

LONDON BOROUGH OF TOWER HAMLETS

MINUTES OF THE LICENSING COMMITTEE

HELD AT 6.35 P.M. ON TUESDAY, 26 SEPTEMBER 2023

COUNCIL CHAMBER - TOWN HALL, WHITECHAPEL

Members Present in Person:

Councillor Faroque Ahmed	Whitechapel Ward
Councillor Leelu Ahmed	
Councillor Suluk Ahmed	
Councillor Gulam Kibria Choudhury	
Councillor Peter Golds	Island Gardens
Councillor Iqbal Hossain	
Councillor Kabir Hussain	
Councillor Shahaveer Shubo Hussain	
Councillor Ahmodul Kabir	
Councillor Rebaka Sultana	

Apologies:

Councillor Marc Francis

Others Present in Person:

Phillip Kolvin KC
John Cannon
James Rankin
Mr Manpal
Mr J Binning
Luke Elford – Solicitor
PC Mark Perry
PC Guerra

Officers Present in Person:

Jonathan Melnick	Law Enforcement Lawyer
Farzana Chowdhury	Democratic Services Officer (Committees)

Corrine Holland	Licensing Officer
Mohshin Ali	Senior Licensing Officer
Tom Lewis	Team Leader Licensing Officer

1. DECLARATIONS OF INTEREST

There were no declarations on interest.

2. RULES OF PROCEDURE - LICENCES FOR SEXUAL ENTERTAINMENT VENUES

The rules of procedure were noted.

3. ITEMS FOR CONSIDERATION

3.1 Revocation of a Sexual Entertainment Venue Licence for the Nags Head, 17-19 Whitechapel Road, London, E1 1DU

The Committee considered an application relating to The Nag's Head, 17-19 Whitechapel Road, London, E1 1DU ("the Premises"). This was submitted by Mr Mohshin Ali on behalf of the Licensing Authority for the revocation of the Sexual Entertainment Venue (SEV) licence held by NH License Ltd.

It should be noted that the Committee was provided with a large bundle of documents. One contained the reports and the supporting material (including some documentation provided by the licence holder in relation to the revocation hearing).

The other contained supporting documents relied upon by the licence holder. The sole director of the licence holder is Manpal Singh Clair. On 3rd March 2023 Mr. Ali applied for the revocation of the licence following the discovery of breaches of the licence on 18th August 2022. That application was due to be heard on 16th May 2023. Shortly before the hearing Mr. Ali became aware of problems arising at a similar venue in Westminster. The licence for that venue, Vanity, was held by another company of which Mr. Clair was the sole director. Given that these issues could not be fairly addressed having arisen so close to the Committee meeting, that meeting did not proceed.

In the interim, however, the licence was due to be renewed and a renewal application had been made on 4th May 2023. That application attracted objections from both the Licensing Authority and the Police. Both applications were listed to be heard on the same evening and the parties all agreed that it was appropriate to hear both applications together given that the evidence and submissions would cover the same, or almost the same, points.

The Licensing Authority was represented by Mr. Cannon, the Police were represented by Mr. Rankin, and the licence holder was represented by Mr. Kolvin KC. It should be noted that the Police did not address the revocation application nor seek to make a late representation in that regard. The Committee was grateful to the parties for the concise way in which they each made their submissions.

Applicant

Mr. Cannon addressed the Committee on behalf of the Licensing Authority. He focused on three main areas of concern. The first was the breaches that occurred on 18th August 2022; the second was the licence holder's response at the time and since; the third was to touch briefly on the issues arising at Vanity, the venue in Westminster.

He summarised the application, which followed a test purchasing exercise on 18th August 2022. Two operatives entered the Premises, paid for and were given private dances, and those dances were not compliant with the licence conditions. These were repeated breaches occurring over a period of about forty minutes. The Licensing Authority and the licence holder had agreed a schedule of breaches [Bundle 1, pages 94 – 107]. In the main, the schedule showed breaches of two no-touching rules. One was condition 35 which prohibited physical contact between customer and performer [Bundle 1, page 479], the other was condition 38 which prohibited touching between performers as well as prohibiting performers from touching themselves in a sexually explicit way [Bundle 1, page 479].

The breaches were by more than one dancer. The purpose of a test purchasing exercise is that the operatives act as any patron would or might act. Having paid for private dances, they witnessed multiple breaches of these conditions. In addition, the CCTV footage obtained from the Premises showed a third dancer with a customer in the same time period and similar breaches taking place. These breaches were, in Mr. Cannon's submission, were serious.

