

**RESTRICTED (when complete)**Form 262  
(R 10/09)**APPLICATION AND CERTIFICATE FOR SUMMARY  
REVIEW OF PREMISES LICENCES**

(Section 53A Licensing Act 2003)

CHESTERFIELD BOROUGH COUNCIL

**Application for the review of a premises licence under section 53A of the Licensing  
Act 2003 (premises associated with serious crime, serious disorder or both)****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 SERGEANT 74 NEVILLE STOCKS.....**  
[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: BAR CENTRO 5 HOLYWELL STREET
Post town: CHESTERFIELD
Post code (if known): S41 7SA

**2. Premises licence details:**

Name of premises licence holder (if known): NICHOLAS JOHN CARTER
Number of premises licence (if known): PL/VF/0315

**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 serious 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]

Between October 2013 and December 2013 a policing operation was conducted on the premises relating to the sale of controlled drugs. Please see the attached sheet.

Signature of applicant:  .....

Date: 16 December 2013.....

Capacity: SERGEANT 74 LICENSING MANAGER

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

Address: C DIVISION LICENSING OFFICE, BEETWELL STREET, CHESTERFIELD .....

Telephone number(s): 0300 122 8517 .....

Email: CHESTERFIELD.LICENSING@DERBYSHIRE.PNN.POLICE.UK.....

**Notes for guidance:**

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

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

- conduct that amounts to one or more criminal offences for which a person who has attained the age of 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 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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Between October 2013 and December 2013 a policing operation was conducted on the premises.

During this operation, the following drug related activity took place at Bar Centro in plain view of patrons of the premises.

- a) Six individuals at the premises sold a total of 8g of Mcat and 2g of cocaine, both controlled substances under the Misuses of Drugs Act to Officers.
- b) Two other individuals offered, what is believed to be, controlled drugs to Officers.
- c) Four other individuals were concerned in the supply of controlled drugs.

Throughout the period of the operation, there was evidence of interaction between numerous persons being involved in the supply and use of controlled drugs in plain sight of patrons and staff at the premises.

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Derbyshire Constabulary  
Chesterfield DHQ  
Beetwell Street  
Chesterfield  
S40 1QP  
Superintendent 1574 Grewal

**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>1</sup>.

*Premises*<sup>2</sup>

Bar Centro  
5 Holywell Street  
Chesterfield  
S41 7SA

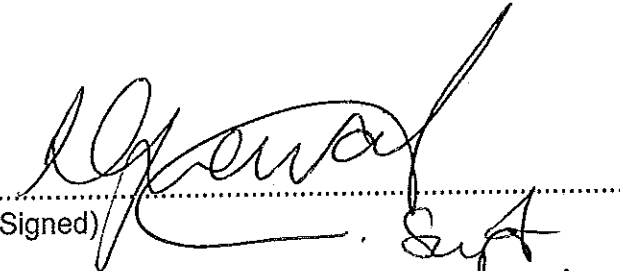
Premises licence number (if known): PL/VF/0315

Name of premises supervisor (if known): Toby Ian Eyre

I am a Superintendent<sup>3</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>4</sup>.

Immediate action is required to prevent further serious crime taking place at the venue.

  
.....  
(Signed)

  
.....  
(Date)

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- 1 Delete as applicable
- 2 Include business name and address and any other relevant identifying details
- 3 Insert rank of officer giving the certificate, which must be Superintendent or above
- 4 Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, eg the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

## APPENDIX 2

[skip](#)**Chesterfield Borough Council - Environment Services**[licensing home](#) | [login](#) | [logout](#)you are here: [Home](#) > [Public Register Licensing Act 2003](#) > [Applications](#) > Details**Licensing Act 2003 - Premises Licence register as at 15:47 on Mon 16 Dec 2013****Bar Centro**

5 Holywell Street, Chesterfield, Derbyshire, S41 7SA

Premises Licence from 01/05/13 to indefinite

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## Licence Holder(s)

Full name

Mr Nicholas Carter

## Designated Premises Supervisor

Premises supervisor name

Mr Toby Ian Eyre

## Permitted Activities:

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- entertainment of a similar description to that falling within a performance of live music, any playing of recorded music or a performance of dance
- entertainment facilities for making music
- entertainment facilities for dancing
- provision of late night refreshment
- the sale by retail of alcohol

## Premises Open Hours granted

	Time From	Time To
Mon, Tues, Wed, & Thursday	10:00am	3:30am
Friday & Saturday	10:00am	4:30am
Sunday	10:00am	3:30am

## Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for opening to the public from 10.00 hours New Year's Eve to 03.30 hours 2nd January.

