

## Bath & North East Somerset Council

MEETING: Licensing (Gambling and Licensing) Committee

MEETING  
DATE: 15 January 2013

AGENDA  
ITEM  
NUMBER

TITLE: **Licensing Act 2003 – Interim Steps** following service of Summary Review application in respect of Blue Rooms, Royal York Hotel, 1 York Buildings, George Street, Bath BA1 2EB

WARD: Abbey

### LIKELY TO BE HELD IN EXEMPT SESSION

#### List of attachments to this report:

- Annex A Application for the Summary Review of a Premises Licence and Certificate
- Annex B Copy of Current Premises Licence
- Annex C Copy of Home Office Summary Review Guidance

## 1 THE ISSUE

- 1.1 An application has been received from the Chief Officer of the Police calling for a Summary Review of the premises licence in respect of **Blue Rooms, Royal York Hotel, 1 York Buildings, George Street, Bath BA1 2EB**.

Section 21 Violent Crime Reduction Act 2006 amended the Licensing Act 2003 to make provision for a fast track licence review procedure aimed at tackling serious crime and/or serious disorder.

Applications for Summary Review made under s.53(a) Licensing Act 2003 must be determined no later than 28 days after the day received by the Licensing Authority. Part of this procedure allows for **interim steps** to be taken prior to the determination of the review application.

Powers provided under the Licensing Act 2003 only apply to premises authorised to sell alcohol by virtue of a premises licence.

Only the Chief Officer of the Police may apply for a Summary Review of the premises licence and the application **MUST** be accompanied by a signed certificate, issued by a senior police officer of rank Superintendent or above, stating that he believes the premises to be associated with serious crime, serious disorder or both.

#### **The Role of the Licensing Authority**

On receipt of a Summary Review application from the Police the Licensing Authority **MUST within 48 hours**:

- Consider whether it is necessary to take interim steps to prevent serious crime, serious disorder or both occurring at the premises.

**Within 28 days** (starting the day after the application is received by the Licensing Authority) a hearing must take place to determine the review application.

The Licensing Authority must advertise the application for at least **7 consecutive days** starting the day after receipt, inviting representations from "any persons" within **10 working days** of the advertisement appearing.

## **2 RECOMMENDATION**

- 2.1 That the Sub Committee considers any **interim steps** necessary to prevent serious crime, serious disorder or both from occurring at the premises in the period prior to the review hearing.

## **3 FINANCIAL IMPLICATIONS**

- 3.1 There are no financial implications arising from this report.

## **4 THE REPORT**

- 4.1 An application for a Summary Review (accompanied by signed certificate) has been received from the Chief Officer of the Police in respect of the premises licence for Blue Rooms, Royal York Hotel, 1 York Buildings, George Street, Bath BA1 2EB (Annex A).

The grounds for review relates to serious crime at the premises.

- 4.2 The Licensing Authority may, having had regard to the application and supporting certificate, take any of the following steps (if any) as it considers necessary for the promotion of the licensing objectives and to prevent serious crime, serious disorder or both from occurring at the premises in the period leading up to the review hearing.

- a) Modify the conditions of the Licence
- a) Exclude the sale of alcohol from the scope of the Licence
- b) Remove the Designated Premises Supervisor
- c) Suspend the Licence until the review hearing

**Any determination made by the Licensing Authority in respect of interim steps will have immediate effect.**

- 4.3 The Licensing Authority will also have regard to the Council's Licensing Policy, the Statutory Guidance issued under Section 182 of the Licensing Act 2003 (Annex C), the Licensing Act 2003 and the Home Office Summary Review Guidance dated 2012
- 4.4 No appeal can be made to interim steps made by a licensing authority. The premises licence holder may however make representations, at any time prior to the review hearing, and the Licensing Sub Committee would be required to re-consider such representations within 48 hours.

**The subsequent full review of the premises licence is to be conducted in accordance with the review provisions specified in s.51 Licensing Act 2003.**

- 4.5 The current Premises Licence is attached at Annex B.
- 4.6 The Home Office Guidance published is attached at Annex C.
- 4.7 This report has not been sent to the Trades Union because they would have no involvement in this application.

