

# Appendix 1



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 John Patrick McCrohan

(Insert name of applicant)

apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> A & Y Wines, 116 Brick Lane, E1 6RL	
<b>Post town</b>	<b>Post code (if known)</b> E.1 6RL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Awal ABDUL and Rahman MUHBUB
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<b>Number of premises licence or club premises certificate (if known)</b> 12839
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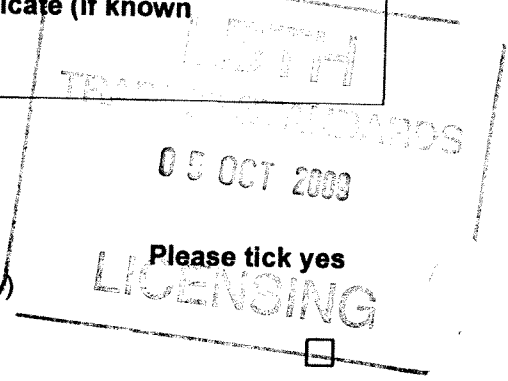
Part 2 - Applicant details

I am

1) an interested party (please complete (A) or (B) below)

- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises

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

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

**Surname**

n/a

**First names**

n/a

I am 18 years old or over

Please tick yes

**Current postal address if different from premises address**

n/a

**Post town**

n/a

**Post Code**

n/a

**Daytime contact telephone number**

n/a

**E-mail address (optional)**

n/a

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

n/a

**Telephone number (if any)**

n/a

**E-mail address (optional)**

n/a

**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address John McCrohan Trading Standards Service London Borough of Tower Hamlets Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 66674
E-mail address (optional) john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

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

**Please state the ground(s) for review (please read guidance note 1)**  
Please refer to attached document.

**Please provide as much information as possible to support the application**  
(please read guidance note 2)

Please refer to attached document.

**Please tick yes**

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

If yes please state the date of that application

Day Month Year  

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

n/a

**Please tick yes**

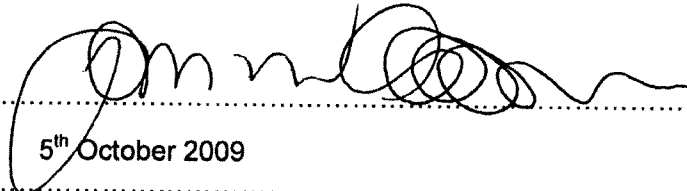
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

**IT IS AN OFFENCE, LIABLE ON CONVICTION TO A FINE UP TO LEVEL 5 ON THE STANDARD SCALE, UNDER SECTION 158 OF THE LICENSING ACT 2003 TO MAKE A FALSE STATEMENT IN OR IN CONNECTION WITH THIS APPLICATION**

**Part 3 – Signatures** (please read guidance note 3)

**Signature of applicant or applicant's solicitor or other duly authorised agent** (See guidance note 4). If signing on behalf of the applicant please state in what capacity.

Signature



Date

5<sup>th</sup> October 2009

Capacity **TRADING STANDARDS SERVICE MANAGER**

**Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)**

**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. The ground(s) for review must be based on one of the licensing objectives.
2. Please list any additional information or details for example dates of problems which are included in the grounds for review if available.
3. The application form must be signed.
4. An applicant's agent (for example solicitor) may sign the form on their behalf provided that they have actual authority to do so.
5. This is the address which we shall use to correspond with you about this application.



**A & Y Wines, 116 Brick Lane, London , E 1 6RL**

**Licence No 12839 - (Licence Holders — Awal ABDUL and Rahman MUHBUB)**

Application for the Review of the Premises Licence under Section 51 of the  
Licensing Act 2003

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London Borough of Tower Hamlets – Trading Standards Service

### REPRESENTATIONS

- 
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the protection of children from harm ,  
licensing objective 4
  2. Staff on three separate occasions sold alcohol to young people under the age of eighteen undertaking test purchasing exercises with the Trading Standards Service.
  3. Test purchases undertaken by trading standards departments are carried out in accordance with a nationally agreed Code of Best Practice between the trading standards profession (Trading Standards Institute), Local Authorities Coordinators of Regulatory Services (LACORS) and the Department for Culture, Media and Sport.

4. On 30<sup>th</sup> May 2006, Mr. Kobir AHMED a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
5. On 5<sup>th</sup> June 2008, Mr. Mohammed NAZRUL a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
6. On 21<sup>ST</sup> August 2009, Mr. Kobir AHMED a member of staff sold alcohol to a child aged sixteen. This resulted in a fixed penalty notice of £80 being given by the Police to the seller.
7. In all three cases where sales were made they could have been avoided by the seller asking the test purchaser her/his age and for him/her to produce a recommended proof of age card.
8. The 'patchy' performance of the staff employed by the business has prompted this review.
9. To prevent future sales of this nature the applicant seeks to have the four conditions below added to the premises licence — **it does not seek to have the licence revoked.**

**10. Conditions:**

(1) The Designated Premises Supervisor must be present on the premises when all alcohol sales are made

(2) The introduction of the 'Challenge 21' policy and 'No ID No Sale' policy which is supported with signage at all entrances and in the serving areas.

