

Appendix 1



This form should be completed and forwarded to:

London Borough of Tower Hamlets,
Licensing Service, John Onslow House, 1 Ewart Place, London E3 5EQ

**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 **Damian Doherty, on behalf of the Licensing Authority**, apply for the review of a premises licence under section 51 of the Licensing Act 2003 for the premises described in Part 1 below

Part 1 – Premises or club premises details

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

Cost Price, 41 Brick Lane

Post town
London

Post code
E1 6PU

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

Mr Mohammed Shilu Chowdhury

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

17872

Part 2 - Applicant details

Please tick yes

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)

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

Surname

N/a

First names

N/a

Please tick yes

I am 18 years old or over

Current postal address if different from premises address

N/a

Post Town

N/a

Postcode

N/a

Daytime contact telephone number

E-mail address (optional)

N/a

(B) DETAILS OF OTHER APPLICANT

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

Surname

N/a

First names

/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

Postcode

N/a

Daytime contact telephone number

N/a

E-mail address (optional)

N/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Damian Doherty
Licensing Authority
London Borough of Tower Hamlets
John Onslow House
1 Ewart Place
London
E3 5EQ

Telephone number (if any)

020 755 7555

E-mail (optional)

Damian.doherty@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 | <input checked="" type="checkbox"/> |
| 2) public safety | <input type="checkbox"/> |
| 3) the prevention of public nuisance | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input checked="" type="checkbox"/> |

Please state the ground(s) for review (please read guidance note1)

Please refer to the attached document.

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

Please refer to the attached document.

Please tick ? yes

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

Yes

If yes please state the date of that application

Day		Month		Year			
1	5	1	0	2	0	1	3

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

X

I understand that if I do not comply with the above requirements my application will be rejected

X

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 (please read guidance note 4). **If signing on behalf of the applicant please state in what capacity.**

Signature



Date: 16th August 2018

Capacity: Licensing Enforcement Officer

Contact name (where not previously given) and 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)	

London Borough of Tower Hamlets

Cost Price, 41 Brick Lane, London E1 6PU

Licence No **17872** (Licence Holder: **Mr Mohammed Shilu Chowdhury**)

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

London Borough of Tower Hamlets – Licensing Authority

REPRESENTATIONS

1. The Licensing Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and disorder and the prevention of public nuisance.
2. The premises licence holder of Cost Price, 41 Brick Lane, London E1 6PU is Mohammed Shilu Chowdhury of [REDACTED] Mohammed Johirul Amin is the Designated Premises Supervisor (DPS) of the premises, who has been in place since 23rd March 2017 prior to this Mohammed Shilu Chowdhury was the DPS from 17th July 2007. A copy of the current licence is attached as **Exhibit A**.

3. The premises has been reviewed previously by the Tower Hamlets Weights and Measures Department (Trading Standards) on 15th October 2013; this triggered a hearing of the Licensing Sub-Committee on the 4th February 2014.

This resulted in the following conditions being imposed on the Licence:

Conditions

- The premises will not sell any beer, larger or cider that exceeds the strength of 5.6% abv or higher unless 3 or more bottles/cans are purchased together.
 - During a sale of alcohol, the premises will not supply drinking containers, such as plastic cups.
 - During a sale of alcohol, the premises will not open any containers the alcohol is contained in.
 - The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.
 - The premises licence holder shall ensure that all receipts for goods bought include the following details
 - Seller's name and address
 - Seller's Company details, if applicable
 - Seller's VAT details, if applicable
 - Vehicle registration detail, if applicable
 - Legible copies of the document referred to in point 2) shall be retained on the premises and made available to officers on request.
 - The trader shall obtain and use a UV detection devise to verify that duty stamps are valid.
 - Where the trader becomes aware that any alcohol may be note duty paid they shall inform the Police of this immediately.
 - The designated premises supervisor or a personal licence holder must be present when all alcohol sales are made.
4. The Premise Licence holder was prosecuted under Section 136 Licencing Act 2003 for supplying alcohol outside of Licenced hours on 2nd April 2016 and

pleaded Guilty in writing. This was heard at Thames Magistrates on 1st June 2017. See **Exhibit B** for results of previous review and email from Legal services in relation to the court appearance.

5. Prior to the court appearance on 23rd March 2017 a new Designated Premises Supervisor was appointed, Mohammed Johirul Amin.

6. On 10th March 2018 a test purchase of alcohol was made during by a licensing officer after the terminal hour at 01:15am. The member of staff present who made the sale said that neither the Premise licence holder nor the DPS was available. He explained his name is Ruhel AMIN and is the brother of the DPS and is a personal licence holder. He was cautioned and it was that it is an offence to serve alcohol beyond the terminal hour of the Licence. Further offences noted were that a current copy of the Licence was unavailable, the wrong summary was on display and there was not an refusal/incident book present as required by the following Licence condition:

Annex 3 - Conditions attached after a hearing by the licensing authority
Licensing subcommittee hearing of 10th July 2008

2. A refusal book shall be kept and maintained.

Statements are attached as restricted items. **Exhibit C.**

7. On Friday 27th April 2018 at around 23:15 hours Council Officers attended the unlicensed premises known as Mexican Grille, 194 Mile End Road London, E1 4LJ. This is a business owned by Mohammed Shilu Chowdhury. Officers ordered and received hot food and hot drinks. Officers also noted that staff

were informing customers that the restaurant closed at 1am and hot food was being picked up as deliveries. Mohammed Shilu Chowdhury was spoken to by officers and informed that there should not be hot food/drink sales between 23:00 and 05:00 without a licence to include any deliveries made. He received a written warning for this offence under Section 136 (1) Licensing Act 2003 on 15th May 2018. On 18th May 2018 Mr Chowdhury via an agent applied for a Licence at this premises for Late night refreshment. Representations to this application were received from relevant authorities including the Police. Subsequently a hearing took place on 10th July 2018 and the Licensing Sub Committee refused the application.

Warning letter and committee decisions are attached as **Exhibit D**.

8. Mohammed Shilu Chowdhury is also a Premise Licence Holder at another Off Licence in Tower Hamlets called Jerrin News, 90 Mile End Road, London, E1 4UN. The Licence is currently suspended due to non payment of the Licence annual fee under and therefore has been placed on the Enforcement rota for a potential test purchase visit and Legal action. This constitutes Offences under Section 55A / 92A Licensing Act 2003 and Section 229(6) Police and Social Responsibility Act 2011. Reminders are sent out to Premise Licence Holders and after 21 days a Suspension Notice can be generated and sent to the Premise Licence holders address and the premise itself. Mr Chowdhury owes £948 and this figure also accounts for the Late Night Levy payment as his business serves alcohol after 00:00 hours. The premises hours are as follows:

The times the licence authorises the carrying out of licensable activities

Sunday to Thursday 07:00 hours to 02:00 hours
Friday & Saturday 07:00 to 04:00 hours

A copy of the suspension notice is attached as **Exhibit E**

9. It is the opinion of this Licensing Authority that the licensee has no regard to meeting the licensing objectives, the premises continues to knowingly undertake unlicensed activity. Clearly the licensee has not taken the prior review or prior prosecution seriously enough to improve the management of the premises. Taking into account the history of the premises and the history of Mr Chowdhury's running of other premises within the Borough, I believe that the Committee should consider the revocation of the licence.

Damian Doherty

Licensing Enforcement Officer

Exhibit Number **EXHIBIT A**

Signed 

Date **16-08-2018**

I identify the exhibit above as that referred to in the statement signed by me

(Cost Price)
41 Brick Lane
London
E1 6PU

Licensable Activities authorised by the licence
The sale by retail of alcohol

See the attached licence for the licence conditions

Signed by

John McCrohan 
Trading Standards & Licensing Manager

Date: 2nd October 2006

Licence amended following the Licensing Sub Committee Hearing of 10th July 2008
Licence amended following the Licensing Sub Committee Hearing of 4th February 2014

**Part A - Format of premises licence**

Premises licence number

17872

Part 1 - Premises details**Postal address of premises, or if none, ordnance survey map reference or description****(Cost Price)**
41 Brick Lane**Post town**
London**Post code**
E1 6PU**Telephone number**
020 7247 4009**Where the licence is time limited the dates**

Not applicable

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 (off sales only)**

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

The opening hours of the premises

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (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

Mr Mohammed Shilu Chowdhury

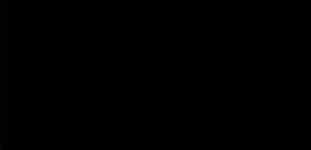


Registered number of holder, for example company number, charity number (where applicable)

Not applicable

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

Mr Mohammed Johirul Amin



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

Licence Number : 15668

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

3.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

5. 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula —

$$P = D + (D \times V)$$

where —

- (i) **P** is the permitted price
- (ii) **D** is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence
 - (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
 - (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member prevent the supply in question; and
 - (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

1. Adult entertainment is not permitted.
2. CCTV shall be maintained and operational at all times.
3. Request photographic identification to anyone appearing to be underage and service shall be refused if this is not produced.
4. Outside areas of the premises to be kept clear and clean.

