectives.
28. The Premises Licence Holder will not allow the sale or supply of "Legal Highs" on the premises.
29. The premises have a current Fire Risk Assessment.
30. A facility will be provided for customers to order Hackney taxis/private hire vehicles. Telephone numbers for taxi firms/private hire companies will be displayed in a prominent position on the premises.

### **Public safety**

31. 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.
32. One of the following protective measures shall be used for all socket-outlets which may be used for the connection for lighting, video or sound amplification equipment and display models:
  - a) Each socket-outlet circuit shall be protected by a residual current device having a rated residual operating current not exceeding 30mA.
  - or
  - b) Each individual socket-outlet shall be protected by an integral residual current device having a rated residual operating current not exceeding 30mA.

The current operation of all residual current devices shall be checked regularly by pressing the test button. If the device does not switch off the supply, an electrical contractor should be consulted. At the same time action should be taken to prohibit the use of socket outlets associated with a faulty residual current device

33. A suitably trained first aider or appointed person will be provided at all times when the premises are open.
34. Glasses and bottles collected frequently.
35. Record all accidents and safety incidents.
36. Prevent unauthorised access to kitchen, bar area and stores by public.

**The prevention of public nuisance**

37. Waste disposal will be at appropriate hours (not after 23:00 -07:00).
38. Ensure any litter is cleaned from the street around the premises.

**Protection of children from harm**

39. Have proof of age 21 policy in place.
40. Have a policy of children U16 being accompanied by an adult.

**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)*

Leeds City Council, Entertainment Licensing Section, 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, [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

ONE FUSION FIRST FLOOR 58, ROSEVILLE ROAD

Town/City LEEDS

Postcode LS8 5DR

#### Part 2 – Premises licence details

Name of premises licence holder (if known)

MR MUSSE GEREZGIHER

Number of premises licence (if known) PREM/03371/004

#### 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)

Between 04 40 and 04 52 on Sunday 29<sup>th</sup> January 2017 at the above named premises two groups of males have become involved in an altercation inside the venue. Some of the males were ejected but then met up with members from the other group. The suspect and the victim then became involved in an altercation in the street, and the victim was stabbed in the back causing a puncture wound to his lung. He also received a deep cut to the fingers of his left hand. The suspect then made off leaving the victim on the floor.

Between 03 30 and 04 03 on Monday 30<sup>th</sup> January 2017 at the above named premises, violent disorder took place where persons received serious injuries, including a wound to the neck requiring over 20 stitches (believed to have been inflicted with a broken bottle). From viewing CCTV it is said that over 20 males were seen to be fighting with chairs and tables used as weapons with people being punched, kicked and stamped on. Nine males were arrested from this violent disorder and the main victim's injuries are consistent with a Section 18 Wounding.

The application for the summary review allows for the Licensing Sub-Committee to consider an immediate suspension of the premises licence until the Review proper.

Signature of applicant

[REDACTED]

Date 31/012017

Capacity Police Licensing Officer

Contact details for further enquiries concerning this application

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Address Licensing Dept, Elland Road Police Station, Elland Road, Leeds, LS11 8BU  
Telephone numbers 0113 3859414  
E-mail address catherine.arkle@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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**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**

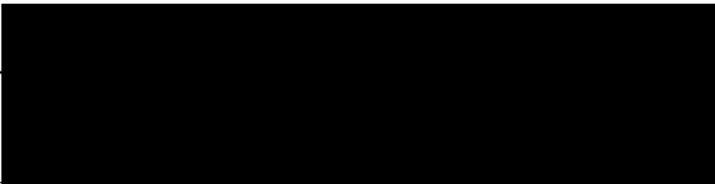
<b>Premises details</b>
Premises (include business name and address and any other relevant identifying details)
ONE FUSION RESTAURANT, FIRST FLOOR, 58, ROSEVILLE ROAD, LEEDS, LS8 5DR PREM/03371/004
I am a (Insert rank of officer giving the certificate which must be superintendent or above): SUPERINTENDENT in the West Yorkshire Police Force

**Optional**

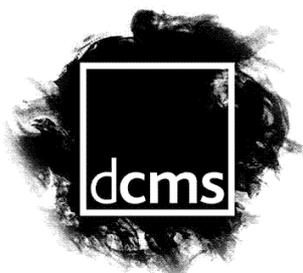
*I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because*

(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 severity and seriousness of the two unrelated incidents on consecutive days leads me to believe that public safety is at risk, and that an immediate suspension of the premises licence is necessary to protect public safety. A standard review process cannot achieve this.

Signed		Date	24/10

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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.<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**

