

MEETING

LICENSING SUB-COMMITTEE

DATE AND TIME

WEDNESDAY 5TH OCTOBER, 2016

AT 1.00 PM

VENUE

HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ

TO: MEMBERS OF LICENSING SUB-COMMITTEE (Quorum 3)

Cllr John Hart

Cllr Brian Salinger

Cllr Jim Tierney

You are requested to attend the above meeting for which an agenda is attached.

Andrew Charlwood – Head of Governance

Governance Service contact: Governance Service governance.service@barnet.gov.uk

Media Relations contact: Sue Cocker 020 8359 7039

ASSURANCE GROUP

ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Appointment of Chairman	
2.	Absence of Members (If any)	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Licensing Sub-Committee Hearing Procedure	5 - 8
5.	Interim Steps Meeting - Expedited Summary Review, Fine Foods, 78 Colindale Avenue, London, NW9 5ES	9 - 46
6.	Motion to exclude the Press and Public	
7.	Certificate under Section 53A (1) (b) and Summary Review Application - Exempt	47 - 56
8.	Deliberation by the Sub-Committee in Private Session	
9.	Re-admission of the Press and Public: Announcement of the decision of the Sub-Committee	
10.	Any other Item(s) the Chairman decides are urgent	

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LONDON BOROUGH OF BARNET

LICENSING SUB COMMITTEE

HEARINGS PROCEDURE

AGENDA ITEM 4

General points

The following procedure is based on Regulations made by the Secretary of State under the Licensing Act 2003 (“the Hearings Regulations”) which may be viewed or downloaded from the website of the Department for Culture, Media and Sport by following links from www.culture.gov.uk

The procedure is intended as a general framework to ensure natural justice and a fair hearing. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed.

The procedure allows each party a maximum period of 5 minutes in which to present their case (Regulations 16 & 24). At the end of the time allowed, the Chairman will terminate the presentation and the hearing will proceed in the form of a discussion led by the authority to explore points of dispute. The discussion will not be timed.

The procedure is subject to periodic review and amendment to reflect best practice and relevant legislative changes. An updated version of this procedure is published as soon as possible following any such amendments.

Chairman

- Introduces him/herself and Members of the Committee, and outlines their roles.
- Introduces Licensing, Legal and Governance Officer.
- Explains that Legal and Governance Officers will be present during the Committee’s deliberations to advise only, and that the Licensing Officer will be excluded from deliberations.
- Asks parties present to introduce themselves.
- Outlines procedure to be followed (Regulation 22).
- Asks all parties to confirm their understanding of the procedure.
- Clarifies any aspect(s) of the procedure where any parties are uncertain or asks Legal or Governance Officer as appropriate to clarify.

Governance Officer

- Informs Committee of absent parties.
- Details persons whom a party is seeking permission to represent them at hearing.
- Panel confer regarding permission.
- Chairman announces decision regarding permission.

Licensing Officer presents the report to the Committee

- Is a statement of the facts including details of the application and operating schedule, relevant policy details, detail representations made, a chronology of events and highlights the points on which the Authority requires clarification.

Applicant

- Presents opening submissions and clarifies points raised by Authority in notice of hearing. Time allowed 5 mins.

Other parties

- Presents opening submissions either in person or by spokes person Time allowed 5 mins per interested party.

Note regarding use of video evidence

Video evidence must be in DVD format and will form part of the relevant party's five minutes opening submission. Any party wishing to use video evidence must submit a copy to the Authority along with sufficient, identical extra copies to serve on all the opposing parties – i.e. if the applicant is submitting it, there must be enough copies for all parties making representations and if a party making representations is submitting it there must be a copy for the applicant. The recording must be edited down to the highlights, containing only relevant matter which relates to the written representation previously submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted. These must be supplied to the Authority at least five working days before the hearing.

Members question Licensing Officer on Policy

Discussion

Chairman leads a discussion concentrating on points of dispute:

Chairman asks Applicant what he disputes in other parties' submissions, and asks other parties to comment.

Chairman proceeds through all objectors dealing with all matters of contention.

When Chairman feels all matters have been thoroughly discussed and all parties have been given a fair and equal opportunity to comment and make representations, she/he closes discussion.

Determination

There are two procedures depending on whether or not determination is to be made at the end of the Hearing or within five working days of the Hearing. This later announcement of determination is permitted in terms of the Legislation for certain types of applications.

Chairman informs all present that the Committee will deliberate, that Legal and Governance Officer will remain to advise but will not be part of decision-making process, and that all others must leave (under Regulation 14).

- Parties, apart from Legal and Governance Officer, leave the room.
- The Committee deliberates, with advice as required from Legal and Governance Officer, and reaches a conclusion. The Legal officer may assist, as required, in formulating the wording of the determination.
- Parties return.

- Chairman reads out determination, and advises it will be sent in writing to all parties.
- Opportunity for determination to be clarified by any interested party who is unclear.
- Chairman gives advice about appealing against the determination.
- Chairman thanks all for attending and closes the meeting.