## Activities - Times granted

	Time From	Time To
<b>B. Exhibition of films (Indoors)</b>		
Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

## Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.

### C. Indoor sporting event

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.

### E. Performance of live music (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 hours New Year's Eve to 03.00 hours 2nd January.

### F. Playing of recorded music (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 hours New Year's Eve to 03.00 hours 2nd January.

### G. Performance of dance (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.

### H. Entertainment of a similar description to that falling within E, F, or G (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 hours New Year's Eve to 03.00 hours 2nd January.

### I. Provision of facilities for making music (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

Non Standard Timings:

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 hours New Year's Eve to 03.00 hours 2nd January.

### J. Provision of facilities for dancing (Indoors & Outdoors)

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

**Non Standard Timings:**

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 hours New Year's Eve to 03.00 hours 2nd January.

**L. Late night refreshment (Indoors & Outdoors)**

Mon, Tues, Wed, & Thursday	11:00pm	3:30am
Friday & Saturday	11:00pm	4:30am
Sunday	11:00pm	3:30am

**Non Standard Timings:**

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 23.00 hours New Year's Eve to 05.00 hours 1st January.

**M. The sale by retail of alcohol for consumption ON and OFF the premises**

Mon, Tues, Wed, & Thursday	10:00am	3:00am
Friday & Saturday	10:00am	4:00am
Sunday	10:00am	3:00am

**Non Standard Timings:**

When the hours for the supply of alcohol are extended then these hours shall be similarly extended.  
New Year option for live music from 10.00 New Year's Eve to 03.00 hours 2nd January.

**Additional Conditions**



## **ANNEX 1 - MANDATORY CONDITIONS**

### **Retailing of Alcohol**

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.

### **Irresponsible Promotions**

3. The responsible person shall take all reasonable steps to ensure that staff on the licensed premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this condition, 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.

### **Dispensing alcohol directly into the mouth**

4. 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).

### **Free tap water**

5. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

In conditions numbered 3, 4 and 5 above, responsible person means-

- (i) the holder of a premises licence in respect of the premises,
- (ii) the designated premises supervisor (if any) under such a licence, or
- (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.

**Age-verification**

6. (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.

**Smaller Measures**

7. 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.

**Exhibition of Films**

The admission of any person aged under 18 to the exhibition of any film at the premises is restricted in accordance with Section 20 of the Licensing Act 2003.

**Door Supervision**

Each individual carrying out a security activity at the premises must be licensed by the Security Industry Authority.

## **ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE**

An application to vary the Premises Licence was submitted to the Council on 28th September 2011 to extend the hours for current licensable activities.

The following text is from the Operating Schedule:-

### **General.**

We have considered the four licensing objectives within our risk assessments and operational plans.

### **Prevention of Crime and Disorder**

No alcoholic drinks will be served to under 18s and in any instances of doubt over the age of a customer proof of age is demand.

Providing a 30 minute extension of opening hours after the end of the sale of alcohol will mean that the customer's last drink is consumed less quickly and this will prevent a large number of customers from leaving the premises at the same time.

The Designated Premises Supervisor will be a member of a Pubwatch so long as it exists.

Variation:- Two door staff, approved by regulating security industry will be present on Friday and Saturday evenings from times as we consider appropriate, certainly from 21.00 hours onwards, or earlier when this is deemed appropriate to prevent crime and disorder. The requirement for door staff at other times will be assessed by the Licence Holder.