NOTE: It is generally accepted that the age of young people between the age of 16 to 18 is very difficult to assess, particularly girls — by challenging young people who look younger than 21 it gives an acceptable margin for error. This has been accepted throughout the Country by the Police and has been adopted by off-licenses and major supermarket chains.

(3) Only documents which include a photograph of the purchaser are acceptable to prove that persons age, e.g. passport, new style driving licence and only PASS - approved age cards, e.g. portman card, citizens card.

NOTE: This ensures that only acceptable forms of identification are accepted.

(4) A 'Refusals book is maintained, which documents the date and time a refusal of sale is made, the reason for the refusal and the member of staff refusing the sale. The licensee or the Designated Premises Supervisor should monitor the Log on a regular basis and sign it to show it has been done.

NOTE: The Log demonstrates that members of staff are challenging under age purchasers, the level of problem, the time of day that staff must be more diligent. In short it is a good management tool. It was recommended to Off-licence holders by British Institute of Innkeeping (BIIAB) handbook.

**John Patrick McCrohan**

**Trading Standards Service Manager**

**London Borough of Tower Hamlets**



# Appendix 2





(A & Y Wines)  
116 Brick Lane  
London  
E1 6RL

**Licensable Activities authorised by the licence**  
Retail sale of alcohol

See the attached licence for the licence conditions

Signed by

John Cruse *J. Cruse*  
Team Leader Licensing

Date: 27/09/05  
(Amended on the 9/10/08)



**Part A - Format of premises licence**

Premises licence number

12839

**Part 1 - Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> (A & Y Wines) 116 Brick Lane London	
<b>Post town</b> London	<b>Post code</b> E1 6RL
<b>Telephone number</b> 0207 247 9403	

**Where the licence is time limited the dates**  
N/A

**Licensable activities authorised by the licence**  
The sale by retail of alcohol



**The times the licence authorises the carrying out of licensable activities**

**The sale by retail of alcohol**

Monday to Sunday

08 00 hrs to 02 30 hrs the following day

**The opening hours of the premises**

Monday to Sunday

08 00 hrs to 02 30 hrs the following day

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

Off sales only

## **Part 2**

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

Awal Abdul & Rahman Mahbub  
4 Woodall Close  
London  
E14 0HB  
0207 515 2935

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

N/A

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

Abdul Awal  
4 Woodall Close  
London  
E14 0HB

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

Personal licence number: **9965**  
Issuing authority: **London Borough of Tower Hamlets**

## **Annex 1 - Mandatory conditions**

No supply of alcohol may be made under the premises licence-

- a) at a time where there is no designated premises supervisor in respect of the premises licence, or
- b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended

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

## **Annex 2 - Conditions consistent with the operating Schedule**

None

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

CCTV to be maintained in good working order with tapes to be kept for 31 days and to be made available upon request at 24 hours notice to the Metropolitan Police and officers from the London Borough of Tower Hamlets who are authorised under the Licensing Act 2003.

## **Annex 4 - Plans**

The plans are those submitted to the licensing authority on the following date:

*22 JUL 2005*



**Part B - Premises licence summary**

**Premises licence number**

12839

**Premises details**

**Postal address of premises, or if none, ordnance survey map reference or description**  
(A & Y Wines)  
116 Brick Lane  
London

**Post town**  
London

**Post code**  
E1 6RL

**Telephone number**  
0207 247 9403

Where the licence is  
time limited the  
dates

N/A

Licensable activities  
authorised by the  
licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