Mr. Cannon reminded the Committee that this was not the first time that the licence holder had failed to comply with its conditions. He drew the Committee's attention to the minutes of its meeting of 17th October 2017 and the findings [Bundle 1, Page 139] of various breaches of the conditions 35 and 38. The licence holder's response at that time was to offer up additional conditions to be imposed on the licence. One of those conditions was condition 45 [Bundle 1, page 141] and this required that trained staff were to regularly monitor the CCTV covering the private areas when those areas were in use. This was to ensure that problems could be addressed immediately if they arose.

Mr. Cannon referred to the risk assessment for 2022 [Bundle 1, page 373]. This noted that "The manager now has the IT facility to monitor the entertainment live as it is being provided in the entertainment areas. The use

of the facility is continually being monitored during the covert and overt visits to the venue.” It noted that no other mitigation was required at that time.

Mr. Cannon noted that Mr. Clair said that on 19th August 2022 he was made aware of rumours that some of the dancers were not complying with the rules. He asked Mr. Binning to look into this. Mr. Cannon asked, if the CCTV was being continually checked, how these breaches were allowed to persist for forty minutes. One possibility was that the CCTV was not being continually or regularly monitored. Another possibility was that the breaches were witnessed and ignored. The condition was imposed to stop that and it doesn't do so.

Mr. Cannon informed the Committee that Mr. Binning carried out dip sampling at Mr. Clair's request [Bundle 1, page 230]. He reminded the Committee that at this point in time the licence holder had no knowledge of the test purchasing activity. The dancers in question had all been dancing at the Premises for about two weeks.

Mr. Binning therefore had two weeks of performances to view but he viewed the footage for the date and time that the test purchasers were present and witnessing non-compliant dances. The dip sampling log [Bundle 1, page 246] stated the precise time period that the test purchasers were present. No other dip sampling seemed to have occurred.

Mr. Cannon submitted that if the Premises management were reviewing the private areas, there was no possibility that these breaches could not have been witnessed. Moreover, he suggested that it was highly unlikely that that the dancers only breached the rules on 18th August at 23:00 hours.

Mr. Cannon then addressed the Committee in respect of Vanity. He drew the Committee's attention to Mr. Clair's statement made in advance of the revocation application hearing in May 2023. At paragraphs 10 and 11 [Bundle 1, page 158] he lists the premises his companies operate and had operated. On 25th May 2023, Westminster City Council's Licensing Sub-Committee heard the SEV licence renewal application in respect of Vanity. The police had opposed the renewal of that licence because of multiple breaches. This information was what came to light shortly before the revocation application hearing and that was why the meeting of 16th May 2023 could not proceed.

Mr. Clair's account for this omission was in his statement dated 14th September 2023. At paragraphs 10 to 12 [Bundle 2, page 6] he explains why he had not mentioned Vanity, which was that it had been closed in breach of a no-touching condition. Mr. Clair said there was no intention to deceive. However, Mr. Cannon drew the Committee's attention to the fact that Mr. Clair's first witness statement referred to both current and past businesses that his company had operated.

In closing, Mr. Cannon submitted that these were serious and repeated breaches committed by three separate performers. The licence holder claimed to have responded in a regulatorily compliant way but homed in on the precise time of the breaches. Mr. Clair had not been up front about the

venues he operated, and Mr. Cannon urged the Committee to revoke the licence and to refuse to renew it.

After Mr Cannon's submission, the Committee had the opportunity to ask questions which were answered and responded to.

Licence Holder

The Committee then heard from Mr. Kolvin KC on behalf of the licence holder. He confirmed that Mr. Clair did not deny the breaches of 18th August 2022 nor did he deny that they were serious or that there was a need for such rules. The issue for the Committee, however, was simply whether or not Mr. Clair, as sole director of the company, is unsuitable to hold the SEV licence. The only basis on which that could be the case is if he cannot be trusted to comply with the SEV licence conditions.

Mr. Kolvin referred to a number of points which, in his view, meant the Committee could not be so satisfied. Mr. Clair was of good character save for a minor motoring offence. The premises licence held in respect of the Nag's Head had never been reviewed nor had breaches been alleged. The SEV licence contained 49 conditions and only particular ones had been contravened.