...Within five working days of the hearing

- Chairman explains requirement to determine the Hearing within five working days, and advises that the Committee will proceed to deliberate and announce the determination within that time.
- During deliberations, Legal and Governance Officers remain to advise on law and procedure as required. The Legal Officer may assist, as required, in formulating the wording of the determination. The Licensing Officer plays no part in the determination and withdraws for this part of the proceedings.
- Chairman advises all parties that they will receive written notification of the determination within five working days of the Hearing date, together with general information on how to appeal against the determination.
- Chairman thanks all parties for attending and invites the applicant, objector(s), other party(ies) and the Licensing Officer to leave.

Information on Appealing against the decision

You may at any time before the expiration of a period of 21 days from notification appeal to Willesden Magistrates' Court, 448 High Road London England NW10 2DZ (Telephone 020 8955 0555, DX 110850 Willesden 2) by way of Complaint for an Order. The Court may either dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority or remit the case to the Licensing Authority to dispose of it in accordance with the directions of the court, and can make such order as to costs as it thinks fit.

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**Licensing Sub-Committee
Wednesday 5th October 2016**

Title	Interim Steps Meeting – Expedited Summary Review, Fine Foods, 78 Colindale Avenue, London, NW9 5ES
Report of	Trading Standards & Licensing Manager
Wards	Colindale
Status	Public Public (with exempt Annex 1 and 2 By virtue of paragraph(s) 1 of Part 1 of Schedule 12A of the Local Government Act 1972)
Enclosures	Officers Report Annex 1 – Certificate under Section 53A (1)(b) (exempt) Annex 2 – Summary Review Application (exempt) Annex 3 – Premises Licence Annex 4 – Home Office Summary Review Guidance Annex 5 – Chapter 3 - Violent Crime Reduction Act 2006 Annex 6 – Matters for decision
Officer Contact Details	Daniel Pattenden 020 8359 2508 daniel.pattenden@barnet.gov.uk

Summary

This report asks the Sub-Committee to consider the application for a Summary Review of a premises Licence, submitted under section 53A of the Licensing Act 2003. In particular it asks that the licensing subcommittee to consider whether it is appropriate to take interim steps pending determination of the review of the premises licence.

Recommendations

1. This report asks the Sub-Committee to note the application for an Expedited Summary Review of a Premises Licence, under section 53A of the Licensing Act 2003 for Fine Foods, 78 Colindale Avenue, London, NW9 5ES and to consider whether it is appropriate to take interim steps, under section 53B of the Licensing Act 2003, pending determination of the review of the premises licence.

1. WHY THIS REPORT IS NEEDED

- 1.1 The London Borough of Barnet's Chief Officer of Police has applied under section 53A of the licensing Act to the licensing authority for an expedited summary review of the premises licence. The expedited summary review application is accompanied by a certificate that it is his opinion that the named premises are associated with serious crime or serious disorder or both.

2. REASONS FOR RECOMMENDATIONS

- 2.1 On receipt of the application and the certificate, the licensing authority must within 48 hours of the time of its receipt consider whether it is appropriate to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days after the day of receipt of the application.
- 2.2 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee.

3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED

- 3.1 N/A

4. POST DECISION IMPLEMENTATION

- 4.1 The decision will have immediate effect

5. IMPLICATIONS OF DECISION

5.1 Corporate Priorities and Performance

- 5.1.1 Members are referred to the Council's Licensing Policy for consideration
- 5.1.2 Timely, legal and fair decisions support objectives contained within the Corporate Plan. In particular in relation to a "successful London borough" by ensuring that only legal, well regulated licensable activities occur within the borough.

5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)

5.2.1 N/A

5.3 Legal and Constitutional References

5.3.1 The Licensing Act 2003 sets out in sections 53A, 53B and 53C how applications for expedited summary review of premises licences should be dealt with.

5.3.2 Section 53A(2) requires that within 48 hours of receiving a summary review application, the licensing authority must consider whether it is necessary to take any interim steps pending the determination of the review of the premises licence, the latter which must be done within 28 days of receipt of the application.

5.3.3 Under section 53B, the interim steps that a licensing authority must consider taking are:

- (a) The modification of the conditions of the premises licence;
- (b) The exclusion of the sale of alcohol by retail from the scope of the licence;
- (c) The removal of the designated premises supervisor from the licence;
- (d) The suspension of the licence.

It should be noted that the conditions of a licence are modified if any of them is altered or omitted or any new condition added.

5.3.4 The decision to take one or more of the above steps takes effect immediately or as soon after that as the authority directs, but the authority must give immediate notice of its decision and of its reasons for making it to the premises licence holder and the Chief Officer of Police in the relevant area.

5.3.5 If the holder of the premises licence makes (and does not withdraw) representations against any interim steps taken by the licensing authority, the authority must, within 48 hours of the time of receipt of those representations, hold a hearing to consider those representations.

5.3.6 Under the Council's Constitution, Responsibility for Functions (Annex A), the Licensing Sub-Committee is given responsibility in relation to functions under the Licensing Act 2003 which includes the determination of applications such as this.

5.4 Risk Management

5.4.1 N/A

5.5 Equalities and Diversity

5.5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors.