**The sale by retail of alcohol**  
Monday to Sunday  
08 00 hrs to 02 30 hrs the following day

The opening hours of the premises

Monday to Sunday  
08 00 hrs to 02 30 hrs the following day

Name, (registered) address of holder of premises licence

**Awal Abdul &  
Rahman Mahbub**      **4 Woodall Close  
London  
E14 0HB  
0207 515 2935**

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

Off sales only

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

N/A

Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Abdul Awal

State whether access to the premises by children is restricted or prohibited

No

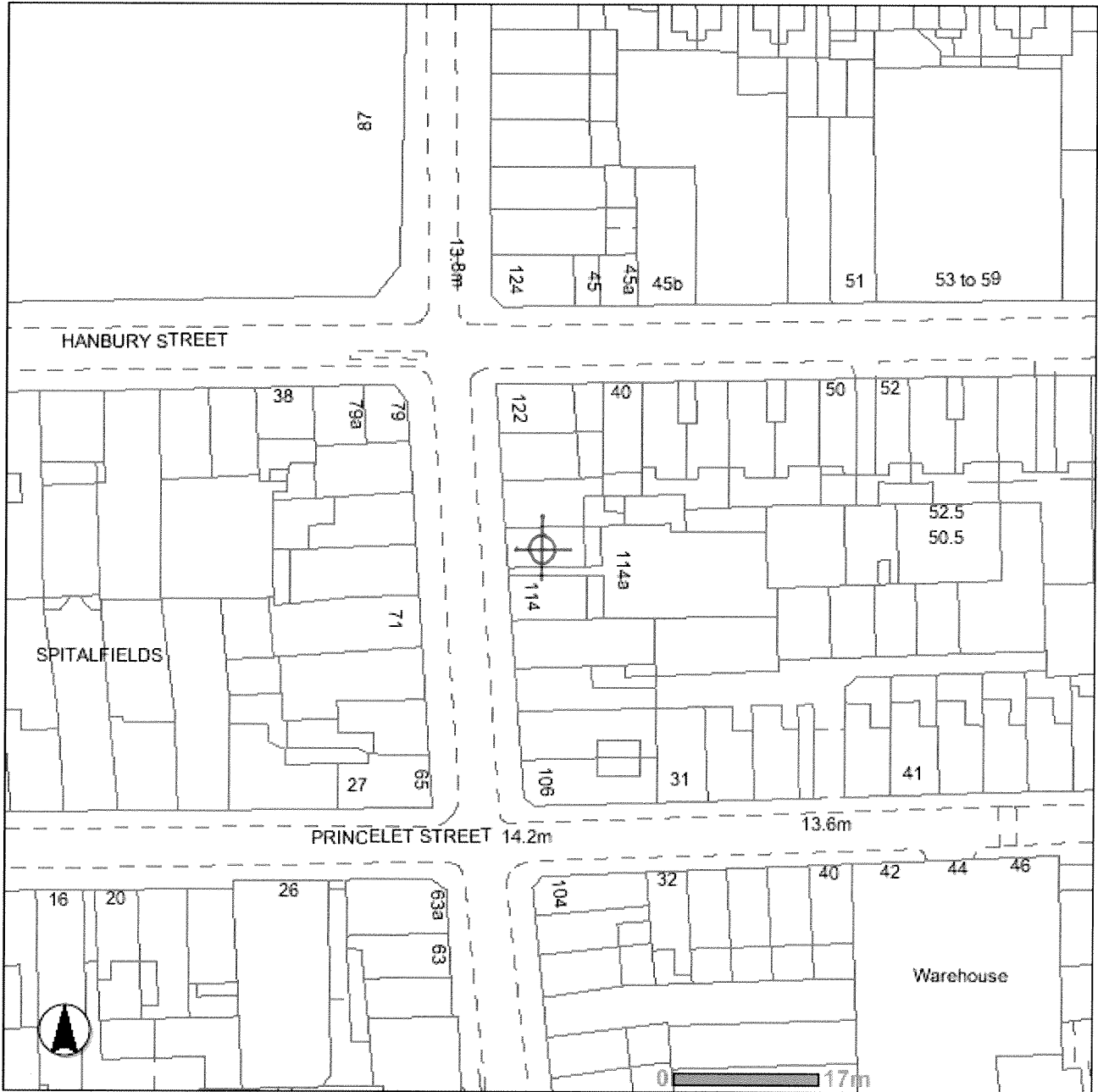


# Appendix 3





# Map



Scale 1:750

Map of:

## Site Plan

Notes:

116 Brick Lane - large

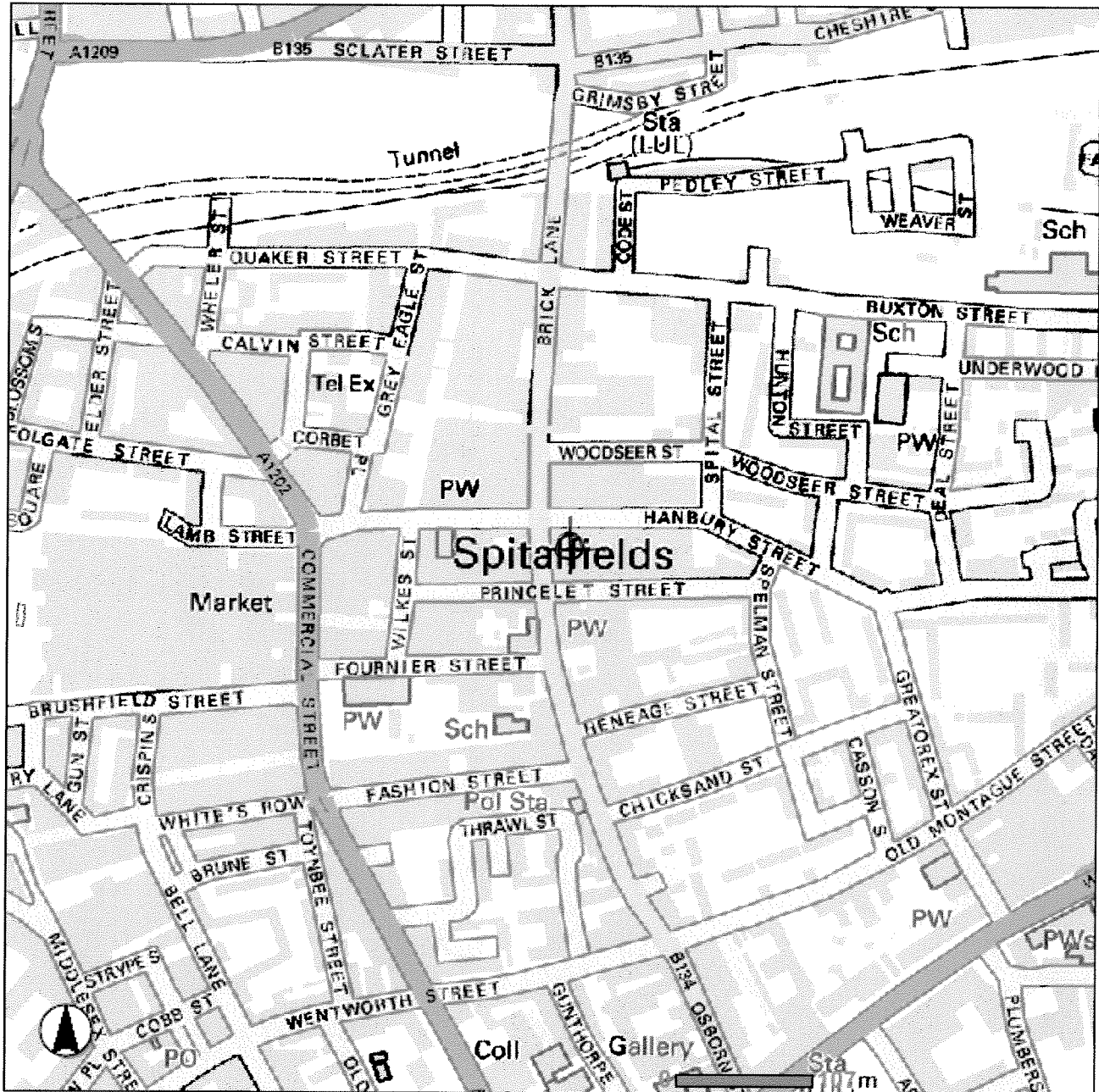
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Licence Number: LA100019288

# Map



Scale 1:5000

Map of:

## Site Plan

Notes:

116 Brick Lane - small

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Licence Number: LA100019288

# Appendix 4



## Nick Kemp

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**From:** Megan Williams [studio@enterarchitecture.co.uk]  
**Sent:** 30 October 2009 10:04  
**To:** Nick Kemp  
**Subject:** Application review A&Y Wines (116 Brick Lane)  
**Attachments:** 20091002\_114\_116 BL.pdf; ATT26547826.htm; 20091003\_114\_116 BL.pdf; ATT26547827.htm; 20091011a\_114\_116 BL.pdf; ATT26547828.htm; 20091011b\_114\_116 BL.pdf; ATT26547829.htm; 20091011c\_114\_116 BL.pdf; ATT26547830.htm; 20091017\_114\_116 BL.pdf; ATT26547831.htm

Dear Nick

We spoke on the phone earlier this week regarding Trading Standard's current application review in relation to the above off license shop. I would like to add that as a resident living directly across the street from the shop I would not only support this review but also the revocation of the shop's existing license on the grounds the proprietor is clearly and consistently not conducting business in accordance with license requirements, namely the obligation to ensure that anti-social behaviour emanating from the shop as a result of alcohol sales, etc. is effectively discouraged.

In fact, as you will hopefully appreciate from the photographs (attached) taken during the weekends of 2, 11 and 17th October 2009, customers regularly loiter in the area just outside this and the shop at 114 while they wait to gain entrance to the nearby restaurants, effectively turning the street into an open-air bar. As with most open drinking in the street the tendency towards various forms of anti-social behaviour such as fighting and shouting are inevitable. Residents living above the street and attempting to enjoy their own homes is severely curtailed by this practice. Are not the terms of a license meant to protect residents' amenity? I installed secondary glazing some while ago to deal with the noise on Brick Lane but even this is not sufficient to muffle it.

I also understand that most of the restaurants now have licenses to sell alcohol inside their premises, making the existence of four off-licenses in the stretch of a single block very dubious and excessive. Why must there be so many of these establishments except to support an unregulated nightlife to the detriment of the rest of the neighbourhood?