**5. RISK ASSESSMENT**

A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management.

**6. EQUALITIES**

There are no adverse or significant issues relating to this report.

**7. ISSUES TO CONSIDER WHEN REACHING A DECISION IN RESPECT OF INTERIM STEPS**

When reaching a decision the Licensing Authority must carry out its functions with a view to promoting the four licensing objectives under Section 4 of the Licensing Act 2003. In doing so it must consider whether it is necessary to take interim steps prior to the review hearing which must be held within 28 days following the day the application for Summary Review was served on the Authority.

<b>Contact person</b>	Terrill Wolyn, Licensing Officer, 01225 396939
<b>Background papers</b>	The Licensing Act 2003 Violent Crime Reduction Act 2006 Guidance issued under s.182 of the Licensing Act 2003 dated 2012 Summary Review Guidance issued by the Home Office dated 2012 BANES Licensing Policy



Sevedat W@  
14.30 14.01.2013

Avon and Somerset Constabulary

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 disorder~~.

Blue Rooms  
Royal York Hotel  
1 York Buildings  
George Street  
Bath  
BA1 2EB

Premises licence number: 10/01224/PAPRE

Name of premises supervisor: Blair Damian Ruddick

I am Chief Superintendent Geoff Spicer in the Avon and Somerset Constabulary.

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

Immediate action is required in relation to the management and use of the premises, which a standard review cannot speedily address.

Technov Ltd is the Premises Licence Holder and Blair Damian Ruddick is the Designated Premises Supervisor of Blue Rooms.

A police operation has taken place over two months and has identified the premises as associated with serious crime, as defined by the Regulation of Investigatory Powers Act 2000, namely the supply of controlled substances, commonly referred to as Class A drugs.

A summary review is deemed appropriate at this stage due to the seriousness of the suspected offences and that it will allow the premises to be closed immediately or subject to whatever interim measures the Licensing Committee considers appropriate.

Criminal charges have been brought as part of this operation, however, the criminal investigation may take some considerable time to finalise and therefore the summary review is a necessary step in promoting the Licensing objectives as prescribed by the Licensing Act 2003.

*Geoff Spicer*  
C/Supt

(Signed)

*ATM*

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(Date)	14 JAN 2013
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## FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

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

Bath and North East Somerset Council  
3-4 Manvers St. Bath. BA1 1 JQ

**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 Ch/Superintendent Geoff Spicer (on behalf of ) the chief officer of police for the Avon And Somerset Constabulary 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:

Blue Rooms, 1 York Buildings, George St, Bath BA1 2 EB

**2. Premises licence details:**

Name of premises licence holder (if known): Technov Ltd, George St, Bath.

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 is 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)

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

[Please read guidance note 2]

A covert policing operation was run at the Blue rooms Nightclub between November 2012 and December 2012.

The objective of the operation was to:

- Destroy and dismantle organised Crime Groups affecting BANES communities
- Secure evidence in relation to the supply of controlled drugs – by arrest, prosecution and conviction of offenders.
- To adopt a multi agency preventative approach to re-offending and reduction of anti-social behaviour attributed to drug use and licensing breaches.
- Through joint partnership working, provide drug treatment opportunities to drug users

During this operation, a considerable number of deals of Class A drugs were made to covert police officers. As a result of this operation five people have been arrested and 4 charged to court relating to the supply of Class A drugs. Those charged have been remanded in to custody pending trial. These premises appear to be habitually used for the purpose of Class A drug supply and use.

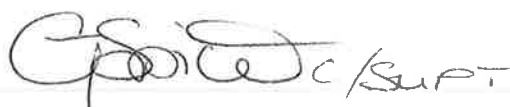
The criminal investigation may take some considerable time to finalise and therefore the summary review is a necessary step in promoting the Licensing objectives as prescribed by the Licensing Act 2003.

It appears there has been a gross failure to promote the licensing objectives in respect of the prevention of crime and disorder.

Since February 2012 there have been numerous incidents of disorder, including serious assaults, public disorder, drunkenness, antisocial behaviour associated with the premises. These incidents have had a major impact on both victims, visitors to the city and residents living nearby.

