

**CITY OF
WOLVERHAMPTON
COUNCIL**

Licensing Services, 2nd Floor, Civic Centre, St. Peter's Square, Wolverhampton, WV1 1SH

**Application for the review of a premises licence or club premises certificate under the
Licensing Act 2003**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form.
If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary. You may wish to keep a copy of the completed form for your records.

I Police Sergeant 6222 Steph Reynolds

(Insert name of applicant)

apply for the review of a premises licence under section 53 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description

The Pendulum
Blaydon Road
Pendeford

Post town Wolverhampton

Post code (if known) WV9 5NP

Name of premises licence holder or club holding club premises certificate (if known)

Soran Rostam

Number of premises licence or club premises certificate (if known)

16/02650/PREDEPS

Part 2 - Applicant details

I am Police Sergeant 6222 Reynolds,

Please tick ✓ yes

1) an individual, body or business which is not a responsible authority (please read guidance note 1, and complete (A) or (B) below)

2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A) below)

(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please tick ✓ yes

Mr Mrs Miss Ms Other title (for example, Rev)

Surname

First names

I am 18 years old or over

Please tick ✓ yes

Current postal address if different from premises address

Post town

Post Code

Daytime contact telephone number

E-mail address (optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
West Midlands Police
Wolverhampton NPU
Bilston Street

Telephone number (if any)
0345 113 5000

E-mail address (optional)

This application to review relates to the following licensing objective(s)

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

Please tick one or more boxes ✓

Please state the ground(s) for review (please read guidance note 2)

Coronavirus was deemed a pandemic and the Government gave direction for pubs to close on 20/03/20. The Coronavirus Health Protection Regulations 2020 came into force on 26th March 2020. This has been high profile across the news and all social media.

These Regulations require the closure of specified businesses in which food and drink are sold for consumption on its premises (though allowing for selling of the same to be consumed off the premises). The relevant businesses are listed but include restaurants, cafes, bars and public houses.

If a pub remains open against this direction then the premises could commit the common law offence of public nuisance. This carries a penalty of up to life imprisonment and so becomes a serious crime offence under RIPA, fitting the legal obligations for a Sec 53(a) - Expedited Review.

Public nuisance is a common law offence. It has been defined as follows: **A person is guilty of a public nuisance (also known as common nuisance), who (a) does an act not warranted by law, or (b) omits to discharge a legal duty, if the effect of the act or omission is to endanger the life, health, property or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to all Her Majesty's subjects.**

Mode of trial and sentence 2.20 Public nuisance is triable either way: that is to say, either in the Crown Court or in a magistrates' court.³⁹ As in all common law offences where statute does not provide to the contrary, when it is tried in the Crown Court there is an unlimited power of imprisonment.

The circumstances outlined below show that the DPS/PLH is seriously undermining the Licensing Objectives of Prevention of Crime and Disorder, Public Safety and Public Nuisance. The serious crime that this application refers to is in relation to the premises continuing to open, all be it behind closed doors to the public and allow persons to attend and consume alcohol on the premises. This facilitates gatherings of people not from the same household in one place, putting the public at risk of contracting the virus and subsequently passing it on to others.

This is a direct breach of the Coronavirus Health Protection Regulations 2020 and creates a risk to public health, which is a common law offence of public nuisance and as such a serious crime.

Summary of events

28/03/20 – Log 1105 states that The Pendulum pub was open and serving alcohol. There were lights and T.V on inside and people inside consuming alcohol. Further enquiries with this caller established there were 7-10 people inside all drinking on the evening of 27/03/20 at about 20.00hrs. This caller wishes to remain anonymous. Officers attended the premises on the evening of the 28/03/20 (when the call came in, but this call was in relation to the previous evening) and there was no-one seen on the premises.

06/04/20 – Officers on routine patrol drove past The Pendulum and saw what was believed to be a TV on in the bar area. Upon investigation they saw 3 persons inside, one male behind the bar serving drinks to another male and female sat at the bar. When Officers gained entry the male that was behind the bar was identified as the DPS and PLH Mr Soran Rostam. Upon questioning Mr Rostam he initially stated that no-one had been inside drinking, then said it was a cleaner and friend, whom he then let out the back door upon police arrival. There was no sign of the kitchen being used for a takeaway service and Mr Rostam stated he did not want the hassle of doing takeaways. The officers gave advice to Mr Rostam about his actions.

14/04/20 – Environmental Health phone and also email Mr Rostam. The email outlines that

the Regulations surrounding the licensed premises to remain closed for consumption on the premises. Mr Rostam had said that he attends the premises daily, but monitors the CCTV remotely.

15/04/20 – The same officers return to the Pendulum, where Mr Rostam was again present. Officers requested the CCTV from 27/03/20 and 06/04/20, but he was unable after several attempts to show officers the footage. The officers seized the hard drive. Upon viewing the hard drive there was only 12 days footage retained, and the times were not correct. Therefore police were unable to access the footage from 27/03/20. The footage from 06/04/20 showed exactly what the officers have described in their statements. The DPS attends the venue and is shown to give access to a male and female. The DPS is behind the bar and sells the customers alcohol, placing the cash in the till. When officers knock on the window the customers leave the premises via the rear, leaving their drinks inside the venue. The premises licence states that

- Images and recordings must be of evidential quality, must indicate the correct time and be kept for at least 30 days.
- Images/recordings to be downloaded in a suitable format and provided to any member of a Responsible Authority upon request and without any undue delay.