Kind regards

Megan Williams  
Director

enterarchitecture  
Curtain House  
Unit 112  
134-146 Curtain Road  
London EC2A 3AR  
t 00 +44 (0) 207 193 0874  
f 00 +44 (0) 207 160 9386  
e [studio@enterarchitecture.co.uk](mailto:studio@enterarchitecture.co.uk)  
w [www.enterarchitecture.co.uk](http://www.enterarchitecture.co.uk)

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05/11/2009















**From:** Megan Williams [studio@enterarchitecture.co.uk]  
**Sent:** 02 November 2009 10:00  
**To:** Nick Kemp  
**Subject:** Application review A&Y Wines (116 Brick Lane)

Dear Mr. Kemp

RE APPLICATION REVIEW A&W WINES AT 116 Brick Lane

We spoke on the phone last week regarding Trading Standard's current application review in relation to the above off license shop. I would like to add that as residents, my husband and I live directly across the street from the shop and we would not only support this review but also the revocation of the shop's existing license on the grounds the proprietor is clearly and consistently not conducting business in accordance with license requirements, namely the obligation to ensure that anti-social behaviour emanating from the shop as a result of alcohol sales, etc. is effectively discouraged.

In fact, as you will hopefully appreciate from the photographs (attached) taken during the evenings of 2, 3, 11 and 17th October 2009, customers regularly loiter in the area just outside this shop (one of four off-licenses in the stretch of a single block!) while they wait to gain entrance to the nearby restaurants. Even though most of the restaurants now have licenses to sell alcohol inside their premises, this practice of loitering has become an extension of the restaurants as customers drink while they wait to be seated, effectively turning the street into an open-air bar.

On various occasions returning home in the evening I have been accosted by customers gathered around my entrance drinking and smoking, again while they wait to be seated or because they can't smoke inside the restaurants. They obviously think they're partying but to me their behaviour is intimidating and makes me feel unsafe in my own neighbourhood.

Living in this area of course I appreciate that there is a thriving commercial component here, however this should not prevent me from enjoying my home (I installed secondary glazing some while ago to deal with the noise on Brick Lane but even this is not sufficient to muffle it anymore). This is also a densely residential area as well and my own experience has lead me to feel that the anti-social aspects of the restaurants and off-licenses are literally out of control. Are not the terms of a license meant to bring balance and to protect residents' amenities also? And why must there be so many of these establishments (off-licenses) except to support an unchecked nightlife to the detriment of the rest of the neighbourhood?

Kind regards

Megan Williams  
73 Brick Lane  
London E1 6QL  
m. 07958 043 074

# Appendix 5



# **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003**

## **POWERS OF A LICENSING AUTHORITY ON THE DETERMINATION OF A REVIEW**

- 11.15 The 2003 Act provides a range of powers for the licensing authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 11.16 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.
- 11.17 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:  
to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
  - to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
  - to suspend the licence for a period not exceeding three months;
  - to revoke the licence.
- 11.18 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

- 11.19 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.20 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems which impact upon the licensing objectives.
- 11.21 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as a necessary means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is necessary and proportionate to the promotion of the licensing objectives.

## **REVIEWS ARISING IN CONNECTION WITH CRIME**

- 11.22 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises or money laundering by criminal gangs or the sale of contraband or stolen goods there or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts of law. The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted. Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. Some reviews will arise after the conviction in the criminal courts of certain individuals but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would



also not be for the licensing authority to attempt to go behind any finding of the courts, which should be treated as a matter of undisputed evidence before them.

- 11.23 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.
- 11.24 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.
- 11.25 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;
  - for the organisation of racist activity or the promotion of racist attacks;
  - for unlawful gaming and gambling; and
  - for the sale of smuggled tobacco and alcohol.

- 11.26 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.
- 11.27 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

# Appendix 6



# **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003**

## **CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM**

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

### **Access for children to licensed premises – in general**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:
  - heavy or binge or underage drinking;
  - drugs;
  - significant gambling; or
  - any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature,there should be a strong presumption against permitting any access at all for children under 18 years.
  
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case the Secretary of State recommends that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act

### **Age Restrictions – specific**

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity that are unlikely to require age restrictions, for example:
  - family entertainment; or
  - non-alcohol events for young age groups, such as under 18s dances,
- types of event or activity which give rise to a more acute need for age restrictions than normal, for example:
  - during “Happy Hours” or on drinks promotion nights;
  - during activities outlined in the first bullet point in the first paragraph above.

### **Age restrictions – cinemas**

The British Board of Film Classification classifies films in accordance with its published Guidelines which are based on extensive research into public opinion and professional advice. The Secretary of State therefore recommends that licensing authorities should not duplicate this effort by choosing to classify films themselves. The classifications recommended by the Board should be those normally applied unless there are very good local reasons for a licensing authority to adopt this role. Licensing authorities should note that the provisions of the 2003 Act enable them to specify the Board in the licence or certificate and, in relation to individual films, to notify the holder or club that it will make a recommendation for that particular film.

