

Appendix 1



LICENSING ACT 2003

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 JOSE ARTUR ANTAO ORTEGA..... (Insert name of applicant) apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)

Part 1 – Premises or club premises details

Postal address of premises or club premises, or if none, ordnance survey map reference or description <u>MANJAL RESTAURANT</u> <u>3 TURNBERRY QUAY</u> <u>LONDON</u>	
Post town <u>LONDON</u>	Post code (if known) <u>E14 9RD</u>

Name of premises licence holder or club holding club premises certificate (if known) ANGLO INDIAN BEVERAGE Co. LTD

Number of premises licence or club premises certificate (if known) 16344

Part 2 - Applicant details

- I am **A PROSPECTIVE CUSTOMER OF THE PREMISES** Please tick yes
- 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
ANTAO ORTEGA

First names
JOSE ARTUR

I am 18 years old or over Please tick yes

Current postal address if different from premises address
[Redacted]

Post Town [Redacted] **Postcode** [Redacted]

Daytime contact telephone number [Redacted]

E-mail address (optional) [Redacted]

(B) DETAILS OF OTHER APPLICANT

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

Surname	First names
<input type="text"/>	<input type="text"/>

I am 18 years old or over

Please tick yes

Current postal address if different from premises address

Post Town

Postcode

Daytime contact telephone number

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address
Telephone number (if any)
E-mail (optional)

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

Please tick one or more boxes

1) the prevention of crime and disorder



2) public safety



3) the prevention of public nuisance



4) the protection of children from harm



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

SEE ATTACHED

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

SEE ATTACHED

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

Please tick ? yes

NO.

If yes please state the date of that application

Day	Month	Year

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

Please tick yes

I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate

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

IT IS AN OFFENCE, 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

[Redacted signature]

Date

28 February 2020

Capacity

SOLICITOR FOR APPLICANT

Contact name (where not previously given) and address for correspondence associated with this application (please read guidance note 5) SAMANTHA FOTHERGILL KN16 105 JUDG STREET	
Post town LONDON	Post code WC1H 9NE
Telephone number (if any) [Redacted]	
If you would prefer us to correspond with you using an e-mail address your e-mail address (optional) [Redacted]	

Notes for Guidance

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

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

Name of Applicant: Jose Artur Antao Ortega

Name of premises licenses holder: Anglo Indian Beverage Company Ltd

Number of premises license: 16344

Please state the ground(s) for review:

The Applicant was refused admittance with his guide dog to the licensed premises on 17 July 2019 . Further details of the incident are provided below.

The Applicant believe that this refusal was in breach of the following licensing objectives:-

The prevention of crime and disorder

The Applicant considers that the refusal to admit a visually impaired person with his guide dog is likely to affect social cohesion and is likely to hinder the promotion of the law and order licensing objective.

We would draw the Authority's attention to the following paragraphs of their Statement of Licensing Policy:-

28.1 When its discretion is engaged and a relevant representation is made relating to the exclusion or discouragement of any minority adult group the Licensing Authority will add a condition which forbids such as practice.

28.2 The Licensing Authority is especially concerned that such practices adversely affect social cohesion and are likely to hinder the promotion of the licensing objective relating to law and order. The Licensing Authority will also refer such practices to other authorities, where appropriate.

We believe the refusal of a disabled person on grounds relating to their disability (ie their guide dog) is an analogous situation. As detailed below Mr Ortega would like the Authority to attach a condition which forbids this practice.

Public safety

As the Government's 'Revised guidance issued under section 182 of the Licensing Act 2003' makes clear, license holders have a responsibility to ensure the safety of those using their premises as part of their duties under the 2003 Act. Blind people using guide dogs should be considered vulnerable customers and the Authority should take steps to protect them from harm.

Guide dog refusals have a severe impact on the wellbeing of those refused. Mr Ortega has described the refusal as being upsetting and humiliating and that these feelings were worsened by the fact that the refusal took place in front of his colleagues and members of the general public.

The feelings Mr Ortega describes are not limited to Mr Ortega and guide dog users frequently tell RNIB that the refusals that they experience leave them humiliated and chips away at their confidence in going out in future for fear that they will be refused again.

