



Meeting of the

# LICENSING SUB COMMITTEE

---

Tuesday, 11 January 2011 at 6.30 p.m.

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## A G E N D A

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### VENUE

Council Chamber, Town Hall, Mulberry Place, 5 Clove Crescent,  
London, E14 2BG

<b>Members:</b>	<b>Ward Represented</b>
<b>Chair: Councillor Kabir Ahmed</b>	Weavers;
<b>Councillor Zara Davis</b>	Millwall;
<b>Councillor Joshua Peck</b>	Bow West;

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact:

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# LONDON BOROUGH OF TOWER HAMLETS

## LICENSING SUB COMMITTEE

Tuesday, 11 January 2011

6.30 p.m.

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

### 2. DECLARATIONS OF INTEREST (Pages 1 - 2)

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Chief Executive.

	PAGE NUMBER	WARD(S) AFFECTED
<b>3. RULES OF PROCEDURE</b>	3 - 14	
To note the rules of procedure which are attached for information.		
<b>4. ITEMS FOR CONSIDERATION</b>		
<b>4 .1 Application to Review the Premises Licence for Papadoms, 94 Brick Lane, London E1 6RL (LSC 51/011)</b>	15 - 78	Spitalfields & Banglatown;
<b>4 .2 Application to Review the Premises Licence for Mango Restaurant, 90 Brick Lane, London E1 6RL (LSC 52/011)</b>	79 - 146	Spitalfields & Banglatown;
<b>4 .3 Application to Review the Premises Licence for Cinnamon, 134 Brick Lane, London E1 6RU (LSC 53/011)</b>	147 - 242	Spitalfields & Banglatown;

### 5. EXCLUSION OF PRESS AND PUBLIC

In view of the remaining items on the Agenda, the Sub Committee is recommended to adopt the following motion:

“That, under the provisions of Section 100A of the Local Government Act, 1972 as amended by the Local Government (Access to Information) Act, 1985, the Press and Public be excluded from the meeting on the grounds that it contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act 1972.”

#### EXEMPT/CONFIDENTIAL SECTION (PINK)

The exempt/confidential (Pink) papers in the Agenda will contain information which is commercially, legally or personally sensitive and should not be divulged to third parties. If you do not wish to retain these papers after the meeting, please hand them to the Committee Officer present.

**5 .1 Application to Review the Premises Licence for Cinnamon, 134 Brick Lane, London E1 6RU (LSC 53/011)**

**243 - 246**

**Spitalfields  
&  
Banglatown;**

The unrestricted item 4.3 includes Appendix 4A which has been circulated separately as it has been considered exempt from publication under the provisions of Paragraph 1 of part one of schedule 12A of the Local Government Act 1972 (as amended).

**6. ANY OTHER BUSINESS THAT THE CHAIR CONSIDERS URGENT**

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# Agenda Item 2

## DECLARATIONS OF INTERESTS - NOTE FROM THE CHIEF EXECUTIVE

This note is guidance only. Members should consult the Council's Code of Conduct for further details. Note: Only Members can decide if they have an interest therefore they must make their own decision. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending at a meeting.

### Declaration of interests for Members

Where Members have a personal interest in any business of the authority as described in paragraph 4 of the Council's Code of Conduct (contained in part 5 of the Council's Constitution) then s/he must disclose this personal interest as in accordance with paragraph 5 of the Code. Members must disclose the existence and nature of the interest at the start of the meeting and certainly no later than the commencement of the item or where the interest becomes apparent.

You have a **personal interest** in any business of your authority where it relates to or is likely to affect:

- (a) An interest that you must **register**
- (b) An interest that is not on the register, but where the well-being or financial position of you, members of your family, or people with whom you have a close association, is likely to be affected by the business of your authority more than it would affect the majority of inhabitants of the ward affected by the decision.

Where a personal interest is declared a Member may stay and take part in the debate and decision on that item.

**What constitutes a prejudicial interest?** - Please refer to paragraph 6 of the adopted Code of Conduct.

**Your personal interest will also be a prejudicial interest in a matter if (a), (b) and either (c) or (d) below apply:-**

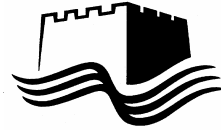
- (a) A member of the public, who knows the relevant facts, would reasonably think that your personal interests are so significant that it is likely to prejudice your judgment of the public interests; AND
- (b) The matter does not fall within one of the exempt categories of decision listed in paragraph 6.2 of the Code; AND EITHER
- (c) The matter affects your financial position or the financial interest of a body with which you are associated; or
- (d) The matter relates to the determination of a licensing or regulatory application

The key points to remember if you have a prejudicial interest in a matter being discussed at a meeting:-

- i. You must declare that you have a prejudicial interest, and the nature of that interest, as soon as that interest becomes apparent to you; and
- ii. You must leave the room for the duration of consideration and decision on the item and not seek to influence the debate or decision unless (iv) below applies; and

- iii. You must not seek to improperly influence a decision in which you have a prejudicial interest.
- iv. If Members of the public are allowed to speak or make representations at the meeting, give evidence or answer questions about the matter, by statutory right or otherwise (e.g. planning or licensing committees), you can declare your prejudicial interest but make representations. However, you must immediately leave the room once you have finished your representations and answered questions (if any). You cannot remain in the meeting or in the public gallery during the debate or decision on the matter.