As a result of the incidents in 2017, the Committee added non-standard conditions, one of which required an independent compliance audit. Mr. Bamber and his colleagues had carried out 63 visits to the Premises since and no breaches had been discovered. These visits included dip sampling of the CCTV. Similarly, inspections by the police in 2018 and 2019 revealed no matters of concern [Bundle 1, page 171]. Similarly, Licensing Authority visits between 2017 and 2019 revealed no matters of concern [Bundle 1, page 146]. Between 2017 and 2022, the Premises had been operating in full compliance with the conditions and there was no evidence to the contrary.

There was a comprehensive system intended to prevent touching in breach of the conditions. This included training on induction, frequent reminders, and the dancers sign to acknowledge understanding of the rules [Bundle 2, pages 511 and 513]. Daily briefings reiterated the rule. Customers were told of the rule upon entry and by way of notices around the Premises. The performers were trained to inform customers of the rule and this was confirmed by the compliance audits.

Mr. Kolvin stated that there was periodic supervision of the dance area and full CCTV coverage of the private booths. Dip sampling was carried out by managers and there were regular compliance audits. This worked for some years. On 18th August 2022, however, it didn't. Three dancers breached the rules. This was the opposite of what Mr. Clair sought to achieve. The CCTV also showed eight compliant dancers, which Mr. Kolvin asserted demonstrated that the non-compliant dancers chose to engage in such behaviour.

Mr. Kolvin turned to condition 45 and remarked that it did not require continual CCTV monitoring although he noted it was obvious what it should say. Mr.

Kolvin stated that someone would sit close to the private area and check the CCTV periodically on his phone. On the night in question, it was busy and the person responsible was focusing on other matters and not the CCTV.

Mr. Kolvin disputed that the reason Mr. Binning had gone straight to the time period of the non-compliant dances was simple. He had checked the logs, seen that the dancers had given private dances on 18th August and the times at which they had done so, and then had checked those particular times. The allegations themselves had been made by other dancers, had been looked into by management, and the dancers responsible had been suspended and subsequently dismissed. Mr. Bamber updated the risk assessment and the matters were reviewed and dealt with before the Licensing Authority had even brought the incident to the licence holder's attention.

Mr. Kolvin addressed steps taken since the incident. The CCTV had been supplied to the Licensing Authority. Mr. Clair and his staff had taken additional training, including WAVE training, a performance manager had been employed to look after dancer welfare as an additional line of oversight and a new Operations Director, Steve Wilmot, had been appointed to bring additional oversight [Bundle 2, pages 523 – 527].

In addition, there had been a number of additional inspections by Mr. Bamber, most of which were covert, and which revealed no further breaches. Further oversight had been provided by two additional inspections by Guy Hicks to assess independently of Mr. Bamber [Bundle 2, pages 825 – 832]. Mr. Kolvin stated that none of the authorities had suggested other measures which could have been taken and weren't. He referred to the opinion expressed by Mr. Bamber in his reports and informed the Committee that no system can achieve 100% compliance.

Mr. Kolvin referred to the supporting emails from customers [Bundle 1, pages 741 – 743] and that there were no representations to opposite effect. Similarly, there were statements from some of the performers, who were distressed at the possibility of their livelihood being taken away.

Mr. Kolvin drew the Committee's attention to the fact that the revocation request had not been made until some seven months after the event, and that the Premises had thirteen months of compliant trading.

Mr. Kolvin addressed the issue of Vanity, which he submitted was different. The Committee had found there to be a general culture of non-compliance [Bundle 1, page 120] and that was the result of Mr. Clair's long-standing management team letting him down. Since then, he had replaced those staff and four visits by the authorities since had revealed no problems. The Nag's Head was a very different scenario, where there was not such a culture. He accepted that Vanity was a relevant consideration for the Committee but that the focus should be on the Nag's Head.

As far as Mr. Clair's failure to reference Vanity was concerned, that was omitted on the advice of Mr. Clair's solicitor and that should not go to his suitability.

Mr. Kolvin did not suggest that further conditions were the answer, but he suggested that some amendments could be made, such as deleting the word “regularly” from condition 45 and requiring a dip sampling register to be kept. Finally, Mr. Kolvin disputed that it would be open to the Committee to revoke in order to deter others.

The licence holder and his representatives responded to questions from Members. The Chair queried why Mr. Clair had not referred to the events at Vanity in his statement of 8th May 2023. Mr. Kolvin accepted that it would have been better had Mr. Clair referred to Vanity but his solicitor considered it more appropriate to keep the matters separate. He denied that there was any intention to mislead the Committee. Mr. Elford, solicitor for the licence holder, apologised to the Committee and explained that in May Vanity was not operating, the SEV renewal was awaited, and the expedited review had failed. He was concerned that including the Vanity material would lead to Members focusing on those events rather than those at the Nag’s Head. With the benefit of hindsight he accepted that this was not the best decision.