Police evidence suggests that there is a disproportionate amount of serious violence positively linked to the premises.

Serious concerns exist with regard the overall management structure of the premises, and the failure to promote the licensing objectives in respect of the prevention of crime and disorder.

  
Signature of applicant:

14 Jan 2013

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Date: 14<sup>th</sup> Jan 2013

Capacity: District Commander

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

Address:

Inspector Steven Mildren,  
Bath Police Station,  
Manvers Street. Bath.

Telephone Number(s): 012258462475.

Email: Steven.Mildren@avonandsomerset.police.uk

Notes for guidance:

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

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

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

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

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

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**Schedule 12  
Part A**

**Regulation 33, 34**

**Premises Licence**

<b>Premises Licence Number</b>	10/01224/LAPRE
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**Part 1 – Premises Details**

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Blue Rooms  
Royal York Hotel  
1 York Buildings  
George Street  
Bath  
BA1 2EB

**Telephone number**            01225 470040

**Where the licence is time limited the dates**    Not applicable

**Licensable activities authorised by the licence and the times the licence authorises the carrying out of licensable activities**

**Sale of Alcohol**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:30

**Performance of Dance (Indoors only)**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

**Exhibition of a Film (Indoors only)**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

**Performance of Live Music (Indoors only)**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

**Performance of Recorded Music (Indoors only)**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

**Other Entertainment within Act (Indoors only)**

Monday	10:00 - 00:00
Tuesday to Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

**Late Night Refreshment (Indoors only)**

Monday to Saturday	23:00 - 05:00
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Sale of Alcohol - From normal activity start time on New Year's Eve until normal activity finish time on New Year's Day.

Performance of Dance - From normal activity start time on New Year's Eve until normal activity finish time on New Year's Day.

Other Entertainment within Act - From normal activity start time on New Year's Eve until normal activity finish time on New Year's Day. Other Entertainment is competitions, cultural, comedy and magic performers and provision of facilities for making music, dancing and entertainment of a similar description.

Late Night Refreshment - From normal activity start time on New Year's Eve until normal activity finish time on New Year's Day.

**The opening hours of the premises**

Monday	10:00 - 00:00
Tuesday	00:00 - 00:00
Wednesday	00:00 - 00:00
Wednesday	00:00 - 00:00
Thursday	00:00 - 00:00
Thursday	00:00 - 00:00
Friday	00:00 - 00:00
Friday	00:00 - 00:00
Saturday	00:00 - 00:00
Saturday	00:00 - 00:00
Sunday	00:00 - 23:00

From normal opening time on New Year's Eve until normal opening time on 1 January.

**Where the licence authorises supplies of alcohol whether these are on and/or off supplies**

Alcohol is supplied for consumption both on and off the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Technov Ltd  
George Street  
Bath  
BA1 2EB  
01225 339004 (agent)  
info@bluerooms.net

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

Registered Business Number - Not applicable

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

Mr Blair Damian Ruddick  
21 Camden Crescent  
Bath  
BA1 5HY  
01225 470040

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

B&NES/08/02975/LAPER  
Bath & North East Somerset Council

This licence is issued by Bath & North East Somerset Council as licensing authority under Part 3 of the Licensing Act 2003 and regulations made thereunder.

Signed for and on behalf of  
Bath & North East Somerset Council: .....

Dated 2 November 2012

10/01224/LAPRE



## Annex 1 – Mandatory conditions

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.

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

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Any individual employed to carry out a security activity must be licensed by the Security Industry Authority.

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Substantial food and non-alcoholic beverages, including drinking water to be available throughout the permitted hours when the sale of alcohol is permitted.

There shall be no discounted prices on alcoholic drinks and no 'happy hour'.

The supervision enhanced CCTV system currently installed at the premises shall be maintained in working order and provided with recording facilities with tapes being retained for 30 days and made available to the police for investigative and evidential purposes.

A copy of the premises licence and conditions attached thereto to be prominently displayed at the entrance to the premises for persons entering the premises.

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From 6 April 2010:

Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010

1. (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children: (a) games or 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 to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act); (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less; (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on (i) the outcome of a race, competition or

other event or process, or (ii) the likelihood of anything occurring or not occurring; (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner. NB THIS CONDITION DOES NOT APPLY TO OFF SALES.

