

<b>Classification</b>	<b>Item No.</b>
Open	

<b>Meeting:</b>	Licensing Hearings Sub-Committee
<b>Meeting date:</b>	2 February 2024
<b>Title of report:</b>	An application from Greater Manchester Police for a Summary Review of the premises licence in respect of the OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ
<b>Report by:</b>	Executive Director (Operations)
<b>Decision Type:</b>	Council
<b>Ward(s) to which report relates</b>	Radcliffe East

**Executive Summary:**

This report relates to an application by the Chief Constable of Greater Manchester Police in respect of the licence premises the OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application is because the police believe that the premises are associated with serious crime and/or disorder.

**Recommendation**

**Options & recommended option**

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To suspend the licence for a period not exceeding 3 months.
- To revoke the licence.
  
- Following the review under section 53C, Members of the Licensing Hearings Sub-Committee must review the interim steps that are currently in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

## Key considerations

This is a Council Function that is delegated to the Licensing Hearings Sub-Committee by the Council's Constitution.

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## Community impact / Contribution to the Bury 2030 Strategy

Not applicable

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## Equality Impact and considerations:

A GM-wide Equality Impact Assessment has been undertaken and a copy is available on request.

*Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:*

*A public authority must, in the exercise of its functions, have due regard to the need to -*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The public sector equality duty requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.*

*The Licensing Service have considered the Equality Act 2010 and due to each application being dealt with on its own merits there is no positive or negative on any of the protected characteristics*

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## Assessment of Risk:

The following risks apply to the decision:

Risk / opportunity	Mitigation
Not applicable	

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## Consultation:

Not applicable

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**Legal Implications:**

Under the legislation the Council is required to determine representations. The report is in accordance with the appropriate legislation.

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**Financial Implications:**

The cost of the licensing function are funded through the fees and charges levied by the Council. There may be additional costs if appeals are lodged with the Magistrates and Crown Courts.

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**Report Author and Contact Details:**

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**Please include a glossary of terms, abbreviations and acronyms used in this report.**

Term	Meaning
DPS	Designated Premises Supervisor

**Background papers:**

Current Premises Licence  
Section 53A application, Certificate and supporting evidence  
Licensing Hearings Sub Committee Report (interim steps hearing) – 12 January 2024  
Licensing Hearings Sub Committee Minutes (interim steps hearing) – 12 January 2024

**1.0 INTRODUCTION**

- 1.1 On the 10 January 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of the OverDraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ because they believe that the premises are associated with Serious Crime and/or Serious Disorder.
- 1.2 Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.
- 1.3 A 10 working-day public consultation exercise has been undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

- 1.4 Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.
- 1.5 On 12 January 2024, a Licensing Hearings Sub Committee interim steps hearing was held, following receipt of the Summary Review application from Greater Manchester Police, Members of the Licensing and Safety Panel considered whether interim measures should be taken in respect of the Premises Licence for the purpose of promoting the Licensing Objectives.
- 1.7 The Panel resolved that in order to promote the said licensing objectives, it was necessary to impose interim steps and that it must modify the conditions of the licence. The reasons for the Sub-Committee's decision are attached at appendix one.
- 1.8 The premises licence holder may make representations against the interim steps taken by the licensing authority. Under s53B of the Licensing Act 2003 the licensing authority must within 48 hours of the time of its receipt of the representations, hold a hearing to consider those representations.
- 1.9 The premises licence holder has not made representations against the interim steps taken by the licensing authority.
- 1.10 Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.
- 1.11 Following the review under section 53C, the licensing authority must then review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.
- 1.12 The premises licence in respect of the Overdraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ has been held by Mr Alistair Scott Johnson since 4 April 2011. Mr Johnson has been the Designated Premises Supervisor since 4 April 2011.
- 1.13 The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) 2005 (as amended) is the relevant legislation.
- 1.14 The Panel will make a decision on the day of the hearing and the parties will be notified subsequently of the decision and the reasons for it by letter from the Licensing Office.