5.6 **Consultation and Engagement**

5.6.1 The statutory consultation process that has been followed in accordance with the Licensing Act 2003.

6. **BACKGROUND PAPERS**

6.1 The application, certificate and report of the Licensing Officer along with the annexes are attached to this report.

Officers Report

Section 53A - LICENSING ACT 2003
'Summary reviews in serious cases of crime and disorder'

OFFICERS REPORT – EXPEDITED REVIEW

Fine Foods, 78 Colindale Avenue, London, NW9 5ES

APPLICATION

On the 4th October 2016 at 12:54hrs a Certificate under Section 53A(1)(b) and an application for a review of a premises licence under section 53A of the Licensing Act 2003 were delivered to the licensing team by Pc Francesca Penny on behalf of the Metropolitan Police Service. Both documents are attached as **annexes 1** and **2** of this report.

Under Section 53 A of the Act, the licensing authority must within 48 hours of receipt of the senior police officer's application, consider whether it is necessary to take interim steps pending determination of a review of the premises licence. A full review of the premises licence must be held within 28 days receipt of the application.

The Metropolitan Police have made this application due to a serious case of Crime and Disorder. On Thursday 29th September at approximately 2310 hours, police were called to a disturbance at Fine Foods. During the call to the police someone was heard to say that they were getting a hammer. Upon arrival there were signs of a disturbance and droplets of blood were seen inside the store. Staff maintained that nothing had happened in the shop and gave a version of event the police believe to be false. It is suspected that a member of staff had used a hammer to assault a customer; this was corroborated by an eye witness. The staff member was arrested on suspicion of GBH.

ADDITIONAL INFORMATION

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 subcommittee.

The interim steps that the Licensing subcommittee must consider are:

- The modification of the conditions of the premises licence ;
- The exclusion of the sale of alcohol by retail from the scope of the licence;
- The removal of the designated premises supervisor;
- The suspension of the licence

(modification includes altering, omitting or even adding new conditions)

If the licensing sub committee decides to take steps at this interim stage, the decision must be communicated to the holder of the premises licence and the senior police officer immediately, together with the reasons for doing so, and the decision must take effect immediately, or as soon as the licensing authority directs.

ATTACHMENTS:

ANNEX 1 - Certificate under Section 53A(1)(b)
ANNEX 2 - Application for a review of a premises licence under section 53A of the LA 2003
ANNEX 3 - Premises Licence
ANNEX 5 - Section 53A Licensing Act 2003 Summery Review Guidance
ANNEX 6 - Part 1, Chapter 3, Section 21 of the Violent Crime Reduction Act 2006 (c.38)
ANNEX 7 - Matters for decision

Report By: Daniel Pattenden
Date: 4th October 2016

Premises Licence

<p>Licensing Act 2003</p> <p>Part A:</p> <p>Premises Licence</p> <p>Premises Licence Number: LN/199906213</p>	<p>Licensing Authority: London Borough of Barnet, Building 4, North London Business Park Oakleigh Road South New Southgate, London, N11 1NP</p> <p style="text-align: right;">LPRL/08/06492 (17/05/2011)</p>
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description
Fine Foods, 78 Colindale Avenue

<p>Post Town London</p>	<p>Post code NW9 5ES</p>
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Telephone number
020 8205 3951

Where the licence is time limited the dates
This premises licence is not time limited

Licensable activities authorised by the licence
The Sale by Retail of Alcohol

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol

Standard Days and Timings:

Friday to Saturday	06:00hrs - 01:00hrs
Sunday to Thursday	06:00hrs - 00:30hrs

The hours that the premises are open to the public

Standard Days and Timings

Monday to Sunday	00:00hrs - 24:00hrs
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Where the licence authorises supplies of alcohol whether these are on and/ or off supplies
Off supplies only

Part 2

Name, (registered) address, telephone number and email (where relevant) of holder of premises licence

Mr Javid Iqbal
134 Dawpool Road
London
NW2 7JY

Registered number of holder, for example company number, charity number (where applicable)

N/A

Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Javid Iqbal
134 Dawpool Road
London
NW2 7JY

Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol

148139 - London Borough of Brent

Annex 1 - Mandatory Conditions

- 1 No supply of alcohol may be made under the premises 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.
- 2 Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3. (1) 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.

(2) 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.

Annex 2 – Conditions consistent with the operating schedule

- 4 Alcohol shall not be sold or supplied except during permitted hours
- 5 The above restrictions do not prohibit:
 - a. During the first twenty minutes after the above hours, the taking of the alcohol from the premises, unless the alcohol is supplied or taken in an open vessel;
 - b. The ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;
 - c. The sale of alcohol to a trader or club for the purposes of the trade or club;
 - d. The sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;
- 6 Alcohol shall not be sold in an open container or be consumed in the licensed premises.
- 7 A CCTV system shall be installed at the premises to the following specifications:
 - a. Digital recording colour CCTV comprising of a multi camera system.
 - b. The head unit (recorder) for storing the images will store such data on a hard drive or a similar quality medium.
 - c. If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot, or metal case strap, bolted to an immovable object like a wall or floor.
 - d. A CD or DVD burner will also form part of the system to facilitate making copies of the images.
 - e. The quality of the images must be of a sufficiently high standard to allow identification of the subject matter.
 - f. Cameras will cover key areas identified by the operator and Police. These will include clear headshots of persons entering the shop area, the till area and areas where alcohol are displayed for sale.
 - g. Images must be retained for a period of 31 days before overwriting.