2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability). NB THIS CONDITION DOES NOT APPLY TO OFF SALES.

3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available. NB THIS CONDITION DOES NOT APPLY TO OFF SALES.

From 1 October 2010:

4. (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.

5. The responsible person shall ensure that (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures (i) beer or cider: ½ pint; (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and (iii) still wine in a glass: 125 ml; and (b) customers are made aware of the availability of these measures. NB THIS CONDITION DOES NOT APPLY TO OFF SALES.

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**Annex 2 – Conditions consistent with the Operating Schedule**

The existing CCTV system shall be maintained, including retention of recordings for 31 days and be produced for evidential reasons to any Police Officer who has reasonable grounds to so request.

A capacity limit of 300 persons will be maintained with no more than 100 persons using the sub-basement area.

Upon leaving the premises all persons shall be advised to do so quietly.

A phone service to local taxi services will be offered and persons will be asked to remain in the foyer of the premises until the taxi arrives.

Regulated entertainment on the Basement Floor (entry level) shall cease at 23.30 hours each day.

The Premises shall be a member of any organisation that exists locally to assist in safer bars, clubs and the circulation of information from one Premises to another.

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

On days that the premises trades for the sale of alcohol after 12 midnight a minimum of two SIA doorstaff will be on duty from 30 minutes before the premises are open to the public until closure, one of whom shall be positioned at the top of the steps leading to the main entrance in George Street. Communication to exist between door staff and the duty manager.

Subject also to the following times for opening, sale of alcohol, provision of regulated entertainment and late night refreshment, namely -

Opening hours -

Monday 10:00 - 00:00 (Midnight)

Tuesday - Saturday 24 hours

Sunday 00:00 (Midnight) - 23:30

Sale of Alcohol -

Monday 10:00 - 00:00 (Midnight)

Tuesday - Saturday 24 hours

Sunday 00:00 (Midnight) - 23:00

Provision of Regulated Entertainment (by way of Films, Live and Recorded Music, Performance of Dance, Entertainment of a Similar Description, and provision of facilities for making music, dancing and entertainment of a similar description, indoors) -

Monday 10:00 - 00:00 (Midnight)

Tuesday - Saturday 24 hours

Sunday 00:00 (Midnight) - 23:00

Provision of Late Night Refreshment -

Monday - Saturday 23:00 - 05:00

Sunday N/A

The above times shall be in addition to the seasonal variations as applied for and set out in the Operating Schedule.