**TOWER HAMLETS**



**LICENSING COMMITTEE**

**RULES OF PROCEDURE  
GOVERNING APPLICATIONS FOR  
PREMISES LICENCES  
AND OTHER PERMISSIONS  
UNDER THE LICENSING ACT 2003**

## **1. Interpretation**

- 1.1 These Procedures describe the way in which hearings will be conducted under the Licensing Act 2003, as set out in the Licensing Act 2003 (Hearings) Regulations 2005 (as amended). The Procedures take into account the Licensing Act (Premises Licences and Club Premises Certificates) Regulations 2005. The Procedures also include the time limits within which a hearing must commence (see Appendix A) and will be used by the Licensing Committee and Licensing Sub-Committee when conducting hearings.
- 1.2 The Hearings Regulations provide (Regulation 21) that a Licensing Authority shall, subject to the provisions of those Regulations, determine for itself the procedure to be followed at a hearing.
- 1.3 These Procedures, therefore, set out the way in which Licensing Sub-Committee Meetings will be conducted under the Licensing Act 2003, following the requirements of the Hearings Regulations. Wherever appropriate they have included the procedures followed successfully when determining licence applications under previous legislation.
- 1.4 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations (Regulation 31).

## **2. Composition of Sub-Committee**

- 2.1 The Sub-Committee will consist of no less than three members and no business shall be transacted unless at least three members of the Licensing Committee are present and able to form a properly constituted Licensing Sub-Committee. In such cases the Chair shall have a second or casting vote. The Councillor for the ward in which the applicant's premises are situated, or where either the applicant or the objector resides, shall not normally form part of the Sub-Committee for that item on the agenda.

## **3. Timescales**

- 3.1 Most hearings must take place within 20 working days from the last date for representations to be made with the following exceptions:

Within 10 working days from the last date for the police to object to:

- conversion of an existing licence;
- conversion of an existing club certificate;
- an application for a personal licence by an existing justices licence holder;
- and

Within 10 working days from the date the Licensing Authority receives the notice for a review of the premises licence following a closure order.

Within 7 working days from the last date for the police to object to:

- a temporary event notice.

Within 5 working days from the last date for the police to object to:

- an interim authority notice (Note: the police must give notice of their objection within 48 hours of being given a copy of the notice).

**Note:** Where a hearing is likely to take longer than one day, the Authority must arrange for the hearing to take place on consecutive days.

### 3.2 **Timescale for notice of hearings to be given**

In most cases, the Authority shall give notice of a hearing no later than 10 working days before the first day on which the hearing is to be held. The following are exceptions to that rule:

At least five working days notice must be given to the parties of the date of a hearing for determination of:

- conversion of an existing licence
- conversion of an existing club certificate
- application for a personal licence by the holder of a justices licence
- review of a premises licence following a closure order

At least two days notice must be given to the parties to a hearing for determination of:

- police objection to an interim authority notice
- police objection to a temporary event notice

### 3.3 **Persons who must be notified of a hearing**

The persons who must be notified of a hearing are set out below as a summary:

- any applicant for any licence or certificate or a temporary event notice.
- any person who has made relevant representations about an application for a licence or for review of a licence (note for any representations deemed frivolous, vexatious or repetitious under Section 18(7)(c) or similar sections of the Licensing Act 2003 the objector must be notified of the Authority's decision as soon as possible and in any event before any hearing).
- Any police officer who has given notice of objection to:
  - a person specified as a Designated Premises Supervisor
  - an interim authority

- transfer of a premises licence
  - a temporary event notice
  - a personal licence
- Any holder of a premises licence or club premises certificate where:
- application is made for review

**Note:** Anyone given notice of a hearing is a party and that is how that expression is used in these Rules of Procedure.

### 3.4 Information to be provided in a notice of hearing

The information that must be included in a notice of hearing includes:

- The procedure to be followed at the hearing;
- The right of the party to attend and to be assisted or represented by any person whether legally qualified or not;
- The ability to give further information in support of their application where the Authority has sought clarification;
- The right to question any other party if given permission by the Authority;
- The right to address the Authority;
- Notice of any particular points on which the Authority will want clarification at the hearing;
- The consequences if a party does not attend or is not represented at the hearing;
- For certain hearings particular documents must accompany the notice which is sent to parties informing them of the hearing. Reference must be made to Schedule 3 of the Hearings Regulations for this purpose.