Annex 3 - Conditions attached after a hearing by the licensing authority Licensing subcommittee hearing of 10th July 2008

1. CCTV must be working at all times the premises are open for business. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month.

2. A refusal book shall be kept and maintained.

Licensing subcommittee hearing of 4th February 2014

3. The premises will not sell any beer, larger or cider that exceeds the strength of 5.6% abv or higher unless 3 or more bottles/cans are purchased together.
4. During a sale of alcohol, the premises will not supply drinking containers, such as plastic cups.
5. During a sale of alcohol, the premises will not open any containers the alcohol is contained in.
6. The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.
7. The premises licence holder shall ensure that all receipts for goods bought include the following details
 - a. Seller's name and address
 - b. Seller's Company details, if applicable
 - c. Seller's VAT details, if applicable
 - d. Vehicle registration detail, if applicable
8. Legible copies of the document referred to in point 2) shall be retained on the premises and made available to officers on request.
9. The trader shall obtain and use a UV detection devise to verify that duty stamps are valid.
10. Where the trader becomes aware that any alcohol may be note duty paid they shall inform the Police of this immediately.
11. The designated premises supervisor or a personal licence holder must be present when all alcohol sales are made.

Annex 4 - Plans

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

15 April 2008



Licensing Act 2003

Part B - Premises licence summary

Premises licence number

17872

Premises details

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

(Cost Price)
41 Brick Lane

Post town

London

Post code

E1 6PU

Telephone number

020 7247 4009

Where the licence is time limited the dates

Not applicable

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 (off sales only)

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

The opening hours of the premises

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

Name, (registered) address of holder of premises licence

Mr Mohammed Shilu Chowdhury



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)

Not applicable

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

Mr Mohammed Johirul Amin

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

No restrictions

I identify the exhibit above as that referred to in the statement signed by me

**Communities:
Safer Commu**

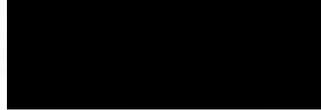
Head of Consumer and Business Regulations
David Tolley

Licensing Section
Mulberry Place (AH)
PO Box 55739
5 Clove Crescent
London E14 1BY

Tel 020 7364 2665
Fax 020 7364 0863
Enquiries to Andrew Heron
Email andrew.heron@towerhamlets.gov.uk

www.towerhamlets.gov.uk

Mr Mohammed Shilu Chowdhury



17th February 2014

My reference: CLC/L1U: 72389

Dear Mr Chowdhury,

Licensing Act 2003

Review of premises: Cost Price, 41 Brick Lane, London E1 6PU

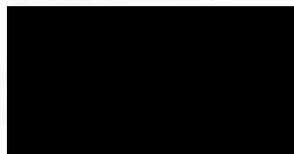
Following the hearing of the Licensing Sub-Committee on the **4th February 2014** and further to the review triggered by the Tower Hamlets Weights and Measures Department on **15th October 2013**, I am writing to advise of the decision from that hearing.

The Sub-Committee resolved that the application for a Review of the Premises Licence at the above address be **GRANTED IN PART** with conditions to be added to the Premise Licence.

The grounds of the Licensing Sub-Committee decision are contained in **Appendix A** as are the alterations in the licence conditions. Both the applicant and you as the objecting licence holder have the right of appeal. Your rights of appeal are contained in **Appendix B**.

We will advise further if we receive notification of an appeal. If you are going to appeal I would be grateful if you would let me know as soon as you are able to do so. Please find enclosed a replacement copy of your licence containing the new conditions.

Yours sincerely,



**Andrew Heron
Licensing Officer**

Appendix A

Reasons for the review of premises licence

Members were aware of and bore in mind the guidance issued by the Secretary of State under Section 182 of the Licensing Act 2003
Members were aware of and bore in mind the Council's Licensing Policy

Members considered the evidence presented by:

- **PC Mark Perry - Metropolitan Police**
- **Mr John McCrohan – LBTH Weights and Measures**
- **Ms Selina Misfud – Local Resident**
- **Md Shilu Chowdhury – Premises Licence Holder**
- **Mr Shaym Sevesta – Licensing Agent**

In relation to the following licensing objective:

- **The prevention of crime and disorder**
- **The prevention of public nuisance**

In that the following matters were discussed:

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Licensing Guidance and the Council's Statement of Licensing Policy.

Consideration

Each application must be considered on its own merits and after careful consideration the Chair stated that the Sub Committee had decided to grant the review application in part by adding additional conditions to the license in order to address the concerns raised in relation to the licensing objectives of "the prevention of public nuisance" and 'the prevention of crime and disorder'.

Accordingly, the Sub-Committee unanimously –

RESOLVED

That the application for a review of the premises licence for, Cost Price, 41 Brick Lane, London E1 6PU be **GRANTED in part with conditions.**

Conditions

- The premises will not sell any beer, lager or cider that exceeds the strength of 5.6% abv or higher unless 3 or more bottles/cans are purchased together.

- During a sale of alcohol, the premises will not supply drinking containers, such as plastic cups.
- During a sale of alcohol, the premises will not open any containers the alcohol is contained in.
- The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.
- The premises licence holder shall ensure that all receipts for goods bought include the following details
 - Seller's name and address
 - Seller's Company details, if applicable
 - Seller's VAT details, if applicable
 - Vehicle registration detail, if applicable
- Legible copies of the document referred to in point 2) shall be retained on the premises and made available to officers on request.
- The trader shall obtain and use a UV detection device to verify that duty stamps are valid.
- Where the trader becomes aware that any alcohol may be note duty paid they shall inform the Police of this immediately.
- The designated premises supervisor or a personal licence holder must be present when all alcohol sales are made.

Appendix B

Appeal Rights under Schedule 5 of Licensing Act 2003

The appeal must be made to the Magistrates Court which has jurisdiction in the area of the London Borough of Tower Hamlets.

A notice of appeal must be given to the justices' chief executive for the Magistrates Court within a period of 21 days beginning with the day on which notification was sent by the Licensing Authority.

Please note that the licensing authority will be a party to the appeal.

URN 08683

CASE SUMMARY

R v CHOWDHURY, Mohammed Shilu

Page No 1

Order on conviction Compensation Forfeiture / Destruction order Asset recovery case
(Exclusion / ASBO / Restraining order)

Tick box if required

Historical chronology

COST PRICE is an Off Licence located at 41 BRICK LANE E1 6PU. It is licensed to sell alcohol as Off sales (i.e. purchased by customers to be consumed off the premises) during the following times:

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

There have also been extra conditions added to the Premise Licence (Annex 3) at the Licensing subcommittee hearing of the 4th February 2014. The one concerning this case is:

- The premises will not sell any beer, larger or cider that exceeds the strength of 5.6% abv or higher unless 3 or more bottles/cans are purchased together.

COST PRICE 41 BRICK LANE E1 has a poor history of compliance with Licensing Legislation, with Officers from this Authority witnessing breaches of Licence Conditions on 2 separate occasions in 2014.

In order to ensure compliance with Licensing legislation this Licensing Authority has run an Operation known as Operation Dymock. The operation seeks to carry out late night visits, inspection and Test Purchases to Licensed and Unlicensed Premises within the Borough. These visits are based on intelligence received from other Teams and Departments within the Authority as well as the Police and complaints from residents. As a result of such intelligence this premises was added to the visit Rota for Dymock in 2014.

On Friday 25th July 2014 two Council officers (Ebony DORMER-KUTI and Natalie THOMPSON) attended COST PRICE 41 BRICK LANE E1 6PU and carried out a test purchase and produced evidence in regards to purchasing two bottles of Brothers Festival Cider at 7% ABV contrary to the Premise Licence conditions mentioned above.

On Saturday 16th August 2014 a further visit was undertaken to COST PRICE 41 BRICK LANE E1 6PU by two Council officers, Alison FLYNN and Shola THOMPSON. They carried out a test purchase producing a can of White Ace cider at 7.5% ABV as evidence; again in contrary to the same condition. Officers recorded details of the staff member who served them as Ikbal AHMED.