What the Applicant is seeking

The Applicant would like the following conditions to be attached to the Premises License in order to prevent guide dog refusals occurring in the future:-

- That the premises are required to admit guide dogs and other registered assistance dogs/The premises is forbidden from refusing admittance to a guide dog and other registered assistance dogs
- That all front of house staff undergo training in disability awareness and the Equality Act and that proof of training is kept on site and produced on demand to an authorised officer or constable.
- That a person suitably trained in the requirements of the Equality Act 2010 be present on the premises at all times when open to the public.
- That suitable signage be displayed that makes clear guide dogs and assistance dogs are welcome.
- That a written equalities policy be produced and kept at the premises for inspection on demand by an authorised officer or constable.

We believe that the above conditions would prevent a future breach of the licensing objectives.

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

Mr Ortega is registered blind and uses a guide dog – Mercer - as a mobility aid to assist him with his independent mobility.

On 17 July 2019, Mr Ortega visited the Manjal restaurant with a colleague and a former colleague. His colleague had booked a table online for 7pm and in the booking had indicated that one of the guests would be bringing a guide dog.

When Mr Ortega and his colleagues arrived at the restaurant he was immediately told by a staff member that he could not bring Mercer into the restaurant. When Mr Ortega complained, the manager was called but he also confirmed that Mercer was not welcome in the restaurant. In justifying his decision, the manager told Mr Ortega that not everyone liked dogs and that he should show some understanding of Asian culture. Mercer was wearing his harness that confirmed that he was a trained guide dog and Mr Ortega explained that Mercer had been specially trained and was allowed into restaurants.

Mr Ortega also explained that under the Equality Act the restaurant was required to make a reasonable adjustment to any “no dogs” policy to permit guide dogs into the restaurant. However, the manager was adamant that Mercer was not permitted to enter. Mr Ortega explained that he had previously visited the restaurant with Mercer without any issue but the manager continued to refuse.

Mr Ortega and his colleagues therefore left the restaurant and dined elsewhere. Shortly after they were seated Mr Ortega’s colleague received a telephone call from the Manjal asking where they were.

Mr Ortega wrote a letter of complaint to the restaurant on 29 July 2019. The letter sets out details of what happened, the law and asked for a copy of the CCTV footage of the incident. He requested an apology and an assurance that guide dogs would be permitted in the restaurant in future including a notice on social media and in the window explaining that guide dogs were welcome. He also asked for staff training regarding

their duties under the Equality Act and compensation for breach of the Act.

The letter was sent recorded delivery and requested a response within 14 days. No response was received within this timescale but a letter purporting to respond on behalf of the restaurant arrived by registered post on 31 August.

This letter was from a Naveen Bhandari who describes himself as a Health and Safety Office Manager for the owners of the Manjal. The letter apologises for the events of 17th stating that it occurred as a result of staff error and that the staff had missed the note about guide dogs. Mr Bhandari's letter went on that whilst staff had initially refused to accept the guide dog, they then checked the restaurant policy and Mr Ortega's party were asked to sit in the waiting area whilst a suitable table was made available. According to Mr Bhandari this took 15 minutes but when staff returned to the waiting area Mr Ortega's party had already departed. Mr Bhandari confirms that they called Mr Ortega's colleague but as the party "had already left the area they decided against return".

Mr Bhandari said that the restaurant did not have a no-dogs policy as evidenced by Mr Ortega's previous visit. By way of recompense Mr Bhandari offered a complementary meal and asked Mr Ortega to contact him direct to arrange a time for them to dine.

Clearly Mr Bhandari's version of events is at odds with that of Mr Ortega. A viewing of the CCTV would clearly have resolved the facts of the matter, however, Mr Bhandari stated that he was unable to provide the CCTV footage as a result of privacy concerns.

Mr Bhandari's letter was not on headed paper. It was sent in a Lyca Mobile envelope and initial research revealed that Mr Bhandari is in fact the Health and Safety Office Manager for Lyca. It is not clear what formal relationship, if any, he has with the restaurant.