## **2.0 BACKGROUND**

- 2.1 The Chief Superintendent has issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he states the following:-

*"The premises are associated with serious crime and serious disorder.*

*At 00:16 hours on Saturday 6<sup>th</sup> January 2024, Greater Manchester Police received a report of a stabbing at Overdraught, 28-30 Blackburn Street, Radcliffe.*

*Witness statements have been obtained and the premises CCTV footage has been reviewed. The circumstances of this incident are at approximately 23:45 hours, two male perpetrators have entered the above licensed premises. Police are not aware of any incidents occurring inside however upon exiting, approximately 10 minutes later, a conversation has taken place between the perpetrators and other customers. At present, the content of those conversations are unknown however a fight has ensued near to the main entrance/exit.*

*Witnesses to the incident report seeing a 2inch blade being used by one off the perpetrators and two other customers who were victim to the attack received some serious injuries which included:*

*Victim 1: 2cm laceration to the left side of his face, close to the eye socket and a 6cm laceration to his left arm, just below the elbow. Swollen right elbow.*

*Victim 2: 2cm laceration to the back of the head, close to the base of the skull.*

*Both victims required hospital treatment, one of which fell uncouncious and unresponsive later in the morning.*

*No door supervision were on duty at the time of this incident and although the premises license does not require the employment of door supervisors on a weekly basis, it is my opinion that this incident may have been avoided had they been employed. For that reason It is my opinion that an expedited review of the premises is necessary to allow the licensing authority to review/amend the license conditions and prevent a reoccurrence of such serious crime and disorder in the future.” (sic)*

Attached to this report at Appendix 2 (Application by Greater Manchester Police for the Summary Review) and Appendix 3 (Certificate issued by the Chief Superintendent) respectively. Greater Manchester Police have supplied CCTV footage of the incident. This has been circulated to the Members of the Committee and the Premises Licence Holder prior to this hearing.

### **3.0 REPRESENTATIONS**

- 3.1 As part of the statutory process the Responsible Authorities and interested parties are entitled to make representations in relation to the review of a licence. The Licensing Authority has given Notice of this review by placing a Notice on the premises, at the Council Offices and on the Council web-site. Where further representations are made by either the Responsible Authorities or from local residents / businesses and not withdrawn, Members are required to determine them. The Greater Manchester Police will give evidence at the hearing.
- 3.2 Representations must be relevant to the licensing objectives defined within the Act. The objectives are:-
- a. The prevention of crime and disorder
  - b. Public safety
  - c. Prevention of public nuisance
  - d. Protection of children from harm
- 3.3 The Licensing Service have received from the Premises Licence Holder Mr Johnson the following documentation: -
- Emergency First Aid Certificate
  - Invoice for the SIA Door Supervision Training booked for 5 February 2024

These are attached at Appendices 5 and 6 respectively.

### **4.0 CURRENT LICENSABLE ACTIVITIES**

- 4.1 The premises licence which shows the current licensable activities and conditions is attached at appendix four.

## 5.0 **ADDITIONAL INFORMATION SUBMITTED BY PREMISES LICENCE HOLDER**

5.1 The Licensing Service have received from the Premises Licence Holder Mr Johnson the following documentation: -

- Emergency First Aid Certificate
- Invoice for the SIA Door Supervision Training booked for 5 February 2024

These are attached at Appendices five and six respectively.

## 6.0 **THE SECRETARY OF STATE'S GUIDANCE TO THE LICENSING ACT 2003**

6.1 The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

6.2 Section 4 of the 2003 Act provides that, in carrying out its functions, a licensing authority must 'have regard to' guidance issued by the Secretary of State under section 182. The Guidance is therefore binding on all licensing authorities to that extent. However, the Guidance cannot anticipate every possible scenario or set of circumstances that may arise and, as long as licensing authorities have properly understood this Guidance, they may depart from it if they have good reason to do so and can provide full reasons.

6.3 Departure from the Guidance could give rise to an appeal or judicial review, and the reasons given will then be a key consideration for the courts when considering the lawfulness and merits of any decision taken.

## 7.0 **CONCLUSION**

7.1 A licensing authority must carry out its functions under this Act ("licensing functions") with a view to promoting the licensing objectives:

- the prevention of crime and disorder
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

7.2 In considering the matter, the Sub-Committee should take into account any representations or objections that have been received from responsible authorities or other persons, and representations made by the applicant. In reaching the decision, regard must also be had to relevant provisions of the national guidance and the Council's licensing policy statement.

7.3 The Sub-Committee must consider what steps are appropriate for the promotion of the licensing objectives taking into account any change in circumstances since any interim steps were imposed, any relevant representations, and review the interim steps already taken (if any).