### 3.5 Failure of Parties to Attend the Hearing

If a party has informed the Authority that they will not be attending or be represented at the hearing, it may proceed in their absence.

If a party does not give notice that they will not be attending but fails to attend and is not represented, the Authority may either:

- a) adjourn the hearing if it considers it to be necessary in the public interest or
- b) hold the hearing in the party's absence

If the Authority holds the hearing in the absence of a party, it will consider at the hearing the application, representation or notice given by the party.

If the Authority adjourns the hearing to a specified date it must forthwith the parties of the date, time and place to which the hearing has been adjourned.

**Note:** Transition hearings cannot be adjourned to a date beyond the date that which causes an application to be deemed as determined by default.

#### **4. Procedure at the Hearing**

4.1 The usual order of proceedings will be as set out below. The Sub-Committee will allow the parties an equal maximum time period in which to give further information in support of their application, representation or response. Where the Authority has given notice that it will seek clarification on that point at the hearing or where permission has been given to call any further persons to give supporting evidence, the Sub-Committee may allow the parties to question any other party and to address the Licensing Sub-Committee. The Sub-Committee will seek, in all cases, to avoid repetition of points (whether included in written material or otherwise), irrelevancy, or any abuse of the procedure.

At the beginning of the hearing the procedure to be followed will be explained to the parties. The hearing will, so far as is possible, take the form of a discussion, led by the Sub-Committee. Cross-examination will not be permitted unless the Sub-Committee considers it necessary.

- i) The Chair will begin by explaining how the proceedings will be conducted, and indicate any time limits that may apply to the parties to the application.
- ii) The report will be briefly introduced by an Officer of the Licensing Section summarising the application.
- iii) The Sub-Committee will then consider any requests by a party for any other person to be heard at the hearing in accordance with the Regulations. Permission will not be unreasonably withheld provided proper notice has been given.
- iv) A summary of the nature and extent of the application by the applicant or their representative. This should be brief, avoid repetition of material already available to the Committee in the Officer's report or otherwise, and include any reasons why an exception should be made to the Council's Licensing Policy, where appropriate. The submission may be followed by the evidence of any person who has been given permission by the Committee to give supporting evidence on behalf of the applicant.
- v) A summary of the reasons for making representations about the application by any interested party. This should be brief and avoid any repetition of information already made available to the Committee either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the objectors.
- vi) A summary of the reasons for making representations by or on behalf of any Responsible Authority. This should be brief and avoid any repetition of information already made available to the Licensing Sub-Committee

either in the Officer's report or otherwise. That will be followed by the evidence of any person who has been given permission by the Panel to give supporting evidence on behalf of the Responsible Authority.

- vii) Members of the Sub-Committee may ask any questions of any party or other person appearing at the hearing.

4.2 The following requirements of the Hearing Regulations will also be followed by the Licensing Sub-Committee:

- a) The Sub-Committee will be guided by legal principles in determining whether evidence is relevant and fairly admissible. In particular, hearsay evidence may be admitted before the Sub-Committee but consideration will always be given to the degree of weight, if any, to be attached to such evidence in all the relevant circumstances.
- b) The Sub-Committee may impose a time limit on the oral representations to be made by any party. In considering whether to do so, and in considering the length of any such time limit, the Sub-Committee will take into account the importance of ensuring that all parties receive a fair hearing, and the importance of ensuring that all applications are determined expeditiously and without undue delay.
- c) In considering the time limits referred to in (b) above, regard must be had to the requirement to allow each party an equal amount of time.

4.3 When considering any representations or notice made by a party, the Authority may take into account documentary or other information produced by a party in support of their application, representation or notice, either:

- a) before the hearing, or
- b) with the consent of all other parties, by the Sub-Committee at the hearing

The Authority will disregard any information given by a party, or any other person appearing at the hearing, which is not relevant to:

- a) their application, representation or notice; and
- b) the promotion of the licensing objectives or the crime prevention objective where notice has been given by the police.

4.4 All hearings shall take place in public save that:

- a) The Licensing Sub-Committee may exclude the public from all or part of a hearing where it considers that, on balance, it is in the public interest to do so.
- b) The parties and any person representing them may be excluded in the same way as another member of the public



c) The Licensing Sub-Committee may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may:

- refuse to permit the person to return; or
- allow them to return only on such conditions as the authority may specify.

4.5 Any person so excluded may, before the end of the hearing, submit to the Authority in writing, any information which, they would have been entitled to give orally had they not been required to leave. Where there are a number of items on the agenda, the adjournment of that item for a short period, whilst another item is heard, may allow this process to be carried out effectively.