COST PRICE 41 BRICK LANE E1 6PU had breached their Premises Licence conditions on both of the above visits; therefore this constituted a breach of section 136(1) of the Licensing Act 2003. This was because the Licensee knowingly allowed licensable activities to be carried out, which was not in accordance with the Premises Licence (authorisation).

On Thursday 27th November 2014 Mr Mohammed Shilu CHOWDHURY attended a recorded interview under the Police and Criminal Evidence Act 1984 (PACE) code of practice E (2013) in respect of these Offences. The interview was conducted at Mulberry Place, 5 Clove Crescent London E14 2BG. During this interview Mr CHOWDHURY admitted that his staff had made sales of high strength alcohol which was contrary to the condition on his Premises Licence. He assured Officer Damian DOHERTY who conducted the interview that he had subsequently removed high strength alcohol from his shelves and only stocks alcohol below 5.6%. In light of this assurance and as it was the premises first offence no further formal action was taken.

Summary for current prosecution

Operation Dymock was run again from the end of March 2016 until end of August 2016. Again undertaking late night visits, inspection and Test Purchases to Licensed and Unlicensed Premises within the Borough, based on intelligence received. COST

PRICE 41 BRICK LANE E1 6PU had been placed on the visit rota based on previous history of non-compliance.

On Saturday 2nd April 2016 two Council officers (Festus EBOJOH and Shola THOMPSON) carried out a test purchase at COST PRICE 41 BRICK LANE E1 6PU purchasing a can of Strongbow cider at 01:14 hours. This was contrary to the premises licensable hours for the sale of alcohol by retail.

The sale was made by Mr Ali DIL (date of birth [REDACTED]) and he was cautioned onsite by Shola THOMPSON. Following being given the caution Mr DIL gave his name only and made no other statements or comments. The Officers then reported this offence to the Licensing Team.

This premises is licensed to sell alcohol by retail (off sales only) during the following times:

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

Despite a previous warning at the recorded interview under PACE code E on 27th November 2014 and warnings given by officers during the visit on 16th August 2014 the Licensee of this premises, Mr Mohammed Shilu CHOWDHURY has knowingly allowed the unauthorised sale of alcohol to occur because it was outside of his licensable hours. This constitutes offences under Section 136 and 137 of Licensing Act 2003:

136 Unauthorised licensable activities

(1) A person commits an offence if—

- (a) he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or
- (b) he knowingly allows a licensable activity to be so carried on.

In light of this offence this Licensing Authority is referring this matter to the Authority's Legal Department for consideration for prosecution.

Damian Doherty

From: Vivienne Walker
Sent: 05 June 2017 12:08
To: Damian Doherty
Cc: Tom Lewis; David Tolley; Victoria Fowler
Subject: CHOWDHURY, Mohammed Shilu - t/a Cost Price at 41 Brick Lane, E1 - S136(1)(b) of the Licensing Act 2003

Dear All,

i appeared before Thames Magistrates Court on 1 June 2017, regarding the above matter. The Defendant sent a Written Plea of Guilty to the court. There were no reference to any mitigating circumstances or his means.

The Defendant was sentenced as follows:

Fine: £250.00

Costs: £150.00

Victim Surcharge: £30.00

The Defendant has 28 days to pay in full. A collection order has been attached.

The file in legal services will now be closed. There were no fees or disbursements in this case, such as Counsel fees. Legal Services will retain the documents on its electronic file which will now be marked as closed. You will be written to separately by our Business Support Team who will give details about storage.

Regards

Vivienne Walker

Solicitor

Legal Services

I identify the exhibit above as that referred to in the statement signed by

RESTRICTED (when complete)

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN [REDACTED]

Statement of: **Damian DOHERTY**

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: **Licensing Enforcement Officer**

This statement (consisting of 2 of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature:..... [REDACTED]Date:.....01/05/2017

Tick if witness evidence is visually recorded (supply witness details on rear)

I am **Damian DOHERTY** a Licensing Enforcement Officer employed by the London Borough of Tower Hamlets Council. I am duly authorised under the Licensing Act 2003. One of my roles involves conducting late night Enforcement visits and test purchasing on behalf of the Licensing section. On **Saturday 10th March 2018** I was working with my colleague **Corinne HOLLAND** (Licensing Officer) and visited **COST PRICE 41 BRICK LANE LONDON E1 6PU** to see if it was open after 01:00 hours. I was aware that this particular premise held a Premises Licence under the Licensing Act 2003 (numbered 17872) which I exhibit as **DD/01**. It allows the following:

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol (off sales only)

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

At 01:15 on **Saturday 10th March 2018** **HOLLAND** entered the premise whilst I waited outside. She went inside and purchased a bottle of "Mixed Fruit" Kopparberg cider. She then came outside and showed me her purchase, so we both then went inside together. I went to the counter and I introduced myself to the IC4 male showing my Warrant card and introduced **HOLLAND** as my colleague. **HOLLAND** confirmed that this male had made the sale of alcohol past the terminal hour. I asked if Mohammed Silu **CHOWDHURY** was available as he was listed as Premises Licence holder (PLH) or if the Designated Premise Supervisor (DPS) Mohammed Johirul **AMIN** was available. The IC4 male said neither were available. I explained that alcohol had been served after 01:00 hours the terminal hour as

allowed by the licence explained that it is an offence under Section 136 Licensing Act 2003. The IC4 said he held a personal Licence with Tower Hamlets and his brother was the DPS. I asked to see this male's personal licence, but he said he did not have it on him. I asked him to provide his details which he gave as follows. Ruhel **AMIN** [REDACTED] [REDACTED] and date of birth [REDACTED] a credit three sixty check revealed these the correct date of birth is [REDACTED] (copy exhibited as **DD/02**). I cautioned **AMIN** at 01:19 and explained that he is not under arrest, free to leave, and free to seek legal advice. He made no reply. I had a printed copy of the current licence which I produced and I looked at some of the conditions listed as follows:

Annex 3 - Conditions attached after a hearing by the licensing authority
Licensing subcommittee hearing of 10th July 2008

- 2. A refusal book shall be kept and maintained.

I asked to see a copy of the refusals book and **AMIN** said that he did not know where this was. I asked to see a copy of the Licence and I was shown an old copy of the Licence which listed a different DPS (previously it was the PLH Mohammed Silu **CHOWDHURY**). I said this constituted further offences under the Licensing Act 2003. **AMIN** hinted that he only works part time and enquired what "happens next?" I explained that I would present my evidence to our legal department could lead to prosecution or review. I reminded **AMIN** of his closing times and **HOLLAND** and I then left the premises. I exhibit a copy of my pocket book notes as Exhibit **DD/03** and a copy of the record of contact form as **DD/04**

Signature:..... [REDACTED] Date:.... 01/05/2017

Order on conviction Compensation Forfeiture / Destruction order Asset recovery case

(Exclusion / ASBO / Restraining order) Tick box if required

Date of completion... 01/05/2017

RESTRICTED (when complete)**WITNESS STATEMENT**

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN

Statement of: **Corinne Holland**

Age if under 18: Over 18 (if over 18 insert 'over 18')

Occupation: **Licensing Officer**

This statement (consisting of 2 of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it, which I know to be false, or do not believe to be true.

Signature:.....Date 14/6/18

Tick if witness evidence is visually recorded (supply witness details on rear)

I am a Licensing Officer employed by the London Borough of Tower Hamlets Council within the Licensing section. I am duly authorised under the Licensing Act 2003. On **SATURDAY 10th March 2018** I was working with my colleague **Damian DOHERTY** (Licensing Enforcement Officer) conducting late night enforcement visits. We decided to visited **COST PRICE 41 BRICK LANE, LONDON, E1 6PU** to see if they were selling alcohol beyond 01.00 hours, which is the end time of their permitted licensable hours.

At 01.14 hours I entered the shop and noticed two Asian males within the shop. I said to one of them, who I know now to be Mr Ruhel **AMIN**, 'Are you still open?' he said to me 'What is it you want?', I replied 'some beer'. He then said to me 'it's a bit late but go on then'. I selected a bottle of mixed fruit Kopparberg cider and placed it on the counter. Mr **AMIN** rung it up on the till and charged me £2.70. I handed him a £5 note and was given change. I left the shop and handed the £2.30 change to **Damian DOHERTY**. I exhibit this bottle of cider as CH/1. I went back into the shop with **Damian DOHERTY** and introduced ourselves to the cashier and I showed my warrant card.