Licensing authorities should be aware that the BBFC currently classifies films in the following way:

- U Universal – suitable for audiences aged four years and over
- PG – Parental Guidance. Some scenes may be unsuitable for young children.
- 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult.
- 15 – Passed only for viewing by persons aged 15 years and over.
- 18 – Passed only for viewing by persons aged 18 years and over.

Licensing authorities should note that these classifications may be subject to occasional change and consult the BBFC's website at [www.bbfc.co.uk](http://www.bbfc.co.uk) before applying relevant conditions.

The Secretary of State considers that, in addition to the mandatory condition imposed by section 20, conditions restricting the admission of children to film exhibitions should include that:

- where the licensing authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium a reproduction of the certificate of the Board or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
- when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into an age restrictive category no person appearing to be under the age specified shall be admitted to any part of the programme; where a programme includes a film recommended by the licensing authority as falling into a category requiring any persons under a specified age to be accompanied by an adult no person appearing to be under the age specified shall be admitted to any part of the programme unaccompanied by an adult, and the licence holder shall display in a conspicuous position a notice clearly stating the relevant age restrictions and requirements. For example:

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE]  
CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on-duty provided that the prior written consent of the person's parent or legal guardian has first been obtained.”

## Theatres

The admission of children to theatres, as with other licensed premises, is not expected to be restricted normally unless it is necessary to promote the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play should normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached.

However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment. A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

Licensing authorities are also expected to consider whether a condition should be attached to a premises licence which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children during any emergency (See Part 3).

## Performances especially for children

Where performances are presented especially for unaccompanied children in theatres and cinemas, licensing authorities will also wish to consider conditions to specify that:

- an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Licensing authorities should also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

## Children in performances

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18. The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show. Licensing authorities should familiarise themselves with these Regulations and not duplicate any of these requirements. However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children from harm then the licensing authority should consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance.



- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children.
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

### **The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks**

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group's Retailer Alert Bulletins.

### **Proof of Age cards**

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder. However, a requirement for the production of proof of age cards before any sale or supply of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the "Challenge 21" or other similar initiatives.

Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making such a purchase.

# Appendix 7



# London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm

## Licensing Policy

The Policy recognises the wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or Entertainment. The Act does not prohibit children from having access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. (**See Section 9 of the Licensing Policy**).

The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises (**See Section 9.4 of Licensing Policy**).

The Licensing Authority recommends applicants to consult with the Area Child Protection Committee or such other body, as they consider appropriate. (**See Section 9.3 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to protect children from harm and these may include Conditions drawn from the Model Poll of Conditions relating to the Protection of Children from Harm. (**See Appendix 2 Annex H of the Licensing Policy**). In particular Members may wish to consider a range of conditions that are to be tailored to the particular premises and their activities (this list is not exhaustive):

- Limiting access of children to premises
- Limitations on the hours when children maybe present
- Limitations or exclusions when certain activities are taking place
- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 23:00, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time
- Notices on premises displaying age restrictions
- Conditions requiring sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency
- Requirements of staff supervision in areas occupied by children
- Whether conditions appropriate for restricting use of special effects around children
- Adequate chaperones for children
- Requirement for production of proof of age cards

## Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs when there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety.

Section 169A(2) of the Licensing Act 2003 enables a senior police officer (or inspector of weights and measures) to close premises for maximum of 48 hours to prohibit the sale of alcohol for repeatedly selling alcohol to underage persons.

## Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The protection of children from harm includes the protection of children from moral, psychological and physical harm (2.41)

In the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children. (2.42)

Licence conditions should not duplicate other legislation (1.16).

Conditions, where they are necessary, should reflect the licensable activities taking place on the premises (2.47)

The Secretary of State considers that representations made by the child protection bodies and the police in respect of individual applications should be given considerable weight when they address necessary issues regarding the admission of children. (2.48)

## Other Legislation

### Violent Crime Reduction Act 2006

The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol-related violence.

### Confiscation of Alcohol (Young Persons) Act 1997

Alcohol Confiscation – any person in a public place or trespassing **if any under 18** have drunk or likely to drink. Dispose on the spot unless local instructions direct otherwise.

# Appendix 8





# **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003**

## **Crime and Disorder Act 1998**

- 1.28 All local authorities must fulfil their obligations under section 17 of the Crime and Disorder Act 1998 when carrying out their functions as licensing authorities under the 2003 Act.
- 1.29 Section 17 is aimed at giving the vital work of crime and disorder reduction a focus across the wide range of local services and putting it at the heart of local decision-making. It places a duty on certain key authorities, including local authorities and police and fire and rescue authorities to do all they reasonably can to prevent crime and disorder in their area.
- 1.30 The Government believes that licensing authorities should, as a matter of good practice, involve Crime and Disorder Reduction Partnerships (CDRPs) in decision-making in order to ensure that statements of licensing policy include effective strategies that take full account of crime and disorder implications.