RNIB complained to the Authority on Mr Ortega's behalf on 12 September 2019 asking that conditions be attached to the restaurant's license requiring the admittance of guide dogs, amongst other things. The Authority contacted the premises and requested a copy of the CCTV covering the date of the alleged incident. We understand that the license holder has so far failed to supply a copy of the CCTV. On 22 January 2020, we were informed that the Authority would be writing to the license holder to warn them that a failure to supply a copy of the

CCTV constitutes a breach of their license conditions and further remind them of their duties under the Equality Act. It is not clear what steps the Authority intend to take in respect of breach of the license conditions relating to CCTV. The Authority also provided details of the license review process

Samantha Fothergill
Senior Legal Advisor
RNIB
28 February 2019

Appendix 2

J. Artur A. Ortega



Manjal Restaurant
3 Turnberry Quay,
London E14 9RD

29th July 2019

Dear Sir or Madam,

I am writing to complain about the service that I received at your Manjal Restaurant in Canary Wharf on Wednesday, 17th July 2019 shortly after 7PM. Your member of staff at the door and the manager on duty denied me entry because of my guide dog. They told me I could not bring my guide dog into the restaurant.

I am registered blind, and this means that I meet the Equality Act's definition of a disabled person. I use a guide dog to get around because of my blindness. As I am a disabled person, you and your staff must comply with the Equality Act.

When you reply to me in writing, please use a font that is easy to scan. This is the format that I could apply optical character recognition (OCR) to be able to read your response.

My complaint

My colleague Indy has booked online a table for the evening of Wednesday 17th July 2019 at your restaurant in Canary Warf. He has put a note into the booking that we are coming with a guide dog.

When I went with my guide dog, my former colleague Shobhna and my colleague Indy who booked the table, into your restaurant shortly after 7PM, we were told immediately by one of your staff and later by your manager in duty that I could not bring my dog in. My guide dog, Mercer, was wearing his fluorescent harness which clearly states that he is a guide dog. I explained that Mercer is a trained guide dog and that I needed Mercer to be with me as he helps to guide me.

Your employee who claimed to be the manager on duty said that dogs weren't allowed in the restaurant because not everyone likes dogs and that we should understand Asian culture. I explained that guide dogs are specially trained and are allowed into restaurants.

I also said that under the Equality Act, your restaurant should make a reasonable adjustment to your 'no dogs' policy and allow guide dogs into your restaurant. Your employee told me that dogs weren't allowed and I had to leave. When I asked to speak to the manager, he said he is the manager, and again said that I couldn't bring a dog into the restaurant.

I said again that Mercer isn't a pet dog, but a trained guide dog and that he has been in this restaurant once before and obviously in a lot of other restaurants without any problems. I also said that if he didn't allow Mercer, me and my colleagues into your restaurant, they would discriminate against me. He repeated that not everyone likes dogs and that we should show some understanding for Asian culture and they would not need to let guide dogs in.

I was very upset. I felt completely humiliated to be discriminated against in such a rude way despite of a prior booking informing about my guide dog. This was made worse because it took place in public and my colleagues witnessed it and were affected by my refusal as well. I felt additionally very embarrassed in front of my colleagues who are of Indian descent about the remarks about Asian culture, too.

I felt so unfairly treated and I was so distressed that I felt the need to make the restaurant guests aware of the discrimination at that moment happening in the restaurant they have chosen for their dinner. I addressed the guests that I am being discriminated against because you refused me on grounds of my guide dog. I left the restaurant afterwards.

Discrimination

The Equality Act 2010 says that service providers are not allowed to discriminate against disabled people. As you run several restaurants, you are a service provider. The Equality Act says that you are not allowed to refuse to serve disabled people like me or to treat disabled people in a worse manner by being so humiliating.

You also have to make reasonable adjustments to your service. This means that you should allow guide dogs into your restaurants, because I have to rely on the guide dog to navigate around in public. As you are the employer, you are responsible for how your staff behaved. This means that even if you weren't in the restaurant, you are responsible for your employee's actions.

How to put this right

I am making a complaint as I feel this is the only way to deal with the rude and discriminatory way I was treated. I would like you to provide me with the CCTV footage of the incident for further evidence in this case which should be roughly in the time mark between 7:05PM and 7:20pm of Wednesday, 17th July 2019.

I would like you to apologise in writing and to assure me that you will make sure that you allow guide dogs into all of your restaurants and to put a notice in your web page, social profiles and into your restaurant window that says that guide dogs are welcome.