I identified the male that I now know to be Mr Ruhel **AMIN** as the male who had sold me the alcohol. **DOHERTY** asked if whether the Premises Licence Holder or the Designated Premises Supervisor (DPS) were available. Mr **AMIN** said they weren't. **DOHERTY** pointed out the offence of selling alcohol after the permitted hours of 01.00 hours and explained that it was an offence contrary to Section 136 Licensing Act 2003. **DOHERTY** cautioned **AMIN** at 01.19 hours and explained he was not under arrest, free to leave, and could seek legal advice. He made no reply to the caution. **DOHERTY** completed some paperwork and took

AMINs' personal details. I pointed out to **AMIN** that he had said to me that it was 'a bit late'. He said he knew but thought he would just serve me before he closed.

DOHERTY produced a copy of the licence and asked to see the refusal book which is a condition on the licence. **AMIN** searched for one but he could not find one. If a refusal book cannot be easily found then I have to assume that one is not maintained as per the condition requires. This is a breach of the licence conditions and a further offence.

DOHERTY asked to see a copy of the licence. **AMIN** found an old copy with the incorrect **DPS** details on it. The additional offences were pointed out to **AMIN** by **DOHERTY**. There was a **CCTV** monitor in the shop so I asked if it was working. **AMIN** said he didn't know the code to access it so this could not be checked. **DOHERTY** explained to **AMIN** him that the evidence would be submitted to the legal department to decide on what action would be taken. We then left the shop. I exhibit my pocket book notes as exhibit CH/2.

Signature:  Date: 14/06/18

Order on conviction Compensation Forfeiture / Destruction order Asset recovery case
(Exclusion / ASBO / Restraining order)

Tick box if required

Date of completion... 14/06/18

Md Shilu Chowdhury



15th May 2018

Our reference: CLC/LA03/073569

Place Directorate
Public Realm
Environmental Health and Trading Standards
Head of Service: David Tolley

Licensing Section
John Onslow House
1 Ewart Place
London E3 5EQ

Tel 020 7364 5008 option 3
Fax 020 7364 0863
Enquiries to Licensing
Email licensing@towerhamlets.gov.uk

www.towerhamlets.gov.uk

Dear Sir,

Licensing Act 2003

Premises: **Mexican Grille, 194 Mile End Road London, E1 4LJ**

On Friday 27th APRIL 2018 at around 23:15 hours Council Officers attended the premises known as **Mexican Grille, 194 Mile End Road London, E1 4LJ**. They ordered and received hot food and hot drinks (1 x 'Juicy Lucy' double burger meal and 1 x No. 28 Mexican burrito meal with two soft drinks and two teas for £27.20). Officers also noted that staff were informing customers that the restaurant closed at 1am and hot food was being picked up by people as deliveries. You were spoken to by officers and informed that there should not be hot food/drink sales beyond 23:00 without a licence to include any deliveries made.

According to the Council records you do not hold a licence under the Licensing Act 2003.

It is an offence for anyone who carries on, or attempts to carry on a licensable activity on or from any premises without or not in accordance with an authorisation. The ACT covers;

the provision of late night refreshment (selling meals after 23:00 hours and before 05:00 hours)

A person guilty of an offence under section 136 (1) of the ACT is liable on a summary conviction to imprisonment for a term not exceeding six months or an unlimited fine.

You are advised to cease this unauthorised licensing activity of hot food/drink sales between 23:00 and 05:00 (to include providing deliveries of hot food/drinks) with immediate effect. You will also have to change your online advertising as your website and Facebook reflect later hours. This letter serves as a written warning for offence(s) observed on 27th APRIL 2018 and further breaches could lead to a prosecution.

For further advice please contact your legal representative. Licence application forms and further details are available upon request from the Licensing Authority, please contact our hotline on 0207 364 5008 or visit our website:

http://www.towerhamlets.gov.uk/lgnl/business/licences/alcohol_and_entertainment/alcohol_and_entertainment.aspx

Yours sincerely



**Damian Doherty
Enforcement Officer – Licensing and Safety Team
Environmental Health and Trading Standards**

Cc: T/A Quick Grill Ltd, Mexican Grille, 194 Mile End Road, London, E1 4LJ

LONDON BOROUGH OF TOWER HAMLETS

RECORD OF THE DECISIONS OF THE LICENSING SUB COMMITTEE

HELD AT 6.30 P.M. ON TUESDAY, 10 JULY 2018

**THE COUNCIL CHAMBER, TOWN HALL, MULBERRY PLACE, 5 CLOVE
CRESCENT, LONDON, E14 2BG**

Members Present:

Councillor Peter Golds (Chair)

Councillor Faroque Ahmed (Member)

Councillor Leema Qureshi (Member)

1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTEREST

There were no declarations of disclosable pecuniary interest made.

2. RULES OF PROCEDURE

The rules of procedure were noted.

3. MINUTES OF THE PREVIOUS MEETING(S)

The minutes of the Licensing Sub Committee held on 5th June 2018 were agreed as a correct record of proceedings.

4. ITEMS FOR CONSIDERATION

**4.1 Application for Variation of a Premises Licence for Whitepost Café, 92
Whitepost Lane, London E9 5EN**

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licensing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them and heard representations made by the Applicant and also heard from the objectors present at the meeting.

In reaching their decision, Members noted the current demographics of the area and noted that the area that was once derelict, was now full of industry, amenities, entertainment venues and most importantly a rapidly growing residential community. Members noted that the objections from local residents covered a wide range of concerns which was evident in demonstrating that there was already public nuisance in the form of noise nuisance. Members were concerned that permitting an increase in the licensable hours of the premises would exacerbate this noise nuisance.

Members welcomed the efforts made by the Applicant by reducing the hours and offering conditions in consultation with Environmental Health, however, the individual objections and the supporting documents (noise nuisance diary submitted by the local resident) demonstrated that there was a cause for concern and the likelihood that later hours would have a negative impact on the lives of residents, infringe on their quality of life with a likelihood of an increase in anti-social behaviour and general noise nuisance.

Members looked carefully at the location and although the Applicant agreed to use the entrance via the tow path route only as a fire exit after the terrace area is closed, Members of the Sub Committee were of the view based on the evidence put before them that residents especially from Omega Works would suffer noise pollution.

Members reached a decision and the decision was unanimous. Members refused the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a variation of the Premises Licence for Whitepost Café, 92 Whitepost Lane, London E9 5EN be **REFUSED**.

4.2 Application for a New Premises Licence for Quick Grill Ltd, 194 Mile End Road, London, E1 4LJ

The Licensing Objectives

In considering the application, Members were required to consider the same in accordance with the Licensing Act 2003 (as amended), the Licensing Objectives, the Home Office Guidance and the Council's Statement of Licensing Policy and in particular to have regard to the promotion of the four licencing objectives:

1. The Prevention of Crime and Disorder;
2. Public Safety;
3. Prevention of Public Nuisance; and
4. The Protection of Children from Harm

Consideration

Each application must be considered on its own merits and the Chair stated that the Sub Committee had carefully considered all of the evidence before them. In the absence of the Applicant, Members heard representations made on behalf of the Applicant by their Licensing Representative and also heard representation on behalf of the Licensing Authority and the Metropolitan Police.

In reaching their decision, Members noted the previous breaches of conditions, trading without a licence, a number of failings and breaches in the Applicant's other licensed premises at 41 Brick Lane, and pending enforcement action in relation to both those other premises at 41 Brick Lane and also in relation to the premises at 194 Mile End Road. Whilst the premises at 41 Brick Lane are not the subject of this application, what had happened regarding those other premises is relevant because it demonstrates the degree to which the applicant in running those other licensed premises can be trusted to uphold the licensing objectives, in particular, the crime and disorder objective.

Breaches of licensing conditions and trading without a licence are offences. Therefore, when such matters taking place do not uphold the crime and disorder objective.

Although it was noted that the Applicant would relinquish all ties with the premises in Brick Lane and concentrate on the current premises he is applying for, Members had no confidence that hours and conditions would be adhered to and therefore referred to the concerns raised by both the Responsible Authorities and their evidence showed that the applicant is unable to comply with licence times and conditions, and on a balance of probability is likely to do the same if this current application were to be granted.

Members were not satisfied that the Applicant would uphold the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance in relation to the objections raised by the Police and the Licensing Authority.

Members reached a decision and the decision was unanimous. Members refused the application.

Accordingly, the Sub Committee unanimously

RESOLVED

That the application for a New Premises Licence for Quick Grill, 194 Mile End Road, London E1 4 LJ be **REFUSED**.

5. EXTENSION OF DECISION DEADLINE: LICENSING ACT 2003

There were no applications that required a deadline extension.

The meeting ended at 8.50 p.m.