7.4 In making its final determination, the steps the Sub-Committee can take are:

- To modify the conditions of the premises licence
- To exclude from the scope of the licence any of the licensable activities to which the application relates;
- To remove the designated premises supervisor from the licence;

- To suspend the licence for a period not exceeding 3 months;
  - To revoke the premises licence.
- 7.5 The conditions of the licence, with the exception of mandatory conditions of the premises licence, may be modified to alter or omit any of them or to add any new condition, including restricting the times at which licensable activities authorised by the licence can take place.
- 7.6 All licensing determinations should be considered on the individual merits of the application.
- 7.7 The Sub-Committee's determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve. Findings on any issues of fact should be on the balance of probability.
- 7.8 It is important that a licensing authority should give comprehensive reasons for its decisions in anticipation of any appeals. Failure to give adequate reasons could itself give rise to grounds for an appeal.
- 7.9 The Sub-Committee is asked to determine what steps, as set out in 6.4 above, are appropriate for the promotion of the licensing objectives.
- 7.10 The Sub-Committee's determination of the review does not have effect until the end of the 21 day period given for appealing the decision, or until the disposal of any appeal that is lodged.
- 7.11 To ensure that there are appropriate and proportionate safeguards in place at all times, the licensing authority is required to review any interim steps that it has taken that are in place on the date of the final review hearing. This is to be done immediately after the determination of the review under s53C. In reaching its decision, the panel must consider any relevant representations made.
- 7.12 The steps available to the Sub-Committee are:
- To modify the conditions of the licence;
  - To exclude the sale of alcohol by retail from the scope of the licence;
  - To remove the designated premises supervisor from the licence; and
  - To suspend the licence.
- 7.13 Upon the determination of the licence review, the Sub-Committee is asked to review the interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn

**Decision and Reasons for Decision at the  
Interim Steps Hearing on 12 January  
2024**



## **AN APPLICATION FROM GREATER MANCHESTER POLICE FOR A SUMMARY REVIEW OF THE PREMISES LICENCE IN RESPECT OF OVERDRAUGHT, 28/30 BLACKBURN STREET, RADCLIFFE, M26 1NQ**

The Licensing Authority received an application by the Chief Constable of Greater Manchester Police in respect of the licensed premises the Overdraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ. This was for a Summary Review of the Premises Licence and for interim steps to be taken in advance of that review in accordance with Sections 53A to 53C of the Licensing Act. The reason for the application was because the police believe that the premises are associated with serious crime and/or disorder.

The nature of the application and consideration of options was detailed in the report which was presented to the Members of the Sub-Committee by the Licensing Unit Manager, Mr M. Bridge.

The options available were:

- To modify the conditions of the licence
- To exclude the retail sale of alcohol from the licence
- To remove the Designated Premises Supervisor from the licence
- To revoke the licence.

Attention was drawn to background papers which included:

Current Premises Licence

Section 53A application, Certificate and supporting evidence

Bury Council's Licensing Policy

Guidance issued under Section 182 of the Licensing Act 2003

Licensing Act (Hearings) Regulations 2005

On the 10<sup>th</sup> January 2024, Greater Manchester Police submitted an application to the Licensing Authority for a Summary Review in respect of the Overdraught, 28/30 Blackburn Street, Radcliffe, M26 1NQ, because they believed that the premises was associated with Serious Crime and/or Disorder. The Licensing Authority must consider whether interim steps are required pending a full summary review hearing.

Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast-track licence review.

A 10 working-day public consultation exercise will be undertaken in accordance with Licensing Act 2003 regulations; requiring the application to be advertised by the displaying of a blue notice at or on the premises and details of the application published on the Council's website.

Under section 53C of the Licensing Act 2003, the licensing authority must hold a full review of the premises licence and determine the review within 28 days after the day of receipt of the application.

Following the review under section 53C, the licensing authority must then review any interim steps in place and determine whether it is appropriate for the promotion of the licensing objectives for the steps to remain in place, or if they should be modified or withdrawn.

The premises licence in respect of the Overdraught has been held by Mr Alistair Scott Johnson since the 4<sup>th</sup> April 2011. Mr Johnson is the Designated Premises Supervisor since the 4<sup>th</sup> April 2011.

The Licensing Act 2003 (as amended by the Violent Crime Reduction Act 2006) and the Licensing Act (Hearings Regulations) is the relevant legislation.

Within 48 hours of receiving a summary review application, under s53B of the Licensing Act 2003 the licensing authority must consider whether it is necessary to take interim steps pending the review of the licence for the promotion of the licensing objectives.