At all other times e.g. High category football matches, additional SIA staff to the two mandatory SIA door staff will be employed at the premises at the discretion of the DPS as part of their written risk assessment noting the guidance of Derbyshire Constabulary Licensing.

A written job description detailing the role requirements of door staff shall be maintained. A current copy shall be kept at all times at the premises and made available upon reasonable requests to the police.

All door staff employed at the premises will wear high visibility jackets.

Written records of door staff deployment will be kept on the premises for a minimum of two years and produced upon request to a constable or an authorised officer of a responsible authority. Records will include door staff badge numbers and signing in and out times.

Random searching is made a condition of entry. All searches must be under supervision and with the customers consent. Clear, legible and prominent notices must be displayed explaining this condition.

### **Public Safety**

Door supervision will be employed on Friday and Saturday nights.

Toughened glass will be used whenever available.

Outside areas will be monitored at regular intervals.

Bottles and glasses are to be regularly removed by staff.

Entry to the beer garden is to be through the public house only.

Variation:- Numbers are limited to 240 persons and this will be controlled by door staff at busy times and by the DPS.

Written record of significant incidents will be operated at all times. These records shall be kept at the premises for a minimum of two years and produced to a constable or an officer of responsible authority on request.

Full training on relevant aspects of Licensing Act 2003 is to be provided to staff on the commencement of their employment. Training will be commensurate with the level of responsibility. Training documentation is to be retained on the premises for a minimum of two years and produced to a police officer or authorised officer of a responsible authority on request. Training will be refreshed at least 6 monthly for all staff members and documented.

A system recording all sale refusals will be operated at all times. At least weekly, the DPS (or authorised deputy) will examine the record and compare it against the normal operating pattern for the premises, indicating any action taken in relation. The refusal record shall be kept on the premises for a minimum of two years and produced upon request to a police officer or authorised officer of a responsible authority.

### **Prevention of Public Nuisance**

All windows will be kept closed after 23.00.

Notices will be placed prominently at the exits asking customers to leave quietly.

Variation:- Windows are kept closed beyond 23.00 hours. Beer garden recorded music also turned off at 23.00 hours. All customers will be asked to leave quietly with prominent and unobstructed notices at every exit. We are mindful that the bar should not be audible in local noise sensitive dwellings.

### **Protection of Children from Harm**

The restrictions set out in the Licensing Act 2003 will apply.

We have a policy of prohibited persons under 18 from playing AWP's.

All customers will be monitored and challenged when necessary if it is suspected they are under 18 and are drinking in the pub.

If customers ordering alcoholic drinks appear to be under 21 they will be challenged and asked for proof of age and those under 18 will be refused service.

Variation:- Challenge 25 will be operated at all times and any persons appearing to be 25 or younger will be questioned and checked for I.D. both on the door and at the bar serverly. Failure to produce satisfactory proof of age will result in a refused sale. Clear, prominent and unobstructed signage will be displayed at all public entry points and at points of sale.

There will be no adult themed activity to give rise to concern in respect of children.

### **Licence Condition**

#### **1. Safety Checks.**

In the interest of public safety, the electrical installation, emergency escape lighting, fire alarm and gas appliances, if any, must be inspected and comply with relevant safety standards, and a certificate produced. A new certificate should be produced every 12 months.

#### **2. Drugs Policy and arrangements**

Anyone appearing to be under the influence of drugs will be refused entry.

Anyone suspected or caught in possession, dealing or distributing drugs will be removed from the premises and reported to the police.

Regular checks will be made of areas not visible from the bar. ie. toilets, outdoor areas.

Drug associated paraphernalia will be stored safely and handed in to the police or disposed of safely if not required as evidence.

Records of drug-related incidents will be maintained.

Any door supervisors employed at the premises will be registered.

First aid facilities are available.

Training will be undertaken with all staff regarding drugs awareness as above.

The Drugs policy is available in the pub and will be reviewed from time to time in view of environmental and legislative change.

#### **3. Door Supervision Risk Assessment.**

The Designated Premises Supervisor will consider the use of door supervision as part of the risk assessment carried out at times when regulated entertainment is provided.