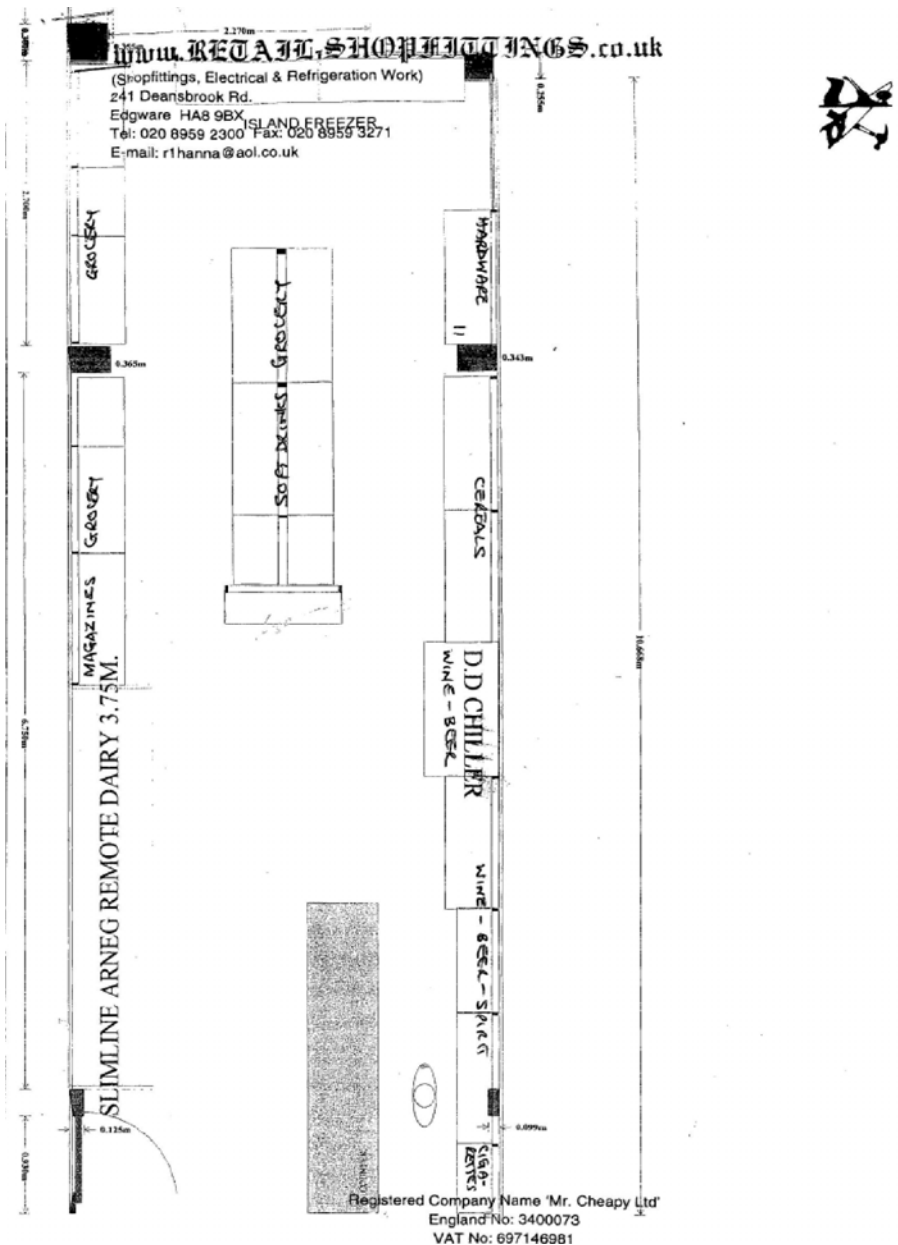
- h. The images will be made available in reasonable time on demand by the Police and authorized officers of the London Borough of Barnet.
 - i. At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised officers of the London Borough of Barnet.
 - j. This system will be fully maintained at all times to ensure correct operation.
- 8 No beer, lager, cider, or perry above 5.6% ABV to be sold, displayed or kept on the premises for retail sale

Annex 3 – Conditions attached after hearing by the licensing authority

N/A

Annex 4 - Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference: LPRL/08/06492



Guidance issued by Home Office on Summary Reviews



Home Office

Section 53A Licensing Act 2003

Summary Review Guidance

CONTENTS

- 1. Introduction**
- 2. The Steps – Summary Review**
- 3. The Licensing Authority and the Interim Steps**
- 4. Making representations against the Interim Steps**
- 5. The Review of the Premises Licence**
- 6. Right of Appeal**