The Local Authority is required to consider what interim steps should be imposed for the promotion of the licensing objectives and what the steps should be. Any such measures and the reasons for them must be immediately notified to the premises licence holder.

The Panel will make a decision in relation to interim steps on the day of the hearing and the parties will be verbally notified of that decision. That decision will have immediate effect unless otherwise provided for by the Panel. The parties will also receive written notification of that decision, together with the reasons for it, by letter from the Licensing Office as soon as reasonably practicable following the hearing.

The Chief Superintendent had issued a certificate under section 53A (1)(b) of the Licensing Act 2003 in which he stated the following:-

The premises are associated with serious crime and serious disorder.

Attached to the agenda packs at Appendix A was the Application by Greater Manchester Police for the Summary Review. Appendix B was the Certificate issued by the Chief Superintendent respectively.

The Premises Licence attached to the agenda pack at Appendix C. showed the current licensable activities and conditions.

Greater Manchester Police had supplied CCTV footage of the incident. This had been circulated to the Members of the Committee and the Premises Licence Holder prior to the hearing for viewing purposes.

In determining whether or not to impose interim steps, pending the summary review of the premises licence which must be held within 28 days from the date of the application being received, members must consider the information presented in relation to serious crime and or serious disorder. If members decide to impose interim steps, the following options are available to the Licensing Authority:

- a. To modify the Conditions attached to the licence
- b. The exclusion of the sale of alcohol from the scope of the licence.
- c. The removal of the Designated Premises Supervisor from the licence.
- d. Suspension of the premises licence

For the purposes of option a, the conditions of a premises licence are modified if any of them are altered or omitted or any new condition is added.

The Secretary of State's Guidance to the Licensing Act 2003 is provided to licensing authorities in relation to the carrying out of their functions under the 2003 Act. It also provides information to magistrates' courts hearing appeals against licensing decisions and has been made widely available for the benefit of those who run licensed premises, their legal advisers and the general public. It is a key medium for promoting best practice, ensuring consistent application of licensing powers across England and Wales and for promoting fairness, equal treatment and proportionality.

PC P. Eccleston from Greater Manchester Police provided a summary of the application for a review at the meeting.

*At 00:16 hours on Saturday 6<sup>th</sup> January 2024, Greater Manchester Police received a report of a stabbing at Overdraught, 28-30 Blackburn Street, Radcliffe.*

*Witness statements have been obtained and the premises CCTV footage has been reviewed. The circumstances of this incident are at approximately 23:45 hours, two male perpetrators have entered the above licensed premises. Police are not aware of any incidents occurring inside however upon exiting, approximately 10 minutes later, a conversation has taken place between the perpetrators and other customers. At present, the content of those conversations are unknown however a fight has ensued near to the main entrance/exit.*

*Witnesses to the incident report seeing a 2inch blade being used by one off the perpetrators and two other customers who were victim to the attack received some serious injuries which included:*

*Victim 1: 2cm laceration to the left side of his face, close to the eye socket and a 6cm laceration to his left arm, just below the elbow. Swollen right elbow.*

*Victim 2: 2cm laceration to the back of the head, close to the base of the skull.*

*Both victims required hospital treatment, one of which fell unconscious and unresponsive later in the morning.*

*No door supervision were on duty at the time of this incident and although the premises license does not require the employment of door supervisors on a weekly basis, it is my opinion that this incident may have been avoided had they been employed. For that reason It is my opinion that an expedited review of the premises is necessary to allow the licensing authority to review/amend the license conditions and prevent a reoccurrence of such serious crime and disorder in the future.*

CCTV footage from the premises which had been previously shared with the Committee was played to those in attendance with PC Eccleston highlighting key points of interest from the clip. There was no audio with the footage.

The opinion of GMP was that if door staff had been present then the incident was likely to have not occurred or may have been prevented with the searching of patrons as they entered the premises.

The premises licence holder, Mr A. Johnson questioned if the second victim had been stabbed by a knife and it may have been a ring that had caused the injury via a stabbing like motion.

Members questioned PC Eccleston and GMP were of the opinion that door staff could have found the knife upon searches whilst the offenders entered and it could have been seized with the individuals refused entry. It would also act as a visual deterrent for anyone carrying a weapon helping to prevent such incidents.

Members asked if other CCTV footage from the town centre was available and it was confirmed other cameras were not close enough to aid the investigation.

A discussion took place on the difference between people loitering and smoking outside the premises. Mr A. Johnson explained he usually locked the front door at 11.30pm and smokers would use the rear yard.