## **Pool Conditions**

### **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003**

## **Annex D**

### **Conditions relating to the prevention of crime and disorder**

It should be noted in particular that it is unlawful under the 2003 Act:

- knowingly to sell or supply or attempt to sell or supply alcohol to a person who is drunk
- knowingly to allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor knowingly to keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

**Conditions enforcing these arrangements are therefore unnecessary.**

## CORE PRINCIPLES

1 When applicants are preparing their operating schedules or club operating schedules, responsible authorities are considering applications and licensing authorities are considering applications following the receipt of relevant representations, they should consider whether the measures set out below are necessary to promote the licensing objectives.

2. Any risk assessment to identify necessary measures should consider the individual circumstances of the premises (including local knowledge) and take into account a range of factors including:

- the nature and style of the venue;
- the activities being conducted there;
- the location; and
- the anticipated clientele.

**Under no circumstances should licensing authorities regard these conditions as standard conditions to be automatically imposed in all cases.**

1. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.
2. Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.
3. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

# **CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER**

## **Text/Radio pagers**

Text and radio pagers connecting premises licence holders, designated premises supervisors, managers of premises and clubs to the local police can provide for rapid response by the police to situations of disorder which may be endangering the customers and staff on the premises.

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

The Secretary of State recommends that text or radio pagers should be considered for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These conditions may also be appropriate and necessary in other areas.

It is recommended that a condition requiring the text/radio pager links to the police should include the following requirements:

- the text/pager equipment is kept in working order at all times;
- the pager link is activated, made available to and monitored by the designated premises supervisor or a responsible member of staff at all times that the premises are open to the public;
- any police instructions/directions are complied with whenever given; and
- all instances of crime or disorder are reported via the text/radio pager link by the designated premises supervisor or a responsible member of staff to an agreed police contact point.

## **Door supervisors**

Conditions relating to the provision of door supervisors and security teams may be valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out individuals excluded by court bans or by the licence holder;
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence,

which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:

- the number of supervisors;
- the displaying of name badges;
- the carrying of proof of registration;
- where, and at what times, they should be stationed on the premises; and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

Door supervisors also have a role to play in ensuring public safety (see Part 2) and the prevention of public nuisance (see Part 4).

### **Bottle bans**

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
- • no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);
- In appropriate circumstances, the condition could include exceptions, for example, as follows:
- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

Bottle bans may also be a relevant necessary measure to promote public safety (see Part 2).

### **Plastic containers and toughened glass**

Glasses containing drinks may be used as weapons and in untoughened form, can cause very serious injuries. Where necessary, consideration should therefore be given to conditions requiring the use of safer alternatives which inflict less severe injuries. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of some outdoor sports grounds may obviously be of concern, and similar concerns may also apply to indoor sports events such as boxing matches. Similarly, the use of plastic containers or toughened glass may be a necessary condition during the televising of live sporting events, such as international football matches, when there may be high states of excitement and emotion fuelled by alcohol.

The use of plastic or paper drinks containers and toughened glass may also be relevant as measures necessary to promote public safety (see Part 2).

### **Open containers not to be taken from the premises**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. This is lawful where premises are licensed for the sale of alcohol for consumption off the premises. However, consideration should be given to a condition preventing customers from taking alcoholic and other drinks from the premises in open containers (eg glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Restrictions on taking open containers from the premises may also be relevant necessary measures to prevent public nuisance (see Part 4).

### **CCTV**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

### **Restrictions on drinking areas**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the police consider it necessary to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances in which the ban would apply and times at which it should be enforced.

Restrictions on drinking areas may also be relevant necessary measures to prevent public nuisance (see Part 4).

### **Capacity limits**

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition

is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

### **Proof of age cards**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent these crimes, it may be necessary for certain licensed premises to require the production of “proof of age” before sales are made. The Secretary of State strongly supports the PASS accreditation system which aims to approve and accredit various proof of age schemes that are in existence. This ensures that such schemes maintain high standards, particularly in the area of integrity and security. While conditions may refer directly to PASS accredited proof of age cards, they should also allow for the production of other proof, such as photo-driving licences, student cards and passports.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 21” or other similar initiatives. Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making a purchase.

Proof of age may also be relevant and necessary to protect children from harm (see Part 5).

### **Crime prevention notices**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate might require the display of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns.

### **Drinks promotions**

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area

as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

However, conditions specifically designed to address irresponsible drinks promotions or discounting at individual premises may be permissible provided they are necessary for the promotion of the licensing objectives. Licensing authorities should be aware that there may often be a very fine line between responsible and irresponsible promotions. It is therefore vital that they consider these matters objectively in the context of the licensing objectives and before pursuing any form of restrictions at all, take their own legal advice.

## **Signage**

It may be necessary for the normal hours at which licensable activities are permitted to take place under the terms of the premises licence or club premises certificate to be displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place.