ANNEX A

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

ANNEX B

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

INTRODUCTION

- 1.1 This guidance explains how to use the provisions in the Licensing Act 2003 (“the 2003 Act”), inserted by section 21 of the Violent Crime Reduction Act 2006, which allow a quick process for attaching interim conditions to a licence and a fast track licence review when the police consider that the premises concerned is associated with serious crime or serious disorder (or both).
- 1.2 This guidance has no statutory basis but is intended to assist police forces and licensing authorities when considering using the procedures.
- 1.3 The powers are set out in sections 53A to 53C of the 2003 Act and apply only where a premises licence authorises the sale of alcohol. They do not apply in respect of other premises licences, or to premises operating under a club premises certificate. The purpose of these powers is to complement existing procedures in the 2003 Act for tackling crime and disorder associated with licensed premises. Existing powers in Part 8 of the 2003 Act provide for the instant closure of premises by the police in some circumstances (in essence, disorder or nuisance) and the consequent review of premises licences by the licensing authority. The powers under sections 53A to 53C, which are in Part 3 of the 2003 Act, are aimed at tackling serious crime and serious disorder, in particular (but not exclusively) the use of guns and knives.
- 1.4 The powers allow:
- the police to trigger a fast track process to review a premises licence where the police consider that the premises are associated with **serious** crime or **serious** disorder (or both); and
 - the licensing authority to respond by taking interim steps quickly, **where appropriate**, pending a full review.
- 1.5 In summary, the process is:
- the chief officer of police for the area in which the premises are situated may apply to the licensing authority for an expedited review of a premises licence where a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both);
 - on receipt of the application and the certificate, the licensing authority must within 48 hours of the time of its receipt consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days after the day of receipt of the application.
- 1.6 The options open to the licensing authority at the interim steps stage include:
- modification of the conditions of the premises licence;
 - the exclusion of the sale of alcohol by retail from the scope of the licence;
 - removal of the designated premises supervisor from the licence; and

- suspension of the licence.

1.7 Following the full licence review, the licensing authority may do any of the above or may revoke the licence.

1.8 The purpose of this guidance is to:

- set out the circumstances where the power can be used; and
- outline the process and the steps at each stage.

THE STEPS

2. Triggering the expedited review

2.1 Section 53 A of the Licensing Act 2003 sets out who may apply for an expedited review and the circumstances in which it can be used.

Application for expedited review

2.2 The chief officer of police for the area in which the premises are situated may apply to the relevant licensing authority for an expedited licence review if a **senior member** of the force has issued a **certificate** that in his/her opinion a licensed premises is associated with **serious crime or serious disorder (or both)**.

2.3 The key definitions used above are:

- **Senior member of the force:** This must be an officer of the rank of superintendent or above.
- **Certificate:** This is a formal note which identifies the licensed premises and includes a signed statement by a senior officer that he believes the premises is associated with serious crime, serious disorder or both. **This form is not prescribed in legislation. However, a sample form which forces may wish to adopt is attached at annex A to this guidance.**
- **Serious crime:** The tests to determine the kinds of conduct that amount to serious crime are set out in section 81(2) and (3) (a) and (b) of the Regulation of Investigatory Powers Act 2000. Those tests are that the conduct:
 - (a) constitutes an offence for which a person who is 21 years of age or over with no previous convictions could reasonably be expected to be sentenced to imprisonment for 3 years or more; and
 - (b) Involves the use of violence, results in substantial financial gain or is conducted by a large number of persons in pursuit of a common purpose.
- **Serious disorder:** There is no definitive list of behaviours that constitute serious disorder, and the matter is one for judgment by the local police. The phrase should be given its plain, ordinary meaning, as is the case under section 12 of the Public Order Act 1986 in which it is also used.
- **The application for a summary or expedited review:** this is an application made by, or on behalf of, the Chief Officer of Police under section 53A of the

2003 Act. **The application must be made in the form which is set out in Schedule 8A to the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42). The completed application must be accompanied by the certificate issued by a senior officer. The form which must be used is reproduced in annex B of this guidance.**

2.4 In deciding whether to sign a certificate, the senior officer will want to consider the following (as applicable):

- The track record of the licensed premises concerned and whether the police have previously had cause to give advice about serious criminal or disorderly conduct (or the likelihood of such conduct) attributable to activities taking place on the premises – it is not expected that this power will be used as a first response to a problem.
- The nature of the likely crime and/or disorder – is the potential incident sufficiently serious to warrant using this power?
- Should an alternative power be deployed? Is the incident sufficiently serious to warrant use of the powers in sections 161 to 165 of the 2003 Act to close the premises? Or could the police trigger a standard licence review to address the problem? Alternatively, could expedited reviews be used in conjunction with other powers (for example, modifying licence conditions following the use of a closure power).
- What added value will use of the expedited process bring? How would any interim steps that the licensing authority might take effectively address the problem?

2.5 It is recommended that these points are addressed in the chief officer's application to the licensing authority. In particular, it is important to explain why other powers or actions are not considered to be appropriate. It is up to the police to decide whether to include this information in the certificate or in section 4 of the application for summary review. The police will also have an opportunity later to make representations in relation to the full review.

2.6 In triggering the process, the police will wish to take into account the fact that an intended use of the power is to tackle the use of dangerous weapons and the violence they fuel. For example, in appropriate circumstances the police might want to make representations to the licensing authority suggesting that they modify the conditions of the premises licence to require searches of customers for offensive weapons upon entry. Under the powers in sections 53A to 53C, this could be done on an interim basis pending a full hearing of the issues within the prescribed 28-day timeframe.