Members asked how the conditions volunteered by the licence holder in 2017 had been breached. Mr. Kolvin explained that dancers might be tempted to perform in breach of the rules and that the purpose was to have a system to assess and mitigate those risk. That worked for five years. It failed on the night of 18th August 2022 but was picked up quickly and addressed. Mr. Bamber explained that in any organisation, employees will transgress and the key is to assess the risks, assess the measures to mitigate or eliminate the risks, and to deal swiftly and effectively with any breaches that do arise. This is achieved by way of notices, training, management oversight, etc. Mr. Bamber had done that in relation to all of the conditions on the Nag’s Head SEV licence. He emphasised Mr. Clair’s co-operation in this.

Mr. Bamber also explained the process by which visits were undertaken. He had been engaged since 2016 or 2017 following the incident that gave rise to the October 2017 Licensing Committee hearing and he had suggested the need for compliance visits to Mr. Clair. Mr. Clair would simply say how many visits per year to arrange and Mr. Bamber would arrange those. He would not deal with the covert visits himself but arrange for his operatives to do so. Mr. Clair would only know of the covert visits after the event.

Members asked about the process by which dances were performed and Mr. Kolvin explained that there was a main stage, which could be viewed by all and where a dancer would perform and customers would each pay £1.00 for the performer after. The others were private dances in booths which were more expensive and lasted around thirty minutes. Those dances were recorded on a log.

Members suggested whether it was right to say Mr. Clair was not trustworthy because he failed to ensure compliance with the SEV licence conditions both in Tower Hamlets and in Westminster. Mr. Kolvin reiterated the history briefly, including the renewals since 2014, and said that it was grossly unfair that in the five years following the events of 2017 Mr. Clair could not be trusted to comply. The incident was not a matter of trustworthiness; rather, it was simply

that the systems in place failed but the issues were rectified immediately. The Committee now had thirteen months of further compliance as well as another thirteen compliance audits to rely upon. Mr. Kolvin asserted that proof of a breach does not equate to proof of suitability. Further, Mr. Kolvin asserted that in every licensed premises one will come across breaches.

Mr. Clair confirmed that he had found out about the non-compliant dancers the day after it occurred. Members commented that the non-compliant dances had occurred over a period of about forty minutes and had not been picked up by management. Mr. Kolvin accepted that managers ought to have been checking. He reiterated that Mr. Binning should have been actively monitoring on the night but was very busy and failed to do so. This was not, in his submission, a failing by the licence holder.

Finally, Members queried whether all the notices were displayed at the venue. Mr. Kolvin confirmed that notices were on the back of the door in the lobby and that the test purchasers both confirmed being told of the rules upon entry to the Premises and that SIA staff came into the private booths at the beginning and end of the dances.

The parties made brief concluding remarks. Mr. Cannon reiterated that on 19th August 2022 the management didn't know about the dancers yet Mr. Binning went directly to the non-compliant dances on 18th August and no other. Moreover, Mr. Binning's job was to monitor the dances. He failed to do so and yet still remained employed at the Premises.

Mr. Rankin referred to Mr. Elford's "attempt to fall on his sword." Mr. Clair's statement was prepared with Mr. Elford's assistance and contained a statement that was not true. Mr. Clair said Vanity had been closed since December 2022 yet had referred to other venues he had run previously. That was a deliberate subterfuge. He reminded the Committee that the period of compliance since 2017 needed to factor in the Covid pandemic and therefore two years should be discounted as the venue had not been operative. Further, in his submission, proof of breach was proof of unsuitability and there was evidence of three such instances. The licence holder had sought to put some distance between Vanity and the Nag's Head but the matters could not be viewed in isolation. The licence holder was not suitable to hold the SEV licence.

Mr. Kolvin reiterated that they had explained why Mr. Binning viewed the specific footage that he did. The issue for the Committee was one of whether or not the licence holder was suitable to hold the SEV licence. There was compliance with the licence for five years. In any system operated by people, there will be problems. What the Committee wishes to see is an operator who identifies the fault, rectifies it, and apologises for it. These were not deliberate breaches with which Mr. Clair was involved and he asked the Committee to give him a further chance.

The revocation application decision

The Committee considered that this application ought to be dealt with first. The Committee is aware of the need to treat each application on its own merits and that the decision made by Westminster City Council in relation to Vanity did not determine how the Committee should approach its task.