I would also like you to ensure that your staff are trained in their responsibilities under the Equality Act and understand they cannot treat disabled people in the way your regular staff and your restaurant manager treated me as this is discriminatory. I feel you should also compensate me financially and it would be helpful if you could suggest a figure.

I would prefer to sort this situation out in this way amicably. However, should you fail to respond positively, I am, if necessary, prepared to take legal action against you in court.

I have also included a copy of a standard advocacy letter from RNIB and Guide Dogs. This gives a short explanation of the Equality Act and what you have to do to make sure you comply with the Act.

I look forward to hearing from you within 14 days.

Yours sincerely,

Mr J. Artur A. Ortega

J. Artur A. Ortega
[REDACTED]

2nd August 2019

Dear Mr Ortega

Manjal Restaurant – 17th July 2019

I am the Health & Safety Office Manager for the owners of the Manjal Restaurant ("Manjal") at Canary Wharf and I am writing in response to your letter of 29th July 2019 detailing the incident you were involved in at the Manjal in the evening of 17th July 2019.

Firstly, I would like to apologise for the events which unfolded that evening and can confirm that this occurred due to an error by the staff on duty that day. Following my investigation of the incident, I can confirm that the following occurred:

- A table was booked online through the Quandoo website, and whilst notes were there stating that a member of the booking party would be accompanied by a guide dog this note was not noticed by the Manjal staff;
- Staff at the Manjal initially refused to accept your guide dog, however after checking restaurant policy your party were asked to sit in the waiting area whilst a suitable table was prepared for you;
- It took approximately 15 minutes to make the necessary arrangements for you, however upon returning to the waiting area you and your party had already left the restaurant;
- Using the number provided in the booking, your party were called to inform that the table was ready however as your party had already left the area they decided against return.

Secondly, as confirmed by your letter you have dined at the Manjal previously with no incident, which clearly demonstrates that there is no policy of discrimination and that this was just an isolated error. Nevertheless, management did realise an error had been made and as required by law reasonable adjustments were made for you. The delay in making the reasonable adjustments in advance were due to missing the notes on the booking.

As a gesture of goodwill, I would like to offer you and your colleagues Indy and Shobhna a complimentary dinner at the Manjal. Please confirm with me the date and time which you wish to dine, and I will make the necessary arrangements. The best way to communicate would be by telephone on [REDACTED]

Unfortunately, with a view of respecting the privacy of our clients and staff, as well as general compliance with data protection regulation, I am unable to provide you with CCTV footage as requested.

I hope the above address your concerns and look forward your confirmation of the date and time for the complimentary meal.

Yours sincerely

[REDACTED]

Naveen Bhandari
Health & Safety Office Manager

REF:
17835 - SP

DATE BOOKED: 30/08/2019
SURNAME: Ortega
POSTCODE: [REDACTED]
QUANTITY: 1



Handwritten in a circle:
AR 2937 7772 2GB
SD 1pm

[REDACTED]

J. AUGUST A. ORTEGA

Royal Mail
Specialdelivery
guaranteed by 1pm

next day

AR 2937 7772 2GB
SD 1pm

AR 2937 7772 2GB
SD 1pm

Lyca mobile
Return address:
3rd Floor, Waterloo, East Tiding,
195 Marshwall Lane, London, E14 9JG

Royal Mail
Redeliver on SAT day / 31/8
Walk no: [Handwritten]
www.royalmail.com/redelivery

Delivered by
28-08-19
1PM
100g

Appendix 3

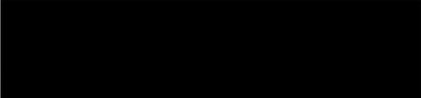
**3 Turnberry Quay
London
E14 9RD**

Licensable Activities authorised by the licence

The sale by retail of alcohol
The provision of late night refreshment

See the attached licence for the licence conditions

Signed by

John McCrohan 
Trading Standards and Licensing Manager

Date: 13th December 2012



LICENSING ACT 2003

Part A - Format of premises licence

Premises licence number

16344

Part 1 - Premises details

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

3 Turnberry Quay

Post town

London

Post code

E14 9RD

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol
The provision of late night refreshment

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol (on sales only)

- Monday to Sunday from 12:00hrs (midday) to 23:30hrs

The provision of late night refreshment

- Monday to Sunday from 23:00hrs to 23:30hrs

The opening hours of the premises

- Monday to Sunday from 07:30hrs to 23:30hrs

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

On sales only

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

1.