2.7 Similarly, the power could, **where appropriate**, be used to reduce the risk of injury caused by glass by requiring the adoption of a safer alternative (but see paragraphs 3.6 and 3.7 below).

2.8 However, it should continue to be borne in mind that these are selective measures. It is not the aim to require all licensed premises to undertake these searches or use toughened glass. Rather, the policy aims to provide a selective

tool, to be used proportionately, to limit this condition to those pubs that are at risk either because police intelligence shows there is a risk of knives/guns being carried or because crime and disorder has occurred on the premises.

3. The Licensing Authority and the interim steps

3.1 Within 48 hours of receipt of the chief officer's application, the licensing authority must give the premises licence holder and responsible authorities a copy of the application for review and a copy of the certificate, and must also consider whether it is necessary to take interim steps. When calculating the 48 hour period any non-working day can be disregarded.¹

3.2 The licensing authority may want to consult the police about the steps that it thinks are appropriate, pending the determination of the review, to address the immediate problems with the premises, in particular the likelihood of serious crime and/or serious disorder. The licensing authority may consider the interim steps without the holder of the premises licence having been given an opportunity to make representations. This does not, of course, mean that the Licensing authority *cannot* afford such an opportunity if it thinks it appropriate and feasible to do so in all the circumstances.

3.3 The determination of interim steps is not a matter that may be delegated to an officer of the licensing authority. The relevant decisions are likely to be taken by a licensing sub-committee. It should also be noted that there is no requirement for a formal hearing in order to take interim steps. This means that the relevant sub-committee members can communicate by telephone or other remote means in order to reach a decision. A written record should always be produced as soon as possible after a decision is reached.

3.4 The interim steps that the licensing authority must consider taking are:

- the modification of the conditions of the premises licence;
- the exclusion of the sale of alcohol by retail from the scope of the licence;
- the removal of the designated premises supervisor from the licence; and
- the suspension of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance issued under section 182 of the 2003 Act (available at:

www.homeoffice.gov.uk/publications/alcohol-drugs/alcohol/guidance-section-182-licensing).

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

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

- the decision takes effect immediately, or as soon as possible after it as the licensing authority directs; but
- the licensing authority must give immediate notice of its decision and its reasons for doing so to the holder of the premises licence and the chief officer of police who made the application. The 2003 Act does not specify that the immediate notice has to be in writing. However, in an individual case the licensing authority may consider that the need for immediate communication at least initially requires a non-written approach, such as a telephone call. This may happen when, for example, the authority decides that the decision should have immediate effect. In such a case, the decision and the reasons for it should be explained clearly and in full to the licence-holder (or someone who may properly act for the licence-holder), and the call followed up as soon as possible with a written version of the decision and the reasons (for example, by email or fax) which is identical to, or not significantly different from, the version given by telephone.

3.6 The licensing authority, in deciding when its decision on interim steps should take effect, should consider the practical implications of compliance in relation to the premises. For example to comply with a modification of the conditions of a licence that requires employment of door supervisors, those running the premises may need some time to recruit appropriately qualified and accredited staff.

3.7 In addition, very careful consideration needs to be given to interim steps which would require significant cost or permanent or semi-permanent adjustments to premises which would be difficult to remove if the outcome of the subsequent full review was to withdraw or modify those steps. For example, making structural changes, installing additional CCTV or replacing all glassware with safer alternatives may be valid steps, but might be disproportionate if they are not likely to be deemed necessary following the full review (or any subsequent appeal). The focus for interim steps should be on the immediate measures that are necessary to prevent serious crime or serious disorder occurring. In some circumstances, it might be better to seek suspension of the licence pending the full review, rather than imposing a range of costly conditions or permanent adjustments.

4. Making representations against the interim steps

4.1 The premises licence holder may make representations against the interim steps taken by the licensing authority. There is no time limit for the premises licence holder to make representations on the interim steps, although in practice this would at some point be superseded by the full review which would have to be completed within 28 days of the application being received by the licensing authority. On receipt of such representations, the licensing authority must (if the representations are not withdrawn) hold a hearing within 48 hours of their receipt. When calculating the 48 hour period, any non-working day can be disregarded.

4.2 The licensing authority must give advance notice of the hearing to the premises licence holder and the chief officer of police. Given that these measures are designed to deal with serious crime and serious disorder on an interim basis only, the process is designed to avoid delay and, as such, significant portions of the Licensing Act 2003 (Hearings) Regulations 2005 (SI 2005/44) (which set out the usual processes governing the conduct of licensing authority hearings) do not apply in order to streamline the hearing process. One result of this is that licensing authority cannot adjourn the hearing to a later date if the licence holder fails to attend

at the scheduled time, as is the case under the normal review procedure. And as is the case with that procedure, the licence holder does not have to be present for the hearing to take place. In addition, there is no timescale for notifying the licence holder of the hearing under the modified process, providing the notification takes place before the hearing is held. However, it is imperative that the licence holder be given as much notice as is possible in the circumstances to afford the holder a maximum practicable opportunity to prepare for and attend the hearing. Licensing authorities should bear in mind that the usual principles of public law decision-making will apply to interim determinations, in a form that has regard to the statutory context of an expedited process.