First and foremost, the licence holder accepted that the breaches occurred. The Committee was shown a few minutes of footage, which served to emphasise the egregious nature of the breaches. These were not merely momentary breaches, but repeated and sustained breaches committed by three dancers independent of one another. It is not disputed by the licence holder that these occurred, were serious and that the system failed on this night.

Condition 45 was intended to prevent such occurrences and would allow any breaches to be spotted instantly and nipped in the bud. Mr. Kolvin now says that the condition was unclear and suggested that the word “regularly” be deleted. However, the Committee notes that it was his suggested condition in 2017. Moreover, the compliance visits indicated that both the Premises and Mr. Bamber understood it to require continuous monitoring. This is indicated by the risk assessment for 2022 [Bundle 1, page 373]. The Committee noted also that the covert visits could not assess compliance with this condition [e.g. Bundle 1, page 390].

It was also said on the licence holder’s behalf that Mr. Binning did usually regularly monitor the CCTV on his phone but that on this occasion it was very busy and he failed to do so. That is simply not acceptable. The conditions are there to protect dancers and the public alike. It also begs the question whether Mr. Binning was too busy on other occasions to be effectively fulfilling that responsibility. Given that this was, on his account, just two or three days after being told that some dancers were not compliant, it suggests that he did not take the allegation at all seriously. Further, that allegation of itself suggests that the monitoring was not sufficient. If it was, then the dancers ought not to be able to conduct themselves in that manner.

The Committee also shares the concerns of the police and the Licensing Authority as to the dip sampling itself. The non-compliant dancers had started on or about 3rd August 2022. The Committee noted the explanation provided as to why no other dip sampling took place in the period from 3rd to 18th August 2022.

The Committee considered that if it had been done and showed compliant dances then the licence holder would no doubt have relied upon that as supporting material. The fact that the Committee had before it only one dip sampling log, which dealt with information already known, suggested other possibilities. One was that no other dip sampling had taken place, possibly because the licence holder knew or suspected that this would show other breaches. Another possibility was that it had been checked and showed breaches (which would therefore show not only breaches of the no touching rules but also of the failure to monitor CCTV) and therefore was not put into the Committee papers. This suggested to the Committee that the licence holder was not willing to be candid and admit the extent to which the Premises had been non-compliant. That is not the attitude that the Committee

expects of a suitable licence holder, particularly in a licensing regime that is so heavily regulated.

The other matter of concern was the failure of Mr. Clair to make any reference to the proceedings before Westminster City Council. It was said that this was on the advice of his solicitors and that at the time he was not sure whether Vanity would re-open. The Committee accepts that Mr. Clair was given the advice that he was. However, in the Committee's view it was obvious that the Westminster proceedings were something it would wish to know about. The Committee understands that the lawyer gives advice but it is for the client to decide how to proceed. Mr. Clair's account was that he wanted to raise the issue but was advised against it. He could have gone against that advice.

The Committee did not find the explanation at all convincing because Mr. Clair had specifically referred to other venues his group of companies no longer operated. There was no good reason to mention those, to mention those still open and operating, but to not mention Vanity. Further, the suggestion that it was in part because he did not know whether Vanity would re-open or not made little sense given that at the time he was involved in proceedings at Westminster with a view to renewing the licence. There must have been an obvious intention to re-open the venue. The Committee cannot know whether there was deliberate concealment. If there was, that goes to the heart of the licence holder's suitability. Even if there was not deliberate concealment, however, this nonetheless demonstrated very poor judgment on Mr. Clair's part and, again, justifies the Committee having doubts as to his suitability.

The Committee took account of the other periods of compliance and the covert and overt visits undertaken. Whilst those indicated that there was compliance at other times, it does not detract from the fact that the breaches occurred. Further, the Committee accepted the point made by Mr. Rankin that there had been only three years of compliance at most, given the lockdown due to Covid. In addition, the Committee noted that these breaches occurred only a month or so after the lockdown finally came to an end.

Similarly, the fact that there might have been compliance subsequently is not the point. The Committee does expect 100% compliance. Further, it is perhaps inevitable that while these proceedings are on-going the licence holder will pull out all the stops to ensure that there is nothing new which is adverse to it. The Committee's concerns, however, are what happens once the spotlight shifts away and the immediate risk to the licence is over. The Committee had given the licence holder a chance in October 2017, having been assured that no further problems would arise in the future. Finally, the additional measures now being provided, such as the dancer welfare manager, did not suffice to allay the Committee's concerns as to future compliance.