## **5. Determination of Application – Time Limits**

5.1 The Licensing Sub-Committee must make its determination at the conclusion of the hearing where the application is for:

- a) Conversion or variation of an existing licence during transition
- b) Conversion or variation of an existing club certificate during transition
- c) A review of a premises licence following a closure order
- d) A personal licence by the holder of a justices licence
- e) A counter notice following police objection to a temporary event notice

5.2 In any other case the Authority must make its determination within the period of five working days, beginning with the day, or the last day, on which the hearing was held.

5.3 Where a hearing has been dispensed with because all of the parties have agreed that a hearing is unnecessary (and the Authority has agreed, giving notice to the parties in writing), then the Authority must make its determination within 10 working days beginning with the day the authority gives such notices to the parties. The Team Leader (Licensing) shall be authorised to make the determination on behalf of the Authority.

## **6. Record of Proceedings**

6.1 The Authority must arrange for a record to be taken of the hearing in a permanent and intelligible form and for that record to be kept for six years from the date of determination. Where an appeal is brought against a determination by the Authority, the record must be kept for six years from the date of disposal of the appeal.

## **7. Irregularities**

7.1 Proceedings will not be rendered void only as the result of failure to comply with any provision of the Hearings Regulations

7.2 Clerical mistakes in any document recording a determination of the Authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the Authority.

## **8. Notices**

8.1 In accordance with the Regulations, any notices must be given in writing. Such a notice may be sent electronically, providing:

- a) it can be accessed by the recipient in a legible form;
- b) it is capable of being reproduced as a document for future reference;
- c) the recipient has agreed in advance to receive it in such form;
- d) a copy is sent in documentary form forthwith to the recipient.

## **9. Appeals**

9.1 Either those who have made an application or those who have made representations on an application may appeal to the Magistrates Court.

**Note:** An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the Licensing Authority of their decision.

## APPENDIX A

Application Type	Period of Time within which Hearing to be Held (after reps have closed)	Notice Period of Hearing	Notice Sent To	Attendee Reply Form Back In
Section 18 (3)(a) (determination of application for premises licence)	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 35(3)(a) (determination of application to vary premises licence).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 39(3)(a) (determination of application to vary premises licence to specify individual as premises supervisor).	20 working days	10 working days	Applicant (premises holder); Chief Officer of Police who has given notice; The proposed premises supervisor	5 working days
Section 44(5)(a) (determination of application for transfer of premises licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice; The present holder of the premises licence	5 working days
Section 52(2) (determination of application for review of premises licence).	20 working days	10 working days	The holder of the premises licence of where application applies; People who have made representations; Applicant	5 working days
Section 120(7)(a) (determination of application for grant of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 121(6)(a) (determination of application for the renewal of personal licence).	20 working days	10 working days	Applicant; Chief Officer of Police who has given Notice	5 working days
Section 124(4)(a) (convictions coming to light after grant or renewal of personal licence).	20 working days	10 working days	The holder of the licence; Chief Officer of Police who has given Notice	5 working days
Paragraph 26(3)(a) of Schedule 8 (determination of application by holder of a justices' licence for	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days

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grant of personal licence).				
Section 31(3)(a) (determination of application for a provisional statement).	20 working days	10 working days	Applicant; People who have made representations	5 working days
Section 48(3)(a) (cancellation of interim authority notice following police objection).	5 working days	2 working days	The person who has given Notice; Chief Officer of Police who has given Notice	1 working day
Section 72(3)(a) (determination of application for club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 85(3) (determination of application to vary club premises certificate).	20 working days	10 working days	Applicant (club); People who have made representations	5 working days
Section 88(2) (determination of application for review of club premises certificate).	20 working days	10 working days	Club that holds club premises certificate; People who have made representations; Applicant	5 working days
Section 105(2)(a) (counter notice following police objection to temporary event notice)	7 working days	2 working days	The premises user; Chief Officer who has given Notice	1 working day
Section 167(5)(a) (review of premises licence following closure order).	10 working days	5 working days	The holder of the premises licence; People who have made representations	2 working days
Paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence).	10 working days	5 working days	Applicant; Chief Officer of Police who has given Notice	2 working days
Paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate).	10 working days	5 working days	Applicant (club)  Chief Officer who has given Notice	2 working days

## APPENDIX B

### Regulation 8

<b>Action Following receipt of notice of hearing</b>	
<b>1.</b>	A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating:
(a)	whether he intends to attend or be represented at the hearing;
(b)	whether he considers a hearing to be unnecessary.
<b>2.</b>	In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
<b>3.</b>	In the case of a hearing under:
(a)	section 48(3)(a) (cancellation of interim authority notice following police objection), or
(b)	section 105(2)(a) (counter notice following police objection to temporary event notice),
	the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.
<b>4.</b>	In the case of a hearing under:
(a)	section 167(5)(a) (review of premises licence following closure order),
(b)	paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence),
(c)	paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate), or
(d)	paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),
	the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.
<b>5.</b>	In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