- (1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

- (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on;
 - (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
 - (e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.
2. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
 3. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
 4.
 - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
 - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
 5. The responsible person shall ensure that;
 - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 - Conditions consistent with the operating Schedule

1. No nudity or semi nudity permitted;
2. Alcohol only to be sold ancillary to a meal;
3. Prominent notices to be displayed on the premises requesting that customers respect the neighbourhood and vacate the premises quietly;
4. A service for customers to request taxis be ordered by members of staff at the restaurant to facilitate their swift and quiet departure;
5. A record of all refusals will be maintained and made available to Responsible Authorities upon request;
6. The premises will have a CCTV system with 22 cameras located throughout the premises, 17 indoor and 5 outdoor. The system will allow for up to 90 days recording and will be available to Responsible Authorities upon reasonable request.
7. All windows and doors to be closed from 23:00.
8. A Challenge 25 Scheme to be in operation, with a 'no ID, no sale' policy. Notices to be displayed regarding the Scheme. Only a PASS hologram, photographic driving licence or passport will be accepted as appropriate ID.

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

Not applicable

Annex 4 - Plans

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

3rd October 2012



Licensing Act 2003

Part B - Premises licence summary

Premises licence number

16344

Premises details

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

3 Turnberry Quay

Post town

London

Post code

E14 9RD

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol
The provision of late night refreshment

The times the licence authorises the carrying out of licensable activities

The sale by retail of alcohol (on sales only)

- Monday to Sunday from 12:00hrs (midday) to 23:30hrs

The provision of late night refreshment

- Monday to Sunday from 23:00hrs to 23:30hrs

The opening hours of the premises

Monday to Sunday from 07:30hrs to 23:30hrs

Name, (registered) address of holder of premises licence

Anglo Indian Beverage Ltd.
3rd Floor Walbrook Building
195 Marsh Wall
South Quay
London
E14 9SG

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

On sales only

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

07965451

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

Vasanth Karuppusamy

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

No restrictions

Appendix 4

Manjal Restaurant - 3 Turnberry Quay



Appendix 5

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 6

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 7

Licensing Policy, updated November 2018

Crime and Disorder

- 7.1 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 and to store prescribed information.
- 7.2 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 licensing objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where the Metropolitan Police, acting as a responsible authority, makes recommendations in respect of an application relating to the licensing objectives the Licensing Authority would expect the applicant to incorporate these into their operating schedule.
- 7.3 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.
- 7.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has duties under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough and to share prescribed information.
- 7.5 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 the Secretary of State's Guidance.
- 7.6 **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.

7.7 **Touting** – This is soliciting for custom. There has been a historic problem with Touting in the borough, mainly in relation to restaurants, and as such in 2006 the Council introduced a byelaw under Section 235 of the Local Government Act 1972 for the good rule and government of the London Borough of Tower Hamlets and for the prevention and suppression of nuisances.

As a result, in relation to premises where there is intelligence that touting is, or has been carried out, 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.

7.8 **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 Code of Practice. 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 in promoting the licensing objectives and is committed to working with them.

Model Pool Conditions can be found in the Secretary of State's Guidance.

7.9 **Criminal Activity** - There is certain criminal activity that may arise in connection with licensed premises which the Licensing Authority will treat 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.

The Secretary State's Guidance states that 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 this 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.

7.10 In particular the Licensing Authority is mindful of the Secretary of State's Guidance "Reviews arising in connection with crime".

7.11 From 1 April 2017, businesses which sell alcohol (for example, retailers of alcohol and trade buyers) will need to ensure that the UK wholesalers that they buy alcohol from have been approved by HMRC under the Alcohol Wholesaler Registration Scheme (AWRS). They will need to check their wholesalers Unique Registration Number (URN) against the HMRC online database which will be available from April 2017. This is an ongoing obligation and if a business is found to have bought alcohol from an unapproved wholesaler, they may be liable to a penalty or could even face criminal prosecution and their alcohol stock may be seized. Any trader who buys alcohol from a wholesaler for onward sale to the general public (known as a 'trade buyer') does not need to register unless they sell alcohol to other businesses. Examples of trade buyers would be pubs, clubs, restaurants, cafes, retailers and hotels. However, they will need to check that the wholesaler they purchase alcohol from is registered with HMRC. Further information may be found at: <https://www.gov.uk/guidance/the-alcohol-wholesaler-registration-scheme-awrs>.