4.3 At the hearing the licensing authority must:

- consider whether the interim steps are appropriate for the promotion of the licensing objectives; and
- determine whether to withdraw or modify the steps taken.

4.4 When considering the case the licensing authority must take into account:

- the senior officer's certificate that accompanied the application;
- the chief officer's representations (if any); and
- any representations made by the premises licence holder.

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

5. The review of the premises licence

5.1 The licensing authority must hold a review of the premises licence within 28 days after the day of receipt of the chief officer's application. This must take place even if the chief officer asks to withdraw his application or representations. At the hearing, the licensing authority must:

- consider what steps it considers appropriate for the promotion of the licensing objectives; and
- decide which interim steps (if there are any) cease to have effect altogether or become the subject of any steps which it considers are appropriate when making its determination on the review.

5.2 The steps the licensing authority can take are:

- the modification of the conditions of the premises licence;
- the exclusion of a licensable activity from the scope of the licence;
- the removal of the designated premises supervisor from the licence;
- the suspension of the licence for a period not exceeding 3 months; and
- the revocation of the licence.

Modification of the conditions of the premises licence can include the alteration or modification of existing conditions or addition of any new conditions, including those that restrict the times at which licensable activities authorised by the licence can take place. Further examples of possible licensing conditions, including those aimed at tackling crime and disorder, can be found in the amended guidance under section 182 of the 2003 Act.

5.3 The licensing authority must:

- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- advertise that any representations made by the premises licence holder, responsible authority and any other persons should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority².

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

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

5.5 The regulations relating to hearings are set out in the Licensing Act 2003 (Hearings) Regulations 2005 (S.I. 2005/44). They apply to final hearings under the section 53A(2)(b) in a similar way to hearings following closure orders under section 167 of the 2003 Act (it should be emphasised that the truncated version of the hearings regulations described in paragraph 4.2 above applies to interim hearings only). The issues they address include who can make representations and what those representations can be about. It is therefore possible for responsible authorities or any other persons to make representations in relation to any of the licensing objectives, not just crime and disorder. Similarly, where it is in the public interest, the regulations relating to the exclusion of individuals from hearings, or conducting the hearing in private, will apply.

5.6 The licensing authority must take into account any relevant representations made. Relevant representations are those that:

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

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

5.7 The licensing authority must notify its decision and the reasons for making it to:

- the holder of the premises licence;
- any person who made relevant representations; and
- the chief officer of police who made the original application.

6. Right of Appeal

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

6.2 The decision of the licensing authority, following the review hearing, will not have effect until the end of the period allowed for appeal, or until the disposal of the appeal.

[insert name and address of police force]

Example Form

Annex A

CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder³.

*Premises*⁴:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a _____⁵ in the
police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because⁶:

.....

³ Delete as applicable.

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

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

⁶ Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

(Signed) (Date)

Statutory Form For Applying For A Summary Licence Review

Annex B

[Insert name and address of relevant licensing authority and its reference number (optional)]

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. **Use additional sheets if necessary.**

I [on behalf of] the chief officer of police for the police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

1. Premises details:

Postal address of premises, or if none or not known, ordnance survey map reference or description:

Post town:

Post code (if known):

2. Premises licence details:

Name of premises licence holder (if known):

Number of premises licence holder (if known):

3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)

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

[Please read guidance note 2]

Signature of applicant:

Date:

Capacity:

Contact details for matters concerning this application:

Address:

Telephone number(s):

Email:

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.



Home Office



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**Part 1, Chapter 3,
Section 21 of the
Violent Crime
Reduction Act 2006
(c.38)**



Violent Crime Reduction Act 2006

2006 CHAPTER 38

PART 1

ALCOHOL-RELATED VIOLENCE AND DISORDER

CHAPTER 3

OTHER PROVISIONS

Licence reviews

21 Power of police to require review of premises licence

After section 53 of the Licensing Act 2003 (c. 17), insert—

“Summary reviews in serious cases of crime or disorder

53A Summary reviews on application of senior police officer

(1) The chief officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if—

- (a) the premises are licensed premises in relation to the sale of alcohol by retail; and
- (b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both;

and that certificate must accompany the application.

(2) On receipt of such an application, the relevant licensing authority must—

Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Section 21. (See end of Document for details)

- (a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
 - (b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review.
- (3) The Secretary of State must by regulations—
- (a) require a relevant licensing authority to whom an application for a review under this section has been made to give notice of the review to the holder of the premises licence and to every responsible authority;
 - (b) prescribe the period after the making of the application within which the notice under paragraph (a) must be given;
 - (c) require a relevant licensing authority to advertise the review, inviting representations about it to be made to the authority by the responsible authorities and interested parties;
 - (d) prescribe the period after the making of the application within which the advertisement must be published;
 - (e) prescribe the period after the publication of the advertisement during which representations may be made by the holder of the premises licence, any responsible authority or any interested party; and
 - (f) require a notice or advertisement under paragraph (a) or (c) to specify the period prescribed under paragraph (e).
- (4) In this section—
- “senior member”, in relation to a police force, means a police officer who is a member of that force and of or above the rank of superintendent; and
 - “serious crime” has the same meaning as in the Regulation of Investigatory Powers Act 2000 (c. 23) (see section 81(2) and (3) of that Act).
- (5) In computing the period of 48 hours mentioned in subsection (2)(a) time that is not on a working day is to be disregarded.