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# Agenda Item 4.1

Committee: <b>Licensing Sub-Committee</b>	Date: 11 January 2011	Classification: UNRESTRICTED	Report No. LSC 51/011	Agenda Item No.
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Report of: <b>Colin Perrins</b> <b>Head of Trading Standards and Environmental Health (Commercial)</b>  Originating Officer: <b>Mohshin Ali</b> <b>Acting Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b>  <b>Application to Review the Premises Licence for Papadoms, 94 Brick Lane, London E1 6RL</b>  Ward affected: <b>Spitalfields &amp; Banglatown.</b>
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## 1.0 Summary

Name and Address of premises: **Papadoms**  
**94 Brick Lane, London E1 6RL.**

Licence under review: **Licensing Act 2003 – Premises Licence**

- **Sale by retail of alcohol**
- **Regulated entertainment (Recorded music)**
- **Late night refreshment**

Representations: **Local Weights and Measures Authority**  
**Metropolitan Police**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

### LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none"><li>• Guidance Issued under Section 182 of the Licensing Act 2003</li><li>• Tower Hamlets Licensing Policy</li><li>• File</li></ul>		Mohshin Ali 020 7364 5498

### **3.0 Review Application**

- 3.1 This is an application for a review of the premises licence for **Papadoms, 94 Brick Lane, London E1 6RL**. The review was triggered by London Borough of Tower Hamlets Weights and Measures Authority and supported by the Metropolitan Police.
- 3.2 This review is one of a number of reviews triggered during Operation Creek, a joint partnership operation tackle the problem of touting in the Brick Lane area. This includes compliance with the local touting byelaw, conditions of premises licences preventing the use of touts, the activities and behaviour of touts also the offers being given to customers.
- 3.3 A copy of the application for the review is contained in **Appendix 1**

### **4.0 The Premises**

- 4.1 The premises licence was issued on 10<sup>th</sup> July 2008. A copy of the current licence is contained in **Appendix 2**.
- 4.2 Maps showing the premises and the surrounding areas are included in **Appendix 3**.

### **5.0 Representations**

- 5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by London Borough of Tower Hamlets Trading Standards the local Weights and Measures Authority.
- 5.2 The review is further supported by Metropolitan Police. Please see **Appendix 4**.
- 5.3 Only representations that relate to the following licensing objectives are relevant:
  - the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.4 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the:
  - prevention of public nuisance and
  - prevention of crime & disorder



## 6.0 Review Explained

- 6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”
- 6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in October 2010.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 In relation to its advice on representations the Home Office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. see **Appendix 6**.
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 7**. The Pool Conditions in the Policy are the same as the Government’s.
- 6.6 The home office has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 8**.
- 6.7 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 9**.
- 6.8 The Home Office has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of

the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”

- 6.9 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 6.10 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.
- 6.11 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
  - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## **7.0 Review Advertisement**

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
  - Consultation is conducted for 28 full days
  - Other responsible authorities or interested parties may join in the review
  - Members conduct a hearing
  - Members make a determination
  - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## **8.0 Licensing Officer Comments**

8.1 The Governments advice in relation to reviews is contained in **Appendix 5**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

## **9.0 Legal Comments**

9.1 The Council’s legal officer will give advice at the hearing.

## **10.0 Finance Comments**

10.1 There are no financial implications in this report.

## **11.0 Appendices**

<b>Appendix 1</b>	Copy of the review application
<b>Appendix 2</b>	Current Premises Licence
<b>Appendix 3</b>	Maps of the premises and surrounding area
<b>Appendix 4</b>	Representations from Police
<b>Appendix 5</b>	Guidance issued under Section 182 by the Home Office for reviews
<b>Appendix 6</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
<b>Appendix 7</b>	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
<b>Appendix 8</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance
<b>Appendix 9</b>	London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance

# Appendix 1



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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I John Patrick McCrohan

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Papadoms) 94 Brick Lane	
<b>Post town</b> London	<b>Post code (if known)</b> E1 6RL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Saidur Rahman
---

<b>Number of premises licence or club premises certificate (if known)</b> 12653
--

**Part 2 - Applicant details**

I am

- |   | <b>Please tick yes</b>              |
|---|-------------------------------------|
| 1) an interested party (please complete (A) or (B) below)                           |                                     |
| a) a person living in the vicinity of the premises                                  | <input type="checkbox"/>            |
| b) a body representing persons living in the vicinity of the premises               | <input type="checkbox"/>            |
| c) a person involved in business in the vicinity of the premises                    | <input type="checkbox"/>            |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/>            |
| 2) a responsible authority (please complete (C) below)                              | <input checked="" type="checkbox"/> |

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr

Mrs

Miss

Ms

Other title  
(for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick yes

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address  
(optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