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**ANNEX B**

**Annex 4 – Plans**

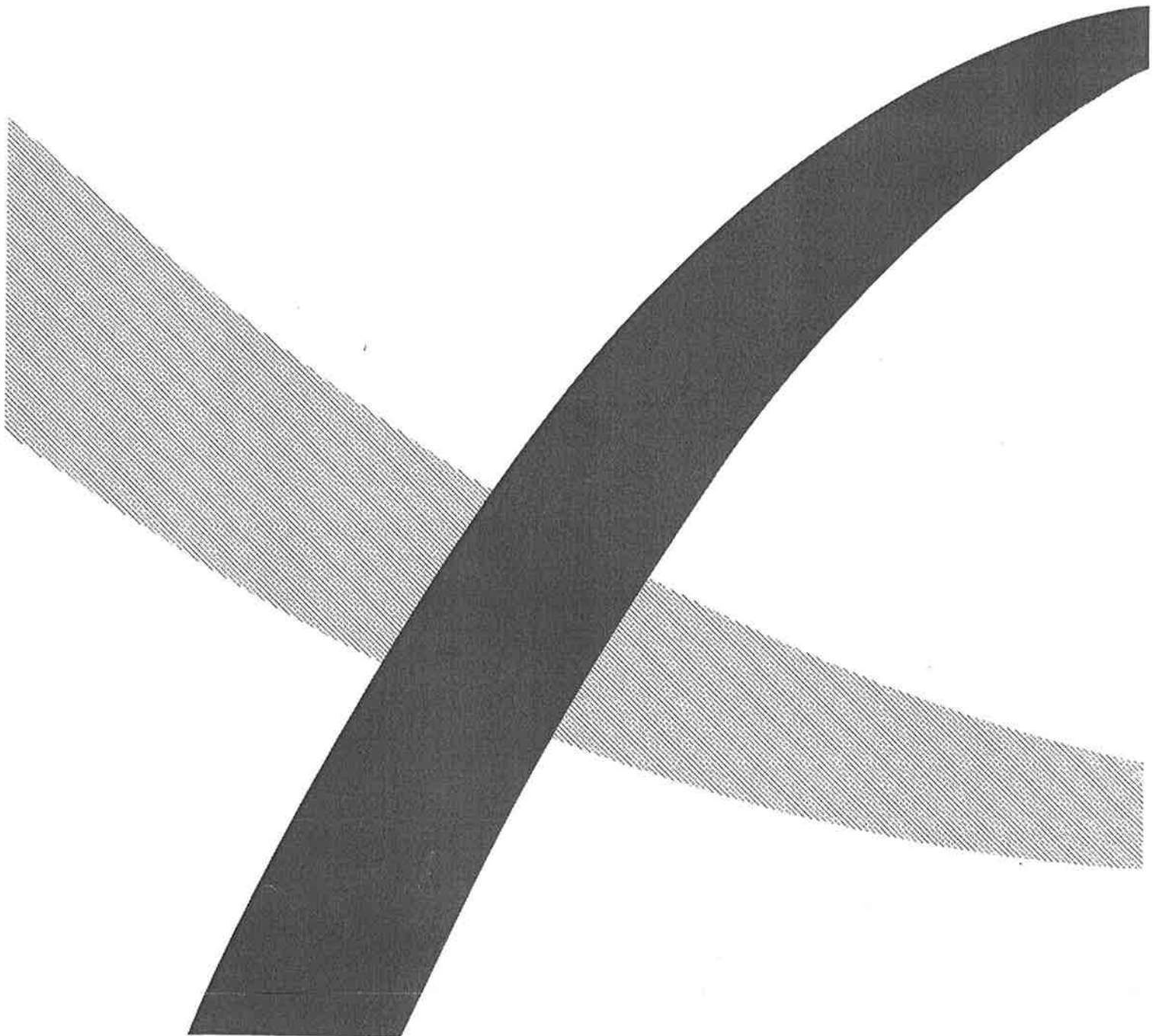
As submitted with application.





Home Office

**Section 53A Licensing Act 2003**  
Summary Review Guidance



## **CONTENTS**

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

## **ANNEX A**

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

## **ANNEX B**

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

## INTRODUCTION

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

- suspension of the licence.

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

1.8 The purpose of this guidance is to:

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

## THE STEPS

### 2. Triggering the expedited review

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

#### Application for expedited review

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

2.3 The key definitions used above are:

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



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

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

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

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

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

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

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

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

### 3. The Licensing Authority and the interim steps

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

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](http://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:

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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.

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

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

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

#### **4. Making representations against the interim steps**

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

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

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

4.3 At the hearing the licensing authority must:

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

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

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

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

## 5. The review of the premises licence

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

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

5.2 The steps the licensing authority can take are:

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

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

5.3 The licensing authority must:

- advertise the review inviting representations from any persons for no less than seven consecutive days, by notice as described in regulation 38 of the Licensing Act 2003 (Premises licences and club premises certificates) Regulations 2005 (SI 2005/42) and, if applicable, on the licensing authority's website (see regulation 38(1)(b) of the above). The relevant notices should be published on the day after the day of receipt of the chief officer's application.
- advertise that any representations made by the premises licence holder, responsible authority and any other persons should be submitted to the licensing authority within 10 working days of the advertisement of the review appearing.
- give formal notice of the hearing no later than five working days before the day or first day on which the hearing is to be held to the premises licence holder and to every responsible authority<sup>2</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). 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:

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<sup>2</sup> 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 disorder<sup>3</sup>.

*Premises*<sup>4</sup>:

Premises licence number (if known):

Name of premises supervisor (if known):

I am a <sup>5</sup> 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, because<sup>6</sup>:

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<sup>3</sup> Delete as applicable.