Exhibit Number **EXHIBIT E**
 Signed [Redacted]
 Date **15-08-2018**

I identify the exhibit above as that referred to in the statement signed by me

Mr Mohammed Choudhury
 90 Mile End Road
 London
 E1 4UN

18 July 2018

Dear Sir/Madam,

Licensing Act 2003 Section 55A / 92A
 Police and Social Responsibility Act 2011 229(6)

Place Directorate
 Public Realm
 Environmental Health and Trading Standards
 Head of Service: David Tolley

Licensing Section
 6th floor
 John Onslow House
 1 Ewart Place
 London E3 5EQ
 Tel 020 7364 5008 option 3
 Fax 020 7364 0863
 Enquiries to Licensing
 Email licensing@towerhamlets.gov.uk
www.towerhamlets.gov.uk

NOTICE OF SUSPENSION OF PREMISES LICENCE/CLUB CERTIFICATE

The below annual fee and, where applicable, the Late Night Levy Fee remains outstanding, the 21 day period in which to pay has now expired. I therefore have to advise you that your premises licence detailed below is now suspended until such time that the fee(s) below and any other annual fees (including Late Night Levy fees where appropriate, see Note 1 below table) owed for previous years are paid. The licence cannot be reinstated until all outstanding fees are paid in full.

Legislation allows 2 working days to arrange payment before the suspending – therefore your Licence will be suspended 2 working days from the date of the postmark on this letter.

Licensing Act 2003 - Annual Fee for Premises Licence			
Reference no	033603/2018	Premises ref:	F155TH90MI/1
Your Licence was Issued on 5 June 2009	Fee Due date June 2018	The Annual Fee is due every year on the Premises Licence issue date	
Premises Jerrin Mini Market 90 Mile End Road London E1 4UN	Annual Licence Fee		
	Cost	Total	
	£180.00	£180.00	
	Late Night Levy Charge, where applicable		
	£768.00	£768.00	
	Total Amount Due		£948.00
Best Bar None premise reduced fee Best Bar None accredited premises are entitled to a 30% reduction of the Late Night Levy charge			
Total amount due £			

Note 1: As of 1st January 2018, Licences that permit the sale/supply of alcohol between midnight and 6am (00:00 and 06:00 hours) on any day will be liable to pay the levy charge shown under box 2 above.

There are 4 ways to pay the annual fee:

- On line payments can be made at http://www.towerhamlets.gov.uk/content_pages/pay_it.aspx (www.towerhamlets.gov.uk 'Online Services' / 'Pay it' / Licences/Registrations)
- Cheques should be made payable to the London Borough of Tower Hamlets and sent to the above address. Please write the reference number and premises address on the back of the cheque.
- The fee can be paid in person at the address above.
- Card payment can be taken by phone (020 7364 5008)

PLEASE NOTE: We prefer not to accept payment by BACS, as monies go into a generic Council fund where notification of payment is not received and it may be untraceable. This may result in another fee being liable. If there is no alternative, please ensure you quote the above reference number on the invoice and confirm your receipt of payment details by emailing licensing@towerhamlets.gov.uk.

Please note: The licence will be suspended if payment is not made on or before the due date, this includes the levy fee. The licence will remain suspended until such time that full payment owed is made. If you have any dispute regarding the payment of the fee(s) you MUST notify Licensing Authority on or before the due date.

Yours faithfully,



Kathy Driver
Principal Licensing Officer

Appendix 2

(Cost Price)
41 Brick Lane
London
E1 6PU

Licensable Activities authorised by the licence

The sale by retail of alcohol

See the attached licence for the licence conditions

Signed by

John McCrohan 
Trading Standards & Licensing Manager

Date: 2nd October 2006

Licence amended following the Licensing Sub Committee Hearing of 10th July 2008
Licence amended following the Licensing Sub Committee Hearing of 4th February 2014



Part A - Format of premises licence

Premises licence number

17872

Part 1 - Premises details

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

(Cost Price)
41 Brick Lane

Post town
London

Post code
E1 6PU

Telephone number
020 7247 4009

Where the licence is time limited the dates

Not applicable

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 (off sales only)

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

The opening hours of the premises

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (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

Mr Mohammed Shilu Chowdhury

████████████████████
██████
██████████

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

Not applicable

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

Mr Mohammed Johirul Amin

████████████████████
████████████████
██████
██████

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

Licence Number : 15668

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

3.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

5. 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula —

$$P = D + (D \times V)$$

where —

- (i) **P** is the permitted price
- (ii) **D** is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence
 - (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Annex 2 - Conditions consistent with the operating Schedule

1. Adult entertainment is not permitted.
2. CCTV shall be maintained and operational at all times.
3. Request photographic identification to anyone appearing to be underage and service shall be refused if this is not produced.
4. Outside areas of the premises to be kept clear and clean.

Annex 3 - Conditions attached after a hearing by the licensing authority Licensing subcommittee hearing of 10th July 2008

1. CCTV must be working at all times the premises are open for business. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month.

2. A refusal book shall be kept and maintained.

Licensing subcommittee hearing of 4th February 2014

3. The premises will not sell any beer, larger or cider that exceeds the strength of 5.6% abv or higher unless 3 or more bottles/cans are purchased together.
4. During a sale of alcohol, the premises will not supply drinking containers, such as plastic cups.
5. During a sale of alcohol, the premises will not open any containers the alcohol is contained in.
6. The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.
7. The premises licence holder shall ensure that all receipts for goods bought include the following details
 - a. Seller's name and address
 - b. Seller's Company details, if applicable
 - c. Seller's VAT details, if applicable
 - d. Vehicle registration detail, if applicable
8. Legible copies of the document referred to in point 2) shall be retained on the premises and made available to officers on request.
9. The trader shall obtain and use a UV detection device to verify that duty stamps are valid.
10. Where the trader becomes aware that any alcohol may be note duty paid they shall inform the Police of this immediately.
11. The designated premises supervisor or a personal licence holder must be present when all alcohol sales are made.

Annex 4 - Plans

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

15 April 2008



Licensing Act 2003

Part B - Premises licence summary

Premises licence number

17872

Premises details

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

(Cost Price)
41 Brick Lane

Post town

London

Post code

E1 6PU

Telephone number

020 7247 4009

Where the licence is time limited the dates

Not applicable

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 (off sales only)

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

The opening hours of the premises

- Sunday to Thursday, from 11:00hrs to 00:00hrs (midnight)
- Friday and Saturday, from 11:00hrs to 01:00hrs (the following day)

Name, (registered) address of holder of premises licence

Mr Mohammed Shilu Chowdhury

[Redacted address]

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)

Not applicable

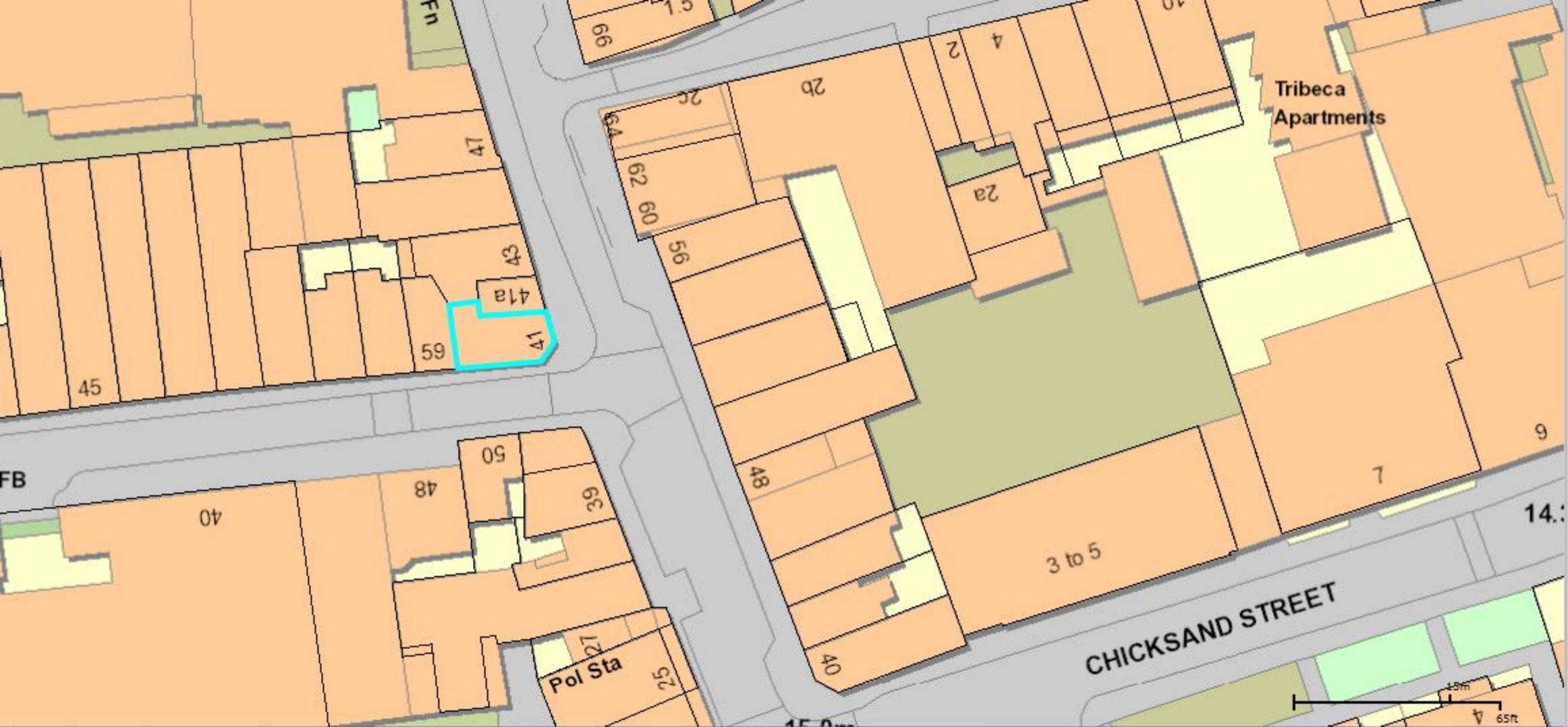
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Mohammed Johirul Amin