**Telephone number (if any)**

**E-mail address (optional)**



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

<b>Name and address</b> John Patrick McCrohan Trading Standards Service ( Local Weights and Measures Authority) Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
<b>Telephone number (if any)</b> 020 7364 6674
<b>E-mail address (optional)</b> john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review (please read guidance note 1)  
see attached form**

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

see attached form

**Please tick yes**

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

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Signature

Date

Capacity Applicant

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**Notes for Guidance**

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

London Borough of Tower Hamlets

**Papadoms, 94 Brick Lane London E1 6RL**

Licence No **12653** (Licence Holder: Saidur Rahman)

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

---

London Borough of Tower Hamlets – Trading Standards Service

**REPRESENTATIONS**

- 
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and Disorder , licensing objective 1 and prevention of public nuisance Licensing Objective 3.
  
  2. A test purchase was carried out at **Papadoms, 94 Brick Lane London E1 6RL** in the evening of 1<sup>st</sup> September 2010 where the test purchasers were induced to enter the premises by a male tout who escorted them to the restaurant. The encounter with the tout was captured on a covert video camera.

3. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter **Papadoms**.

4. The premises licence holder of **Papadoms, 94 Brick Lane London E1 6RL** is **Saidur Rahman**.

5. The premises licence has a condition placed on its licence at **Annex 3 -**

**Conditions attached after a hearing by the licensing authority:-**

" Licensing subcommittee hearing of 10 July 2008

1. Signage to be placed in windows stating that the premises supports the Council's 'No Touting' policy.

6. Touting by the Restaurants in the Brick Lane area has been subject of concerns over crime and disorder for a number of years. In particular, there are a high number of restaurants in parts of Brick Lane to which the custom of passing Members of the public is highly sort after. This has resulted in some of the restaurants employing touts. The activities of these touts has led to a considerable number of complaints over the past few years as the methods used by the touts are causing nuisance and/or obstruction to others as well as local residents being threatened and occasionally assaulted by the touts. Further the touts make offers of inducements to customers, such as free drinks, and which are not honoured.

7. The current Council Licensing policy at paragraph 5.7 states

- i. “..The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits "touting"..."
8. The Council enacted a bye law to ban touting and there have been a number of prosecutions of individual touts in recent years.
9. Complaints are still received about touting in Brick Lane by the restaurant trade.
10. For example the Council's CCTV Manager reported that over the weekend of the 24<sup>th</sup> and 25<sup>th</sup> July the Police were called twice to the junction of Hanbury Street and Brick Lane where touts had started fighting amongst themselves.
11. The Council's Community Safety Service conducted a residents' survey. 63.6% of resident questioned said that they had been approached by a restaurant tout. 67.9% of those approached said that the tout persisted even when they declined the offer.
12. To reiterate, the test purchasers were induced to enter the restaurant and the evidence shows that the tout was acting as an agent /employee of the

restaurant. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter.

13. In order to improve the management of the premises in accordance with the Council's Licensing Policy and concerns about crime and disorder, the applicant seeks to have a condition below added to the premises licence — and **although it does not seek to have the licence revoked, it does respectfully point out that the committee has within its gift the power to suspend the premises licence for a short period of time.**

14. Conditions:

- 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 metres radius of the premises as shown edged red on the attached plan marked Appendix 1

**John Patrick McCrohan**

**Trading Standards Service Manager**

**London Borough of Tower Hamlets**



# Appendix 2



**(Papadoms)**  
94 Brick Lane  
London  
E1 6RL

**Licensable Activities authorised by the licence**

The sale by retail of alcohol  
Regulated entertainment (Recorded music only)  
Late night refreshment

**See the attached licence for the licence conditions**

**Signed by**

**John Cruse** \_\_\_\_\_  
**Team Leader Licensing**

**Date: 10 July 2008**



**Part A - Format of premises licence**

Premises licence number

12653

**Part 1 - Premises details**

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

(Papadoms)  
94 Brick Lane

**Post town**  
London

**Post code**  
E1 6RL

**Telephone number**  
[REDACTED]

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

The sale by retail of alcohol  
Regulated entertainment (Recorded music only)  
Late night refreshment

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

**Supply of Alcohol**

- Monday to Saturday, from 12:00 hours to 23:30 hours
- Sunday, from 12:00 hours to 23:00 hours

**Regulated Entertainment (Recorded music)**

- Monday to Saturday, from 23:00 hours to midnight
- Sunday, from 23:00 hours to 23:30 hours

**Late Night Refreshment**

- Monday to Saturday, from 12:00 hours to 23:30 hours
- Sunday, from 12:00 hours to 23:00 hours

**The opening hours of the premises**

- Monday to Saturday, from 12:00 hours to midnight
- Sunday, from 12:00 hours to 23:30 hours

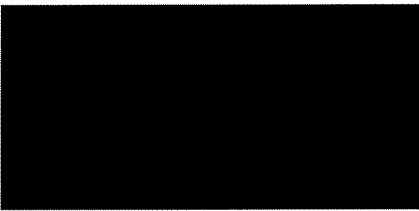
**Where the licence authorises supplies of alcohol whether these are on and/ or off supplies**

On sales

**Part 2**

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

Mr Saidur Rahman



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


N/A

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

Mr Saidur Rahman



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

Licence Number –   
Issuing Authority – Corporation of London

**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

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, such individuals must be licensed with the Security Industry Authority.