Having regard to everything that it had heard the Committee was not satisfied that the licence holder is suitable to hold the SEV licence and the decision of the Committee is to revoke the SEV licence.

3.2 Application for a renewal of a Sexual Entertainment Venue Licence for the Nags Head, 17-19 Whitechapel Road, London E1 1DU

The SEV licence is subject to annual renewal and runs from 1st June to 31st May each year. It is subject to the Council's standard conditions as well as some additional conditions imposed by the Committee in October 2017. The sole director of the licence holder is Manpal Singh Clair. On 3rd March 2023 Mr. Ali applied for the revocation of the licence following the discovery of breaches of the licence on 18th August 2022. That application was due to be heard on 16th May 2023. Shortly before the hearing Mr. Ali became aware of problems arising at a similar venue in Westminster. The licence for that venue, Vanity, was held by another company of which Mr. Clair was the sole director. Given that these issues could not be fairly addressed having arisen so close to the Committee meeting, that meeting did not proceed.

In the interim, however, the licence was due to be renewed and a renewal application had been made on 4th May 2023. That application attracted objections from both the Licensing Authority and the Police. Both applications were listed to be heard on the same evening and the parties all agreed that it was appropriate to hear both applications together given that the evidence and submissions would cover the same, or almost the same, points.

Licensing Authority

The Licensing Authority was represented by Mr. Cannon, the Police were represented by Mr. Rankin, and the licence holder was represented by Mr. Kolvin KC. It should be noted that the Police did not address the revocation application nor seek to make a late representation in that regard. The Committee was grateful to the parties for the concise way in which they each made their submissions.

Mr. Cannon addressed the Committee on behalf of the Licensing Authority. He focused on three main areas of concern. The first was the breaches that occurred on 18th August 2022; the second was the licence holder's response at the time and since; the third was to touch briefly on the issues arising at Vanity, the venue in Westminster.

He summarised the application, which followed a test purchasing exercise on 18th August 2022. Two operatives entered the Premises, paid for and were given private dances, and those dances were not compliant with the licence conditions. These were repeated breaches occurring over a period of about forty minutes. The

Licensing Authority and the licence holder had agreed a schedule of breaches [Bundle 1, pages 94 – 107]. In the main, the schedule showed breaches of two no-touching rules. One was condition 35 which prohibited physical contact between customer and performer [Bundle 1, page 479], the other was condition 38 which prohibited touching between performers as well as prohibiting performers from touching themselves in a sexually explicit way [Bundle 1, page 479].

The breaches were by more than one dancer. The purpose of a test purchasing exercise is that the operatives act as any patron would or might act. Having paid for private dances, they witnessed multiple breaches of these conditions. In addition, the CCTV footage obtained from the Premises showed a third dancer with a customer in the same time period and similar breaches taking place. These breaches were, in Mr. Cannon's submission, serious.

Mr. Cannon reminded the Committee that this was not the first time that the licence holder had failed to comply with its conditions. He drew the Committee's attention to the minutes of its meeting of 17th October 2017 and the findings [Bundle 1, Page 139] of various breaches of the conditions 35 and 38. The licence holder's response at that time was to offer up additional conditions to be imposed on the licence. One of those conditions was condition 45 [Bundle 1, page 141] and this required that trained staff were to regularly monitor the CCTV covering the private areas when those areas were in use. This was to ensure that problems could be addressed immediately if they arose.

Mr. Cannon referred to the risk assessment for 2022 [Bundle 1, page 373]. This noted that "The manager now has the IT facility to monitor the entertainment live as it is being provided in the entertainment areas. The use of the facility is continually being monitored during the covert and overt visits to the venue." It noted that no other mitigation was required at that time.

Mr. Cannon noted that Mr. Clair said that on 19th August 2022 he was made aware of rumours that some of the dancers were not complying with the rules. He asked Mr. Binning to look into this. Mr. Cannon asked, if the CCTV was being continually checked, how these breaches were allowed to persist for forty minutes. One possibility was that the CCTV was not being continually or regularly monitored. Another possibility was that the breaches were witnessed and ignored. The condition was imposed to stop that and it doesn't do so.