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

No restrictions

Appendix 3





Rectory

SEVEN STARS YARD

BRICK LANE

HENEAGE STREET

Sports Facility

Christ Church
C of E
Primary School

Tobacco
Apartments

Play Area

FASHION STREET

13.4m

14.3m

CHICKSAND STREET

15.0m

THRRAWL STREET

Spelman
House

100ft

Appendix 4



Tom Lewis
Head of Licensing
Tower Hamlets Council

HT - Tower Hamlets Borough

Licensing Office
Toby Club,
Vawdry Close
E2

Telephone: 0207 161 8792

Email: thomas.ratican@met.police.uk
www.met.police.uk

24th August 2018

Dear Sir,

Tower Hamlets Police formally support the application by Tower Hamlets Council Licensing to review the premises license of Cost Price 41 Brick Lane E1.

We are greatly concerned that the owner and premises license holder of Cost Price, Mr Mohammed Shilu Chowdhury has shown such flagrant disregard for the Licensing Act, at all three of the premises he owns. Descriptions of these breaches are listed below.

On the 10th March 2018 Cost Price at 41 Brick Lane Failed Test Purchase by supplying alcohol after its licensed hours. The premises was also in breach of its license by not having an incident report book in use.

Mohammed Shilu Chowdhury premises license holder also owns Mexican Grille 194 Mile End Road. On the 27th April the above premises sold hot and food and hot drinks past 11pm despite having no premises license. Staff at premises telling staff open until 1am.

Mr Chowdhury also own Jerrin News 90 Mile End Road, which has failed to pay its License fee or Late Night Levy, and has as a result had its license suspended.

We believe that as Mr Chowdhury has shown such contempt for the licensing act that there are no conditions that can be put on the license to remedy the situation. We also have concerns that Mr Chowdhury has no regard for the licensing objectives.

Having a premises license requires the holder to demonstrate that they are trustworthy, with over 1400 licensed premises in Tower Hamlets we have to trust that both Premises License Holders and Designated Premises Supervisors will uphold both the licensing objectives and the conditions on their license.

Given the above evidence we can have no trust in Mr Chowdhury, therefore support Tower Hamlets Councils application to revoke the premises license.

Kind Regards

Mark

PC Mark Perry 748HT
Police Licensing Officer.

Appendix 5



Licensing Authority
Environmental Health & Trading Standards
John Onslow House
1 Ewart Place
London E3 5EQ

11th September 2018

Your reference
My reference : P9505 & P9583

**Place Directorate
Public Realm**

Head of Environmental Health and
Trading Standards: **David Tolley**

John Onslow House
1 Ewart Place
London E3 5EQ

Tel 020 7364 5008
Fax 020 7364 6901
Enquiries to **Nazir Ali**
Email nazir.ali@towerhamlets.gov.uk

www.towerhamlets.gov.uk

Dear Sir or Madam,

**Re: Licensing Act 2003 – Section 51: Application for the Review of the Premises
Licence: Cost Price, 41 Brick Lane, London E1 6PU
REPRESENTATION**

The Trading Standards Service, as the Local Weights and Measures Authority is a designated 'responsible authority' for the purposes of the Act and is making a representation in support of the Review brought by the Licensing Authority.

The representation concerns the recent sales of tobacco products to a person under the age of 18 years on two separate occasions; namely on 13th April 2018 and 7th August 2018. On the 13th April 2018; sixteen (16) premises across the borough were attempted and only this premises sold cigarettes to a minor. On the 7th August 2018, twenty-three (23) premises across the borough were attempted and only this premises sold cigarettes to a minor. I have enclosed a detailed witness statement concerning these two sales. The trader has clearly contravened legal requirements and breached licensing conditions attached to the premises licence. Hence, the trader cannot be deemed a fit and proper person to comply with the following licensing objective:

- the protection of children from harm.

Therefore, I support the Licensing Authority review and the revocation of the premises licence attached to 41 Brick Lane, London E1 6BU.

Yours sincerely,


Nazir Ali
Senior Trading Standards Officer

Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

URN:

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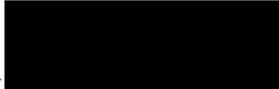
Statement of: Nazir ALI

Age if under 18 (if over insert "over 18"): "Over 18"

Occupation: Trading Standards Officer

This statement (consisting of Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Name / Signature:



Date: 11th September 2018

Tick if witness evidence is visually recorded:

(Supply witness details on last page)

Statement

I am a SENIOR TRADING STANDARDS OFFICER employed and authorised by the London Borough of Tower Hamlets Trading Standards Services. I am authorised to enforce various pieces of legislation including the Licensing Act 2003, the Trade Marks Act 1994, and the Children and Young Persons Act 1933, as amended.

Background information

I am the lead officer for conducting underage sales programme across the borough on age-restricted products such as knives, alcohol, fireworks and tobacco. Before attempting any test purchases, the young volunteers, who I refer to **Volunteer A** (15 years old female) for the visit of 13th April 2018, and **Volunteer B** (14 years old male) for the visit of 7th August 2018, were photographed by myself in the clothes they would be wearing during the test purchase. The volunteers were instructed, if questioned about their age by the seller, they were to always to state their true age and not engage in further conversation. Consideration was made as to whether this was directed-surveillance. However, on these occasions, I was satisfied that a RIPA authorisation was not required.

Test purchase of tobacco at Cost Price, 41 Brick Lane, London E1 6PU – 13th April 2018

On Friday 13th April 2018, I was working with Trading Standards Officer Bridget Rushmoor and **Volunteer A**. At about 15:25 hours, Officer Rushmoor and **Volunteer A** entered the premises of Cost Price, 41 Brick Lane, London E1 6PU. I was waiting in my vehicle nearby. **Volunteer A** carried out a test purchase of a

Name / Signature:



Signature Witnessed by:

Witness Statement

CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; Criminal Procedure Rules 2005 , Rule 27.1

packet of 20 Mayfair cigarettes for £10.40 and returned to my vehicle. I took possession of the cigarettes and sealed it evidence bag N06621759. Officer Rushmoor and I re-entered the premises of Cost Price, 41 Brick Lane, London E1 6PU and the seller at the time gave his name as a Mr Shebul AHMED. I wrote out a notice of powers and rights to occupier and gave to Mr AHMED. Mr AHMED refused to give his details and said he would be sacked by the owners. He reluctantly gave the owner's name as a Mr Mohammed AMIN. He did not give any further details of himself nor the home address. The licence on display suggested Mr Shilu CHOWDHURY was the Premises Licence Holder and Mr Mohammed Jahirul Amin was the Designated Premises Supervisor. I produce the photo of and the packet of 20 Mayfair cigarettes as exhibit NA/CP/01.