### **ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY**

There was no hearing in relation to this application, so no conditions were imposed by the Licensing Committee.

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Home Office

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



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## **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.

[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:

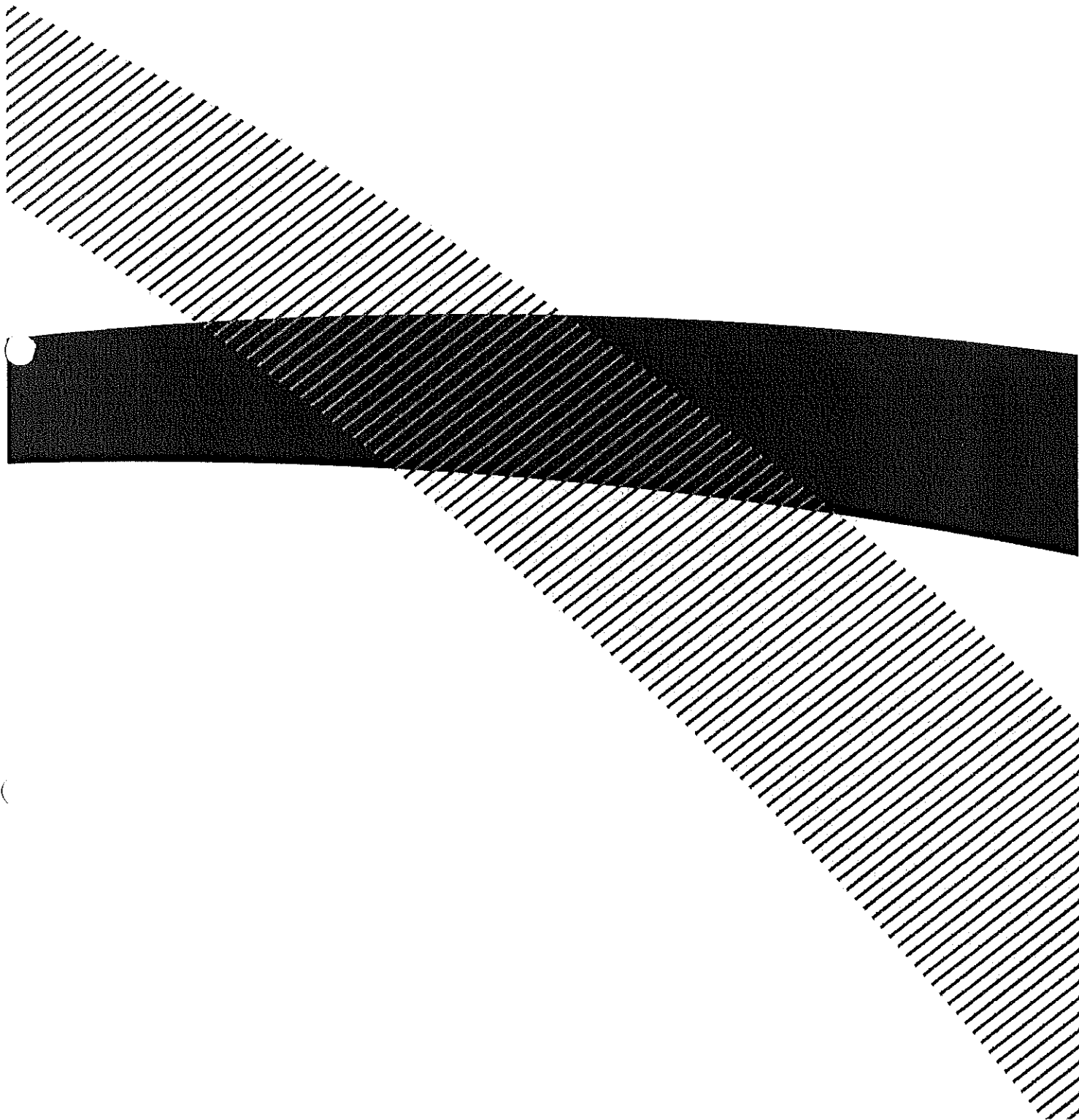
- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and 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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