This does not apply to premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001, (premises with premises licences authorising plays or films), or

in respect of premises in relation to-

any occasion mentioned in paragraph 8(3)(b) or (c) of Schedule 2 (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or

any occasion within paragraph 8(3)(d) of Schedule 2 (occasions prescribed by regulations under that Act) unless the Licence specifically states otherwise.

Security activity means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 of that schedule applies, and Paragraph 8(5) of Schedule 2 (interpreting of references to an occasion) applies as it applies in relation to paragraph 8 of Schedule 2 of the Private Security Industry Act 2001

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

1. This licence only authorises recorded music as the regulated entertainment.
2. Only low key background music shall be played indoors. Speakers shall not be placed near the front door to prevent noise pollution to neighbours and the public.
3. No nudity or semi nudity is permitted.
4. Signage to be displayed stating no sale of alcohol to underage persons.
5. The premises shall not allow gathering of groups outside the premises to prevent disorder and disturbances to neighbours.
6. Staff shall ask customers to leave the premises quietly to prevent public nuisance.
7. The premises shall not allow children to order alcohol for adults.
8. The premises shall not accommodate children near the bar.
9. The premises shall have dedicated door supervisor.
10. The premises shall not allow congressing or gathering of groups or shouting outside the front door to prevent disturbance to neighbours and public nuisance.
11. Complimentary black coffee is to be offered to patrons prior to leaving the premises.
12. Complimentary confectionary is to be offered to customers when leaving the premises to minimise any loud talking or shouting.
13. No queuing shall be allowed outside the premises.
14. Deliveries are to be scheduled to afternoons.
15. There is no access to the rear of the premises and refuse will be deposited in secure container provided by refuse companies.
16. Dedicated taxi service is to be offered to customers.
17. Doors are to be kept shut to avoid ingress of pollution from outside.

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

#### Licensing subcommittee hearing of 10 July 2008

1. Signage to be placed in windows stating that the premises supports the Council's 'No Touting' policy.
2. CCTV to be installed inside the premises and immediately outside.
3. CCTV must be working at all times the premises are open for business. The CCTV system shall incorporate a recording facility and any recordings shall be retained and stored in a suitable and secure manner for a minimum of one calendar month.
4. At least one person on the premises will be trained to operate the recording equipment and be competent in its operation.

### **Annex 4 - Plans**

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

14 April 2008





**Part B - Premises licence summary**

**Premises licence number**

12653

**Premises details**

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

(Papadoms)  
94 Brick Lane

**Post town**  
London

**Post code**  
E1 6RL

**Telephone number**

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

The sale by retail of alcohol  
Regulated entertainment (Recorded music only)  
Late night refreshment

The times the licence authorises the carrying out of licensable activities

**Supply of Alcohol**

- Monday to Saturday, from 12:00 hours to 23:30 hours
- Sunday, from 12:00 hours to 23:00 hours

**Regulated Entertainment (Recorded music)**

- Monday to Saturday, from 23:00 hours to midnight
- Sunday, from 23:00 hours to 23:30 hours

**Late Night Refreshment**

- Monday to Saturday, from 12:00 hours to 23:30 hours
- Sunday, from 12:00 hours to 23:00 hours

The opening hours of the premises

- Monday to Saturday, from 12:00 hours to midnight
- Sunday, from 12:00 hours to 23:30 hours