Test purchase of tobacco at Cost Price, 41 Brick Lane, London E1 6PU – 7th August 2018

On Tuesday 7th August 2018, I was working with Smokefree Officer Anjali Miah and Volunteer B. At about 15:00 hours, Officer Miah and Volunteer B entered the premises of Cost Price, 41 Brick Lane, London E1 6PU to carry out a test purchase of tobacco products. I was waiting in my vehicle nearby. Shortly afterwards, Volunteer B and Officer Miah returned to the vehicle with a test purchase of a packet of 20 Benson & Hedges Silver cigarettes for £10.60. I took possession of the packet and sealed it in evidence bag M00222204. Shortly afterwards, Officer Miah and I re-entered the premises. The seller at the premises gave his name as Mr Mohammed AMIN and his DOB as [REDACTED] and home address; [REDACTED]. He said the owner was a Mr Shilu CHOWDHURY, but did not have his details. I saw the licence on display and the refusals book. The last entry made in the refusals book was on 21/02/2015 at 18:45 where the sale of vodka was refused. I signed and dated the last entry. Upon return to the office, I wrote to Mr Shilu Chowdhury informing of the underage sales at the premises of Cost Price, 41 Brick Lane, London E1 6PU. I produce the photo of the packet of 20 Benson & Hedges Silver cigarettes as exhibit NA/CP/02.

Communication received from Mr Shilu Chowdhury

On 16th August 2018, I received a document from Mr Mohammed Shilu CHOWDHURY. It was a Lease agreement between himself and Mohammed Jahirul AMIN for the premises of Cost Price, 41 Brick Lane, London E1 6PU. The agreement for the premises was for a three years rolling contract starting from 09/08/2017. I produce this document as exhibit NA/CP/03.

Name / Signature: [REDACTED]

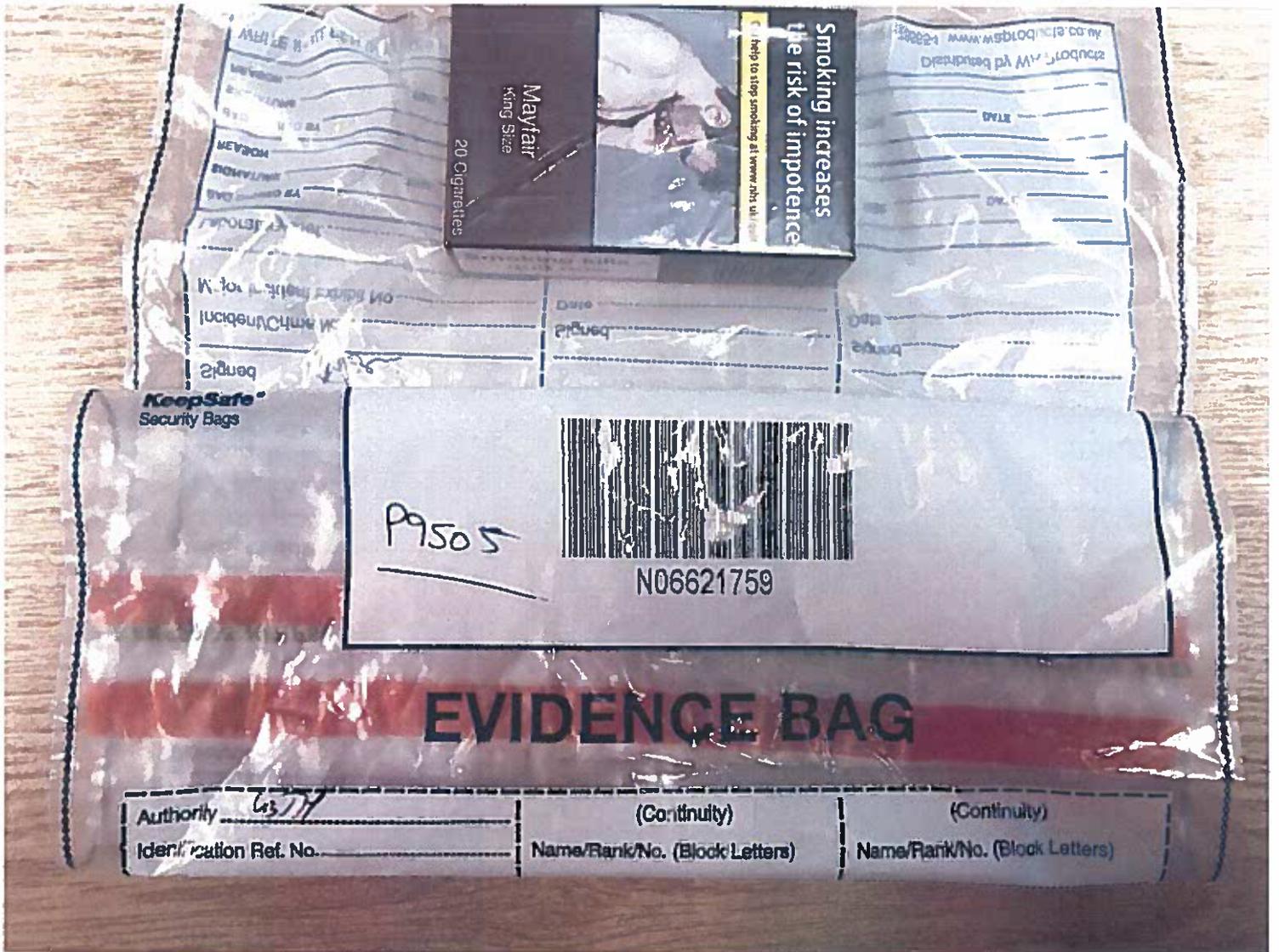
Signature Witnessed by:

Exhibit Number NA/CP/01

Signed [Redacted]

Date 11/09/2018

I identify the exhibit above as that referred to in the statement signed by me



Authority 6377

Identification Ref. No.

(Continuity)

Name/Rank/No. (Block Letters)

(Continuity)

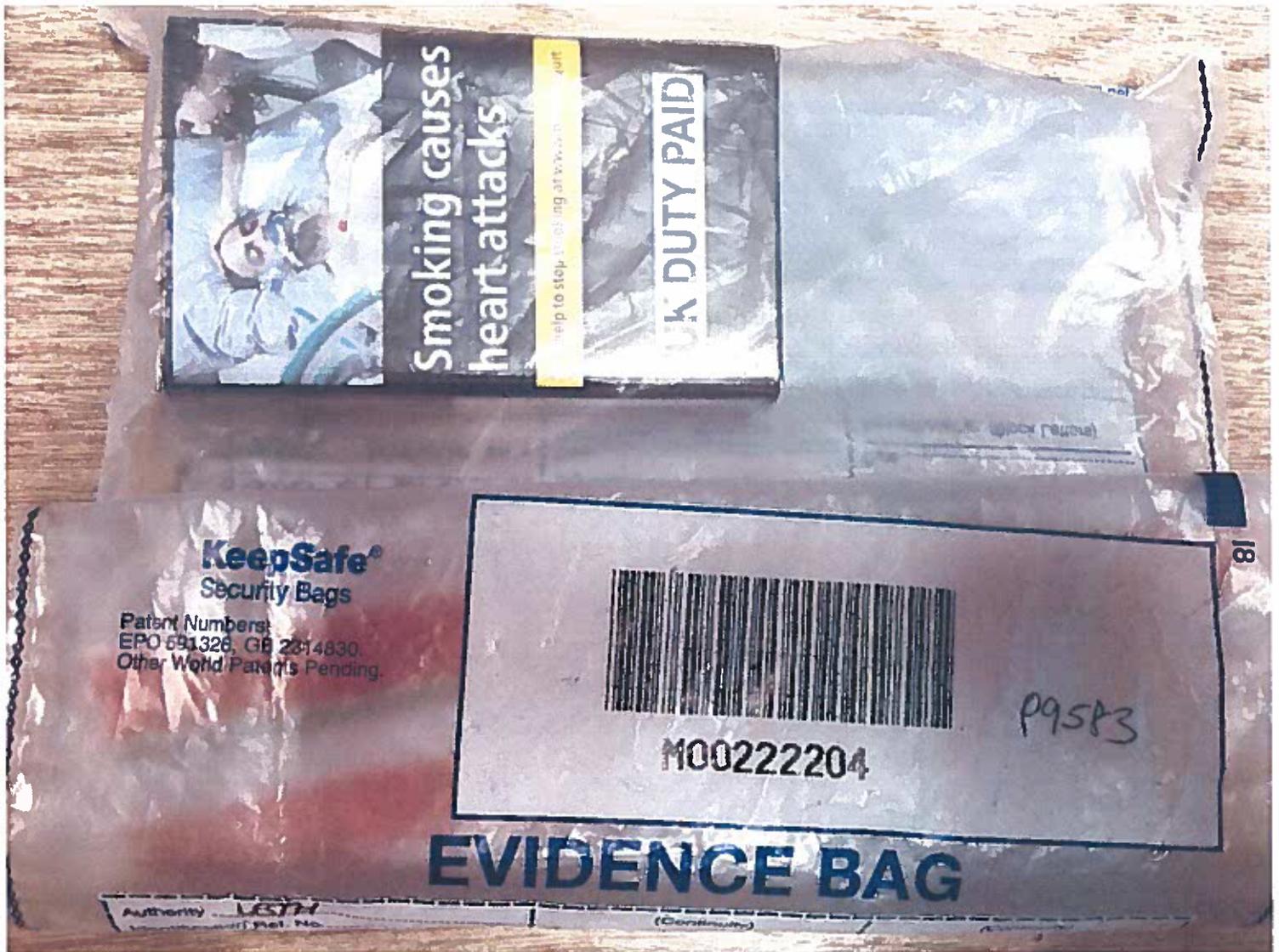
Name/Rank/No. (Block Letters)