53B Interim steps pending review

- (1) This section applies to the consideration by a relevant licensing authority on an application under section 53A whether it is necessary to take interim steps pending the determination of the review applied for.
- (2) The consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority.
- (3) The interim steps the relevant licensing authority must consider taking are—
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.

Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Section 21. (See end of Document for details)

- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Where on its consideration of whether to take interim steps the relevant licensing authority does take one or more such steps—
 - (a) its decision takes effect immediately or as soon after that as that authority directs; but
 - (b) it must give immediate notice of its decision and of its reasons for making it to—
 - (i) the holder of the premises licence; and
 - (ii) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (6) If the holder of the premises licence makes, and does not withdraw, representations against any interim steps taken by the relevant licensing authority, the authority must, within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- (7) The relevant licensing authority must give advance notice of the hearing to—
 - (a) the holder of the premises licence;
 - (b) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (8) At the hearing, the relevant licensing authority must—
 - (a) consider whether the interim steps are necessary for the promotion of the licensing objectives; and
 - (b) determine whether to withdraw or modify the steps taken.
- (9) In considering those matters the relevant licensing authority must have regard to—
 - (a) the certificate that accompanied the application;
 - (b) any representations made by the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated); and
 - (c) any representations made by the holder of the premises licence.
- (10) In computing the period of 48 hours mentioned in subsection (6) time that is not on a working day is to be disregarded.

53C Review of premises licence following review notice

- (1) This section applies to a review of a premises licence which a relevant licensing authority has to conduct on an application under section 53A.
- (2) The relevant licensing authority must—
 - (a) hold a hearing to consider the application for the review and any relevant representations;
 - (b) take such steps mentioned in subsection (3) (if any) as it considers necessary for the promotion of the licensing objectives; and
 - (c) secure that, from the coming into effect of the decision made on the determination of the review, any interim steps having effect pending

Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Section 21. (See end of Document for details)

that determination cease to have effect (except so far as they are comprised in steps taken in accordance with paragraph (b)).

- (3) Those steps are—
- (a) the modification of the conditions of the premises licence,
 - (b) the exclusion of a licensable activity from the scope of the licence,
 - (c) the removal of the designated premises supervisor from the licence,
 - (d) the suspension of the licence for a period not exceeding three months, or
 - (e) the revocation of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.
- (5) Subsection (2)(b) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).
- (6) Where the authority takes a step within subsection (3)(a) or (b), it may provide that the modification or exclusion is to have effect only for a specified period (not exceeding three months).
- (7) In this section “relevant representations” means representations which—
- (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (8).
- (8) The requirements are—
- (a) that the representations are made by the holder of the premises licence, a responsible authority or an interested party within the period prescribed under subsection 53A(3)(e),
 - (b) that they have not been withdrawn, and
 - (c) if they are made by an interested party (who is not also a responsible authority), that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious.
- (9) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (10) Where a relevant licensing authority determines a review under this section it must notify the determination and its reasons for making it to—
- (a) the holder of the premises licence,
 - (b) any person who made relevant representations, and
 - (c) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).
- (11) A decision under this section does not have effect until—
- (a) the end of the period given for appealing against the decision, or
 - (b) if the decision is appealed against, the time the appeal is disposed of.”

Changes to legislation: There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Section 21. (See end of Document for details)

Annotations:

Commencement Information

I1 S. 21 in force at 1.10.2007 by S.I. 2007/2180, art. 3(a)

Changes to legislation:

There are currently no known outstanding effects for the Violent Crime Reduction Act 2006, Section 21.

Interim Steps

MATTERS FOR DECISION

An application made under Section 53A of the Licensing Act 2003 Expedited Review the Premises Licence

Fine Foods, 78 Colindale Avenue, London, NW9 5ES

Determination and Notification

Determination in accordance with Section 53B (3) of the Licensing Act 2003.

53B Interim steps pending review

- (1) This section applies to the consideration by a relevant licensing authority on an application under section 53A whether it is necessary to take interim steps pending the determination of the review applied for.
- (2) The consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority.
- (3) The interim steps the relevant licensing authority must consider taking are—
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.
- (4) For the purposes of subsection (3)(a) the conditions of a premises licence are modified if any of them is altered or omitted or any new condition is added.

Notification

Where on its consideration of whether to take interim steps the relevant licensing authority does take one or more such steps—

(a) its decision takes effect immediately or as soon after that as that authority directs; but

(b) it must give immediate notice of its decision and of its reasons for making it to—

(i) the holder of the premises licence; and

(ii) the chief officer of police for the police area in which the premises are situated (or for each police area in which they are partly situated).

Steps Taken (if any)	Reasons

Steps Taken (if any)	Reasons

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

AGENDA ITEM 7

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By virtue of paragraph(s) 1 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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