Mr. Cannon informed the Committee that Mr. Binning carried out dip sampling at Mr. Clair's request [Bundle 1, page 230]. He reminded the Committee that at this point in time the licence holder had no knowledge of the test purchasing activity. The dancers in question had all been dancing at the Premises for about two weeks. Mr. Binning therefore had two weeks of performances to view but he viewed the footage for the date and time that the test purchasers were present and witnessing non-compliant dances. The dip sampling log [Bundle 1, page 246] stated the precise time period that the test purchasers were present. No other dip sampling seems to have occurred.

Mr. Cannon submitted that if the Premises management were reviewing the private areas, there was no possibility that these breaches could not have been witnessed.

Moreover, he suggested that it was highly unlikely that that the dancers only breached the rules on 18th August at 23:00 hours.

Mr. Cannon then addressed the Committee in respect of Vanity. He drew the Committee's attention to Mr. Clair's statement made in advance of the revocation application hearing in May 2023. At paragraphs 10 and 11 [Bundle 1, page 158] he lists the premises his companies operate and had operated.

On 25th May 2023, Westminster City Council's Licensing Sub-Committee heard the SEV licence renewal application in respect of Vanity. The police had opposed the renewal of that licence because of multiple breaches. This information was what came to light shortly before the revocation application hearing and that was why the meeting of 16th May 2023 could not proceed.

Mr. Clair's account for this omission was in his statement dated 14th September 2023. At paragraphs 10 to 12 [Bundle 2, page 6] he explains why he had not mentioned Vanity, which was that it had been closed in breach of a no-touching condition. Mr. Clair said there was no intention to deceive. However, Mr. Cannon drew the Committee's attention to the fact that Mr. Clair's first witness statement referred to both current and past businesses that his company had operated.

In closing, Mr. Cannon submitted that these were serious and repeated breaches committed by three separate performers. The licence holder claimed to have responded in a regulatorily compliant way but homed in on the precise time of the breaches. Mr. Clair had not been up front about the venues he operated and Mr. Cannon urged the Committee to revoke the licence and to refuse to renew it.

After Mr Cannon's submission the Committee had the opportunity to ask questions which they responded and answered.

Metropolitan Police

Mr. Rankin then addressed the Committee on behalf of the Police, in respect of the renewal application only. He remarked upon the voluminous documentation before the Committee and suggested that this was done in an attempt by the licence holder to persuade the Committee that matters were now resolved. They were not and he asserted that Mr. Clair and his staff were not fit for purpose.

Mr. Rankin referred to the Licensing Committee's minutes of 17th October 2017 minutes. What took place in May 2017, which gave rise to that hearing, is what happened again in August 2022 and in Vanity in November 2022. Mr. Rankin referred specifically to the third paragraph of Bundle 1, page 133 which recorded that Mr. Kolvin, who was acting for the licence holder, confirmed that the licence holder now accepted those breaches had occurred, apologised for those, and that it was not how the venue was supposed to be run. Mr. Rankin emphasised that "It was noted that measures were now in place to prevent this from ever happening again." This was likely to be said again. Mr. Rankin submitted that there has to come a time when that can no longer hold true.

Mr. Rankin noted that in 2017 the police were content with the proposed additional conditions. This was taken into account by the Committee [Bundle 1, page 137 and Page 140 at numbered paragraph 3]. The licence holder had the support of the police and the Licensing Authority at that time. They did not do what they had said they would do.

Mr. Rankin noted that Mr. Clair, in his own words, described the events of 18th August 2022 as “unique.” The Committee had seen a brief period of the CCTV footage and

there was nothing unique about those events nor about those in 2017. This simply demonstrated a pattern of behaviour that Mr. Clair had allowed to take place at his premises.

Westminster City Council did not renew the licence for Vanity and Mr. Rankin noted that Mr. Kolvin’s skeleton argument stated that the Westminster decision did not dictate the outcome of these proceedings. However, in Mr. Rankin’s submission the facts of the Vanity case do dictate the outcome here. The minutes of that that Sub-Committee hearing appeared at Bundle 1, pages 113 -128. Mr. Rankin referred to page 119, in which Mr. Grant (counsel for the licence holder at the Westminster proceedings) expressed the licence holder’s outrage at the breaches and dismissed the staff immediately. There was no mention of the Nag’s Head by or on behalf of the licence holder; the proceedings before the Tower Hamlets Licensing Committee were kept secret by the licence holder. The licence holder instructed two separate barristers for the two sets of proceedings, which Mr. Rankin said was to put some distance between them. He asserted that the licence holder had sought to pull the wool over the eyes of both licensing committees.