Exhibit Number NA/CP/02

Signed [Redacted]

Date 11/09/2018

I identify the exhibit above as that referred to in the statement signed by me



TO

NAZIR ALI

REF=00B 2164

I MOHAMMED SHILU CHOWDHURY

Have rented the place out to MR MOHAMMED JOHIRUL AMIN almost a year ago
I have no say in the daily running of the business all the responsibility of the business
is down to MR AMIN I will be very grateful if you can send all future letters to
MR AMIN at the business address or at his home address which is [REDACTED]

[REDACTED] about this matter I will send you a
copy of the agreement that I have with
MR AMIN if you require any further information please contact me on
[REDACTED]

Kind Regards

MOHAMMED SHILU CHOWDHURY

[REDACTED]

14/08/2018

Exhibit Number NA/CP/03

Signed [REDACTED]

Date 11/09/2018

I identify the exhibit above as that
referred to in the statement signed by me

LEASE AGREEMENT

I MR MOHAMMED SHILU CHOWDHURY
Lease holder of COST PRICE 41 BRICK LANE LONDON E1 6PU
Is renting out the place to
MR MOHAMMED JOHIRUL AMIN
On 3 year rolling contract Starting from 09/08/2017

MR MOHAMMED JOHIRUL AMIN Agrees to pay £1000 rent on the 8th of each
calendar month
This includes all utility bills and service charges for the premises

Any misuse of the premises or any damage to the premises MR MOHAMMED JOHIRUL AMIN
Will be responsible for

All goods sold from the premises including any ALCOHOL CIGARETTES MATCHES LIGHTER
GAS CIGARETTES LIGHTERS Will be the responsibility of MR MOHAMMED JOHIRUL AMIN

Any employee or staff working on the premises will also be the responsibility of
MR MOHAMMED JOHIRUL AMIN

Any late payments on the rent I will have the full right to cancel the agreement if
MR MOHAMMED JOHIRUL AMIN wants to cancel the agreement at any time he must give
a minimum off 3 months notice but must and have no outstanding rent to pay

ONLY SIGN THIS ARGEEMENT IF YOU ARGEE WITH ALL THE TERMS AND CONDITIONS
ABOVE YOU WILL ALSO GET A COPY OF THIS ARGEEMENT

MR MOHAMMED SHILU CHOWDHURY

DATE 09/08/2017

MR MOHAMMED JOHIRUL AMIN

DATE 09/08/2017

WITNESS AT THE TIME PRINT SHOJO ISLAM

SIGN

DATE 09/08/2017

Appendix 6

Kathy Driver

From: Damian Doherty
Sent: 06 September 2018 09:27
To: Licensing
Subject: FW: Review of Cost Price Off Licence 41 Brick Lane (16.08.18) AL17346

From: ISD Alcohol Licensing [<mailto:Alcohol@homeoffice.gov.uk>]
Sent: 05 September 2018 13:10
To: Damian Doherty
Subject: RE: Review of Cost Price Off Licence 41 Brick Lane (16.08.18) AL17346

Good afternoon,

Thank you for providing your review application. Further to our checks we also wish to feed into your submission details included below:

An enforcement visit was carried out at 'COST PRICE MINI MARKET', 41 BRICK LANE, E1 6PU on 14/10/08. Officers encountered in employment a female: who was subsequently found to have no valid leave in the UK.

Her Husband and two children also where considered as immigration offenders.

A Notice of Potential Liability was served to Mr Mohammed Shilu Chowdury on the 14/10/2008. However we have no evidence confirming that the civil penalty has been paid or, is still outstanding.

Regards

Paul Wynter

*Interventions and Sanctions Directorate | Alcohol and LNR licensing Team
Immigration Enforcement*

[REDACTED]
[REDACTED]
[REDACTED]

 [REDACTED]

For new applications-Alcohol@homeoffice.gov.uk

For enquiries relating to license applications or ongoing reviews-IE.Alcoholenquiries@homeoffice.gov.uk

For reviews to be considered or initiated along with hearing dates-IE.Alcoholreviews@homeoffice.gov.uk

From: Damian Doherty [<mailto:Damian.Doherty@towerhamlets.gov.uk>]
Sent: 16 August 2018 11:31
To: Development Control; Environmental Health; 'firesafetyregulationNE@london-fire.gov.uk'; Health and Safety; ISD Alcohol Licensing; 'HT-LicensingOffice@met.police.uk'; Licensing; Licensing-Child Protection; Somen Banerjee; Trading Standards
Subject: Review of Cost Price Off Licence 41 Brick Lane (16.08.18)

Dear Relevant Authorities

Please find attached a copy of a Review submitted today for **Cost price Off Licence 41 Brick Lane E1**

Please forward any comments/representations to Licensing@towerhamlets.gov.uk by no later than 13/09/2018

Regards

Damian Doherty
c/o Licensing Section

John Onslow House
1 Ewart Place
London E3 5EQ

Tel: 020 7364 5008

This email and any files transmitted with it are private and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please return it to the address it came from telling them it is not for you and then delete it from your system. This email message has been swept for computer viruses.

Appendix 7

11. Reviews

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

Repetitious grounds of review

- 11.12 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

Powers of a licensing authority on the determination of a review

- 11.16 The 2003 Act provides a range of powers for the licensing authority which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate to promoting 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 informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as 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 address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- 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;
- 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)¹⁰;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

11.20 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 that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

11.21 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.

11.22 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 that impact upon the licensing objectives.

11.23 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 an appropriate means of promoting the licensing objectives or preventing illegal working. 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 appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

Reviews arising in connection with crime

- 11.24 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, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. 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. 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 beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds 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 licence holder 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 appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 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 illegal 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 employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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.

Review of a premises licence following closure order or illegal working compliance order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.29 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

Appendix 8

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Updated April 2018

Crime and disorder

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority (“SIA”) as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder including the prevention of illegal working in licensed premises (see paragraph 10.10). For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.
- 2.6 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing authorities should work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

Appendix 9

Crime and Disorder – Licensing Policy, updated March 2015

- 6.1 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.
- 6.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.
- 6.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 6.4 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 reasonably can to prevent crime and disorder in the Borough.
- 6.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 2000. (See **Appendix 2.**)
- 6.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 6.7 Touting - The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-
 - 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.(marked as Appendix -)
 - 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

- 6.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Councils rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.
- 6.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.
- 6.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.
- 6.11 **Illicit Goods: Alcohol and Tobacco** - The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.
- 6.12 Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled.
- 6.13 Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products.
- 6.14 Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices

6.15 In particular the Licensing Authority is mindful of the advice provided in the guidance issued by the Home Office under section 182 of the Act "Reviews arising in connection with crime".

6.16 The Licensing Authority will exercise its discretion to add a standard condition as follows:-

Smuggled goods

1) The premises licence holder and any other persons responsible for the purchase of stock shall not purchase any goods from door-to-door sellers other than from established traders who provide full receipts at the time of delivery.

2) The premises licence holder shall ensure that all receipts for goods bought include the following details:

I. Seller's name and address

II. Seller's company details, if applicable

III. Seller's VAT details, if applicable

IV. Vehicle registration detail, if applicable

3) Legible copies of the documents referred to in 2) shall be retained on the premises and made available to officers on request.

4) The trader shall obtain and use a UV detection device to verify that duty stamps are valid.

5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

Appendix 10

Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

Updated April 2018

Public nuisance

- 2.15 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.17 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.18 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.19 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.20 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.21 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Appendix 11

Prevention of Nuisance – Licensing Policy, updated March 2015

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 10.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.