Having seized and viewed the CCTV, there is also a breach of licence conditions as there were only 12 days of footage stored and recorded.

17/04/20 – Officers attend the premises and Mr Rostam is issued with a Coronavirus Restrictions Prohibition Notice. This outlines that Mr Rostam must immediately cease operation of the business for both sale/serving of drink and food for the consumption on the premises. This is to include the entire premises including adjacent areas such as car parks, gardens and seating areas. This was issued due to breaching the Regulations as detailed on 06/04/20.

19/04/20 – Log 3902 a call to say that The Pendulum is open every day from 17.00hrs. That they let people in through the back door and that people are going into the premises and drinking. Police have attempted to contact the caller who wished to remain anonymous, but to no avail.

West Midlands Police are seeking a suspension of licensable activity with immediate effect at the interim steps meeting.

Please provide as much information as possible to support the application (please read guidance note)

Please tick ✓ yes

Have you made an application for review relating to the premises before

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

If you have made representations before relating to the premises please state what they were and when you made them

Please tick ✓

yes

- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

IT IS AN OFFENCE, UNDER SECTION 158 OF THE LICENSING ACT 2003, TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION. THOSE WHO MAKE A FALSE STATEMENT MAY BE LIABLE ON SUMMARY CONVICTION TO A FINE OF ANY AMOUNT.

Part 3 – Signatures (please read guidance note 4)

Signature of applicant or applicant’s solicitor or other duly authorised agent (please read guidance note 5). **If signing on behalf of the applicant please state in what capacity.**

Signature 

Date **25/03/2019**

Capacity **Police Licensing Sergeant**

Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 6)	
Post town	Post Code
Telephone number (if any)	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)	

Notes for Guidance

1. A responsible authority includes the local police, fire and rescue authority and other statutory bodies which exercise specific functions in the local area.
2. The ground(s) for review must be based on one of the licensing objectives.
3. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
4. The application form must be signed.
5. An applicant’s agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
6. This is the address which we shall use to correspond with you about this application.



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I - Superintendent Simon Inglis
(on behalf of) the chief officer of Police for the West Midlands Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003

1. Premises details: **The Pendulum**

Postal address of premises,(or if none or not known, ordinance survey map reference or description): **Blaydon Road Pendeford**

Post Town: **Wolverhampton**

Post Code (if known): **WV9 5NP**

2. Premises Licence details:

Name of premise licence holder (if known): **Mr Soran Rostam**

Number of premise licence (if known): **16/02650/PREDPS**

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious 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)

Coronavirus was deemed a pandemic and the Government gave direction for pubs to close on 20/03/20. The Coronavirus Health Protection Regulations 2020 came into force on 26th March 2020. This has been high profile across the news and all social media.

These Regulations require the closure of specified businesses in which food and drink are sold for consumption on its premises (though allowing for selling of the same to be consumed

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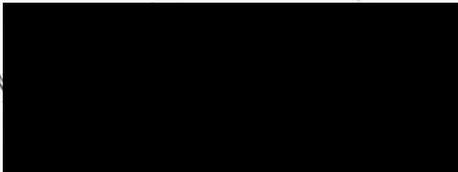
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West Midlands Police are seeking a suspension of licensable activity with immediate effect at the interim steps meeting.

Signature of applicant: 

Date: 22/04/20

Rank/Capacity: Superintendent 2274 Inglis

Contact details for matters concerning this application: Wolverhampton Central Licensing Department

Address: Licensing Dept c/o Wolverhampton Central Police Station, Bilston Street, Wolverhampton WV1 3AA

Telephone Number(s): 01902 649085

E-mail - wv_licensing@west-midlands.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 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.

West Midlands Police

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

Premises: The Pendulum

Premise Licence Number: 16/02650/PREDPS

Premise Licence Holder: Mr Soran Rostam

Designated Premise Supervisor: Mr Soran Rostam

I am a Superintendent in West Midlands Police.

I am giving this certificate because I am in the opinion that the procedures under the Licensing Act are inappropriate in this case because the standard review procedures are thought to be inappropriate due to the seriousness of the crime at the premise.

The level and seriousness of the crime warrant the use of this power. I have considered the use of the normal review procedure but I do not feel this would be appropriate in these circumstances due to the above reasons, and the fact that to maintain the licensing objective of preventing crime and disorder the normal review procedure would not be sufficient.

This incident involves the public house opening to the public for consumption of drinks whilst on the premises, in contravention of the Coronavirus Health Protection Regulations 2020. Then after having had warnings from both Police and Environmental Health, issued with a Prohibition Notice, further calls to the police about activity at The Pendulum were received.

The concern of West Midlands Police is that if steps are not taken to consider the running of these premises they will continue to be used in the manner they were found on the 6th April 2020 and that could result in serious harm to the public.

I am conscious of the DCMS guidance on the use of "Expedited Reviews" and given the emphasis that is given to use of this power to tackle serious crime and disorder, my feelings that this process is deemed appropriate are further enforced.

Signed



Supt 2274 S. Inglis
22/04/20