It was also confirmed that the timings displayed on the CCTV were not set to the correct time the incidents occurred.

A condition on the licence relating to challenging anyone under the legal age of 18 was thought to need clarification with Challenge 21 – 25, listed when the best practice scheme was Challenge 25.

PC Eccleston confirmed there was no previous history of incidents at the premises and considered Mr Johnson to be a good licence holder. There had been no issues obtaining the CCTV and Mr Johnson had fully cooperated with GMP on the night in question.

The Council's legal representative asked if there were any other incidents reported on file and PC Eccleston stated the police system had no other details involving patrons at this venue since their system was upgraded in 2019. There was no evidence to suggest drug dealing and the 2 offenders had met the victims for the first time that evening and it was unknown if they were local or from outside the area.

The Chair confirmed that the incident met the criteria for serious crime with the bladed article causing the injuries to the 2 victims.

Mr Johnson repeated his viewpoint that the second victim was not injured by the knife as this had been dropped in the first attack. He had been at the venue for 13 years and was a front of house person collecting glasses. He supervised the doors himself in an unregistered capacity and since the incident had enrolled himself and a friend on a course between the 5<sup>th</sup>-10<sup>th</sup> February to become SIA registered.

Financial details were provided at the meeting and if door staff were employed the bar would not be a viable business to run with little profit to be made. Mr Johnson felt he was a good person to run the business and after 13 years and helped the local community giving examples of people he had aided with personal situations.

Mr Johnson added that on a Monday night the venue was closed to host a mental health charity with free pool, tea and coffee whilst any gambling machines were turned off. He clarified to the Licensing Unit Manager that the venue closed at 9.00pm on a Tuesday, Wednesday and Thursday.

A discussion as part of the summing up process centred around possible amendments to the licence conditions with suggestions around doors being closed and a drinking up time after the closing time was reached. The Licensing Unit Manager clarified that some aspects of the licence may be historic from being granted by the Magistrates Court in the past.

The Sub-Committee then duly retired to consider the matter and all of the information provided.

The Members of the Sub-Committee were advised by the Legal Adviser as to their duties under Section 4 of the Licensing Act 2003 to at all times consider the promotion of the Licensing Objectives, these being:

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

The Members were also advised of their duties in carrying out those functions in relation to relevant provisions of national guidance and the Council's licensing policy statement.

In addition, Members were advised to give appropriate weight to the steps that are appropriate to promote the licensing objectives and the representations presented at the meeting.

## **DELEGATED DECISION**

The Sub-Committee carefully considered the representations and evidence provided which demonstrated serious crime and disorder. It was therefore unanimously **resolved to modify the conditions of the licence** in order to promote the licensing objectives.

The Sub-Committee was therefore satisfied that there was sufficient evidence to mean interim steps were necessary for amendments to the current premises licence under the licensing objectives recommended by GMP: -

Prevention of Crime and Disorder: -

An incident log (which may be electronically recorded) shall be kept at the premises for at least six months, and made available on request to the Police or an authorised Officer of the licensing authority, which will record the following incidents including pertinent details:

- a- all crimes reported to the venue, or by the venue to the police
- b- all ejections of patrons
- c- any incidents of disorder
- d- any faults in the CCTV system
- e- any visit by a relevant authority or emergency service

The evidence presented at the meeting had demonstrated the following licensing objectives had not been met and failed the: -

- The prevention of crime and disorder

The reasons by the sub-committee, included: -

- The internal smoke machine and laser lights obscuring images taken from the internal CCTV camera which was listed under condition number 6 for the current premises licence under the prevention of crime and disorder.
- The quality of images from the external CCTV could be improved and an additional camera may be required, or the existing CCTV re-positioned.

While the panel did not feel any additional conditions were necessary on an interim basis, it was noted that further conditions on the licence could be agreed or finalised at the full review hearing.

**COUNCILLOR G. MCGILL**

**Chair**

**(Note: The meeting started at 10.30am and ended at 12.38pm)**

**Application by Greater Manchester  
Police for the Summary Review**

## **Appendix Three**

# **Certificate issued by the Chief Superintendent**

## **Appendix Four**

**Premises Licence for Overdraught,  
28/30 Blackburn Street, Radcliffe,  
M26 1NQ**



# **Appendix Five**

## **Emergency First Aid Certificate**

# **Appendix Six**

**Invoice for the SIA Door Supervision  
Training booked for 5 February 2024**