Similarly, it may be necessary for any restrictions on the admission of children to be displayed on or immediately outside the premises to deter those who might seek admission in breach of those conditions.

## **Large capacity venues used exclusively or primarily for the “vertical” consumption of alcohol (HVVDs)**

Large capacity “vertical drinking” premises, sometimes called High Volume Vertical Drinking establishments (HVVDs), are premises which have exceptionally high capacities, used primarily or exclusively for the sale and consumption of alcohol, and little or no seating for patrons.

Where necessary and appropriate, conditions can be attached to licences for these premises which require adherence to:

- a prescribed capacity;
- an appropriate ratio of tables and chairs to customers based on the capacity; and
- the presence of security staff holding the appropriate SIA licence or exemption (see paragraphs 10.58-10.64) to control entry for the purpose of compliance with the capacity limit.





# Appendix 9



## **Licensing Policy Adopted by the London Borough of Tower Hamlets**

- 5.1 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
  
- 5.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonable can to prevent crime and disorder in the Borough.



# Appendix 10



# **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003**

## **CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE**

It should be noted that provisions of the Environmental Protection Act 1990, the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

### **Hours**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder which may result from arbitrarily fixed closing times. However, there is no general presumption in favour of lengthening licensing hours and the four licensing objectives should be paramount considerations at all times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the public at such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue. Or the playing of recorded music might only be permitted after a certain time where conditions have been attached to the licence or certificate to ensure that any potential nuisance is satisfactorily prevented.

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

### **Noise and vibration**

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example, are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:
- a simple requirement to keep doors and windows at the premises closed;
- limiting live music to a particular area of the building;
- moving the location and direction of speakers away from external walls or walls that abut private premises;
- installation of acoustic curtains;
- fitting of rubber seals to doorways;
- installation of rubber speaker mounts;
- requiring the licensee to take measure to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licensee to undertake routine monitoring to ensure external levels of music are not excessive and take appropriate action where necessary;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful).

Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly.

The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted.

The placing of refuse – such as bottles – into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.



**Noxious smells**

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

**Light pollution**

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

**Other measures**

Other measures previously mentioned in relation to the Prevention of Crime and Disorder may also be relevant as necessary to prevent public nuisance. These might include the provision of door supervisors, open containers not to be taken from the premises, and restrictions on drinking areas (see Part 1 for further detail).



# Appendix 11



# London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance

## Licensing Policy

The policy recognises that noise nuisance can be an issue, especially if a premises is open late at night. (**See Sections 8.1 of the Licensing Policy**).

While all applications will be considered on their merits, consideration will be given to imposing stricter conditions in respect of noise control where premises are situated close to local residents. (**See Section 12.11**).

The Licensing Authority expects the applicant to have addressed all nuisance issues relating to the premises in their operating schedule and to have sought appropriate advice from the Council's Environmental Health Officers. (**See Section 8.2 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to prevent nuisance and these may include Conditions drawn from the Model Poll of Conditions relating to Crime and Disorder. (**See Appendix 2 Annex D of the Licensing Policy**). In particular Members may wish to consider (this list is not exhaustive):

- hours of opening (this needs to be balanced against potential disorder caused by artificially early closing times)
- Whether certain parts should close earlier than the rest (for example a "beer garden", or restricted in their use)
- Whether or not certain activities should have to close at an early hour, for example live music
- Conditions controlling noise or vibration (for example, noise limiters, keeping doors and windows closed).
- Prominent clear and legible notices at all exits requesting the public to respect the needs of local residents and leave the premises and area quietly
- Conditions controlling the use of explosives, pyrotechnics and fireworks
- Conditions controlling the placing of refuse
- Conditions controlling noxious smells
- Conditions controlling lighting (this needs to be balanced against potential crime prevention benefits)

## Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs. A premises causing a nuisance resulting from noise emanating from the premises.

## Guidance Issued under Section 182 of the Licensing Act 2003

The Licensing Policy has adopted the recommended Pool of Conditions as permitted (13.20 and Annex D).

The prevention of public nuisance could include low-level nuisance, perhaps affecting a few people living locally as well as major disturbance affecting the whole community (2.33).

Licence conditions should not duplicate other legislation (1.16).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.36) and may address disturbance as customers enter or leave the premises but it is essential that conditions are focused on measures within the direct control of the licence holder (2.38).

### Other Legislation

The Environmental Protection Act 1990, Part 111 gives Environmental Health Officers the power to deal with statutory nuisances.

The Anti-social Behaviour Act 2003, Sections 40 and 41 give Environmental Health Officers the power of closure up to 24 hours in certain circumstances.

# Appendix 12





# **Guidance Issued by the Department for Culture Media and Sport under Section 182 of the Licensing Act 2003 concerning Planning and Building Control**

## **PLANNING AND BUILDING CONTROL**

- 13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.
- 13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.
- 13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.
- 13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.