Smuggled goods

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

- 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 to provide traceability.
- 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.

Olympic Park – Football Ground

7.13 Premises where Police intelligence shows that football supporters congregate within the borough should consider in their application form the following conditions:

- 1) On Match Days for premises licensed for the supply of alcohol for consumption on the premises:
 - a) Drinks shall only be supplied in polypropylene or similar plastic and all bottled drinks shall be poured into such drinking vessels before being handed to the customer. These should be made of recyclable materials.
 - b) Registered door staff shall be employed to control the entry and exits to the premises and to manage any licensed outside area(s).

Appendix 8

Public safety

- 2.7 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition as this would be outside the licensing authority's powers (be ultra vires) under the 2003 Act. Conditions should not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.
- 2.8 A number of matters should be considered in relation to public safety. These may include:
- Fire safety;
 - Ensuring appropriate access for emergency services such as ambulances;
 - Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above);
 - Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
 - Ensuring the safety of people when leaving the premises (for example, through the provision of information on late-night transportation);
 - Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
 - Ensuring appropriate limits on the maximum capacity of the premises (see paragraphs 2.12-2.13, and Chapter 10; and
 - Considering the use of CCTV in and around the premises (as noted in paragraph 2.3 above, this may also assist with promoting the crime and disorder objective).
- 2.9 The measures that are appropriate to promote public safety will vary between premises and the matters listed above may not apply in all cases. As set out in Chapter 8 (8.38-8.46), applicants should consider when making their application which steps it is appropriate to take to promote the public safety objective and demonstrate how they achieve that.

Ensuring safe departure of those using the premises

- 2.10 Licence holders should make provision to ensure that premises users safely leave their premises. Measures that may assist include:
- Providing information on the premises of local taxi companies who can provide safe transportation home; and
 - Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

Maintenance and repair

- 2.11 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it would be inappropriate for a licensing condition to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it would be permissible for licensing authorities, if they receive relevant representations from responsible authorities or any other persons, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible authorities – such as health and safety authorities – should therefore make their expectations clear in this respect to enable prospective licence holders or clubs to prepare effective operating schedules and club operating schedules.

Safe capacities

- 2.12 “Safe capacities” should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.
- 2.13 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act¹, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the “permitted capacity” of

¹ S 177 of the 2003 Act now only applies to performances of dance.

those premises should be.

- 2.14 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

Appendix 9

Public Safety

- 8.1 The 2003 Act covers a wide range of premises that require a licence, and so such premises present a mixture of risks to users and should be constructed or adapted and operated so as to acknowledge and safeguard occupants against these risks.
- 8.2 The Licensing Authority will expect Operating Schedules to satisfactorily address these issues and applicants are advised to seek advice from the Council's Environmental Health (Health & Safety) Officers and the London Fire Brigade before preparing their plans and Schedules.
- 8.3 Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps that will be taken to ensure public safety. This needs to take into account any unique characteristics that arise in connection with the licensable activity, any requirements that are specific to the premises.
- 8.4 One of the Council's Community Safety Partnership Priorities is tackling violence against women and girls. As a result the Licensing Authority expects Licence holders to take a proactive approach to customer safety including the following:
- Making provisions to ensure that customers safely leave their premises, for example providing information on licensed taxi companies, adequate lighting outside the premises,
 - Training of staff in spotting signs of harassment, and how to intervene where safe and appropriate to do so, and/or reporting such harassment to management/emergency services.

The Licensing Authority may be able to sign post Licence Holders in regards to local/national safeguarding schemes which may assist with the above.

- 8.5 The Licensing Authority, where its discretion is engaged, will consider attaching proportionate and appropriate Conditions to licences and permissions to promote safety, and these may include Conditions drawn from a the Model Pool of Conditions found in the Secretary of States Guidance.
- 8.6 The Licensing Authority will impose conditions that relate to its licensing objectives, and in a way that is proportionate to the individual circumstances of the premises seeking a licence.