<sup>4</sup> Include business name and address and any other relevant identifying details.

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

<sup>6</sup> 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:**

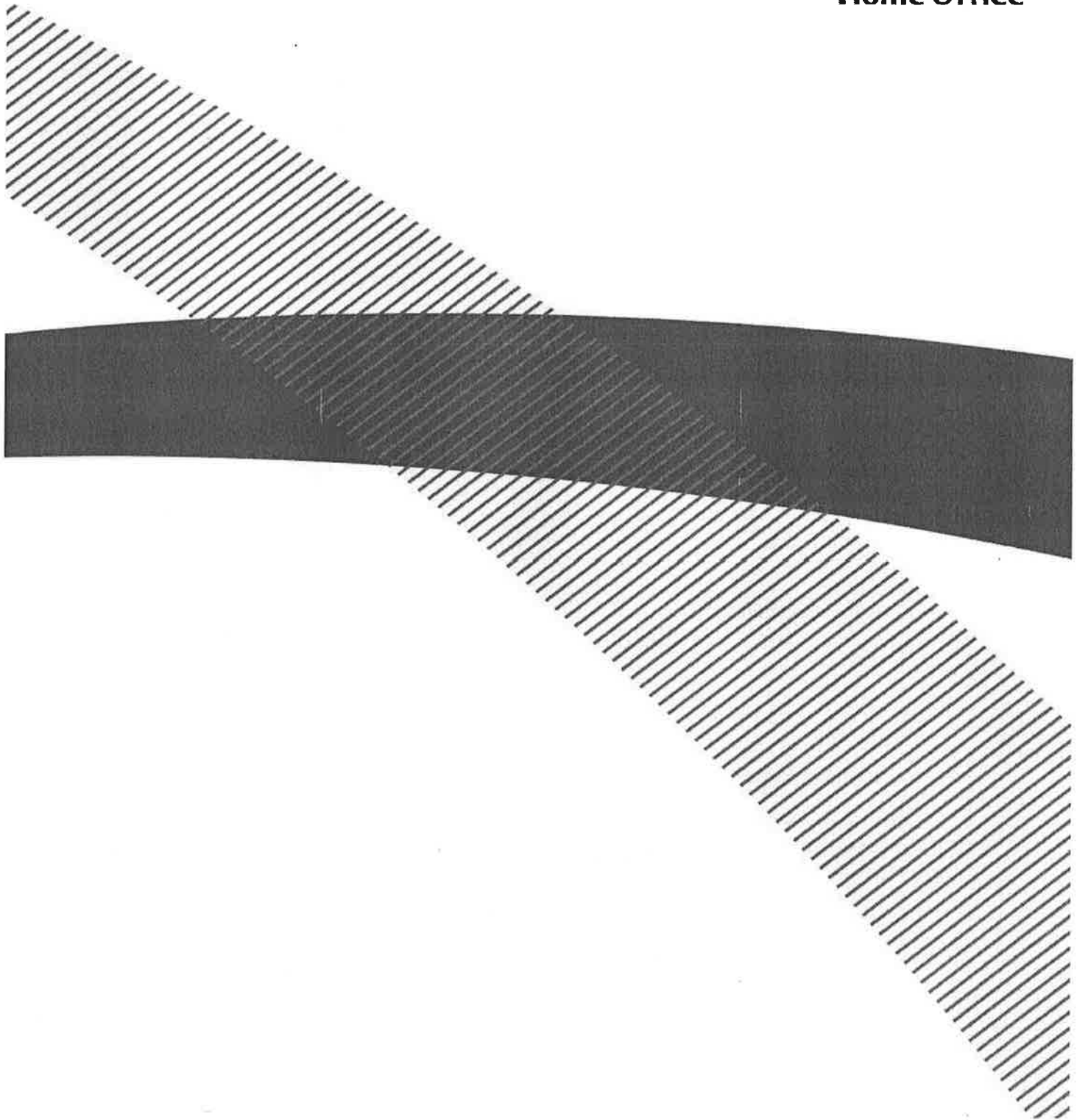
1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder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



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