Mr. Rankin referred to the statement of PC Reaz Guerra, which appeared in Bundle 1 at pages 36 – 81. PC Guerra referred to a schedule of breaches at Vanity [Bundle 1, pages 51 – 63] and which breaches had been agreed with the licence holder. Mr. Rankin corrected an error in the schedule, which was headed 21/22 Dec 2022 rather than November. This showed breaches of a no-touching condition from a number of angles and which took place over an evening. Despite ample opportunity for intervention by SIA and management, nobody did so.

Mr. Rankin referred also to a reluctance on the part of the licence holder’s solicitors to release the CCTV footage to the police when asked to do so. That too was a matter of concern to the police and it took protracted correspondence to obtain it. Mr. Rankin said that once obtained, the reason for the reluctance was obvious. The footage was, in his submission, “damning.” Four out of six booths were covered by CCTV. There were beaded curtains in place covering the CCTV. At one point, a dancer took a customer to an area that was not monitored by CCTV.

Mr. Rankin discussed the CCTV and the dip sampling. He reminded the Committee that those alleged to have been performing in a non-compliant manner were dancers who started at the beginning of August and were told what to do and what not to do. Around 16th August 2022 Mr. Binning heard rumours. Mr. Rankin noted that Mr. Binning, who can view the CCTV on his phone, did not start doing that. He did not dip sample any other days to allay his concerns. On 19th August 2022 he spoke to Mr. Clair about his suspicions. The police consider it more likely that the venue staff became aware of the mystery shoppers and that the paper trail was then developed to cast a different light on matters.

Mr. Rankin also commented on the fact that the only sampling apparently carried out by Mr. Binning was the precise time that the test purchasers were present. He did not go back to when they were first employed. He reminded the Committee that in all the paperwork before it there was only one page showing a dip sample and that was the one for the night of 18th August 2022. Mr. Rankin also referred to Mr. Clair's statement dated 8th May 2023 in which he referred to having watched 25 hours of

footage for the period from 20th August 2022 to 24th September 2022 and found no evidence of breaches. Mr. Rankin commented that this was not surprising given that it post-dated the breaches and the performers would have been read the riot act. What would have been far more relevant would have been dip sampling and records prior to 18th August 2022.

By the same token, Mr. Rankin suggested that the schedule of compliant dances on the night of 18th August which had been prepared by the licence holder's solicitors was not relevant. The issue was not about whether some performers were compliant; it was about those who were not and who appeared to be unchecked and unmonitored.

Mr. Rankin suggested that the Premises had had its chances. It had failed to meet standards in 2017 and had been given a further chance. The same incidents had occurred in August 2022 and then again (in Vanity) in November 2022. There was a limit to the number of chances to be given. The view of the police was that there had been enough opportunity given to the Premises and that the Committee could refuse the licence as a deterrent to others. Renewing in light of these breaches would simply suggest that all a licence holder needed to do was apologise to the Committee.

After Mr Cannon's submission the Committee had the opportunity to ask questions which they responded and answered.

The renewal application decision

Given the Committee's decision on the revocation application, it follows that the application to renew would be refused on the same basis. It would be inconsistent for the Committee to revoke the licence and to then renew it. The reasons set out above in relation to the revocation apply equally to the renewal application and the Committee does not therefore repeat them here. The Committee did agree with Mr. Kolvin that it was not possible to refuse to renew as a deterrent to others.

The consideration of the renewal application also took account of the following matters. The matters arising at Vanity were of grave concern. Whilst the Committee noted that the problems at Vanity appeared to have been more deeply-rooted, that was in part because there was substantially more evidence available there. What it did demonstrate, however, was that there was clearly insufficient management oversight at that Premises. Given that it was coming a little after the events at the Nag's Head and that Mr. Clair was aware of the events of 18th August 2022, it suggests to the Committee that he was not fully alive to the possibility of problems elsewhere. That failing again goes to the heart of his suitability to operate a compliant SEV.

The Committee noted too that the licence holder had failed to mention to Westminster the issues that had arisen at the Nag's Head. The minutes of the Westminster City Council Licensing Sub-Committee meeting indicated that the information about the Tower Hamlets proceedings had been introduced by the police.

Mr. Rankin also referred to difficulties with obtaining the CCTV footage from Vanity and which was only handed over after some protracted correspondence. A failure to co-operate with those tasked with regulating such venues is also a matter which goes to the suitability of the licence holder to hold the licence.

The decision of the Committee is therefore to refuse the application for renewal of the SEV licence.

The meeting ended at 9.35 p.m.

Vice Chair Peter Golds
Licensing Committee