Name, (registered) address of holder of premises licence

Mr Saidur Rahman



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

On sales

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

N/A

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

Mr Saidur Rahman

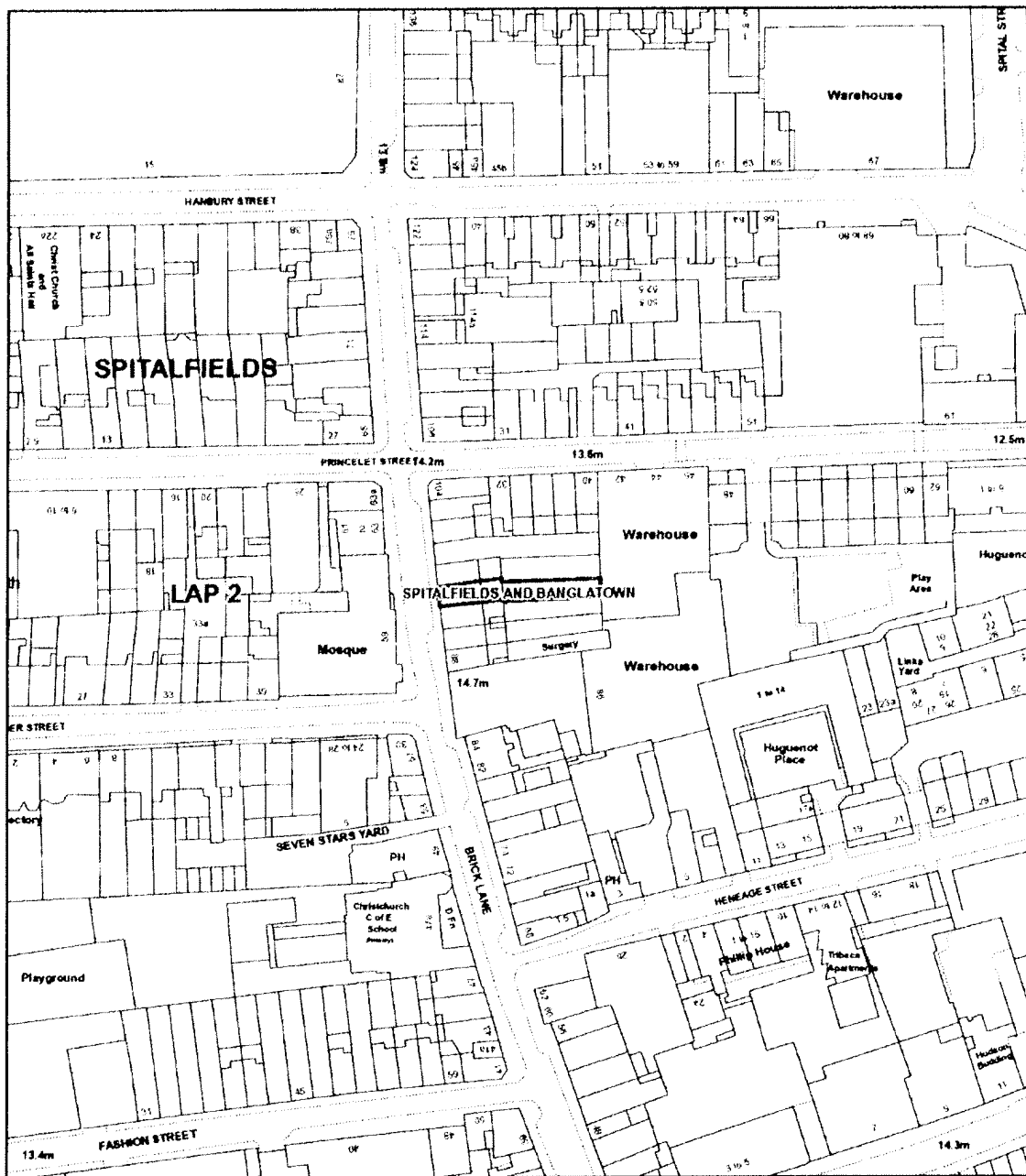
State whether access to the premises by children is restricted or prohibited

No

# Appendix 3





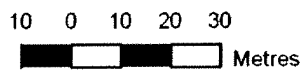


# Papadoms

94 Brick Lane



Scale 1:1335



**TOWER HAMLETS**

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# Appendix 4







**METROPOLITAN  
POLICE**

Working together for a safer London

TERRITORIAL POLICING

Ms Randall  
LBTH Licensing  
Mulberry Place (AH)  
5 Clove Crescent  
E14

**HT - Tower Hamlets Borough**

Licensing Office  
Bethnal Green Police Station  
12 Victoria Park Square  
Bethnal Green  
E2 9NZ

Telephone: 0208 217 6699

Facsimile:

Email: Alan.Cruickshank@met.police.uk

www.met.police.uk

Your ref:

Our ref:

3rd Nov 2010

Dear Ms Randall

**Re: Review of a premises licence  
Papadoms , 94 Brick lane, E1 6RL**

I write with reference to the above review which was received in this office on the 27th October 2010.

Please accept this letter as notification that the police, as a responsible authority are supporting the review initiated by LBTH Trading Standards. The **crime and disorder and the prevention of public nuisance objectives have not been maintained or promoted**

Although Brick Lane is a very busy area, there are many restaurants competing against one another. This has led to the increased use of "curry touts" by a number of restaurants. People are accosted in the street and offered incentives to enter their own individual restaurant. This would include offering a "free drink" or a cheap set price.

As a result there has been a willingness by some touts to use violence to run off their competitors and this has resulted in some serious injuries, including a stabbing. On one occasion there was a mass brawl outside Café Reema involving two rival restaurants.

When diners eventually finish their meal, some waiters charge them the full amount and this has again resulted in fights between the customers and the restaurant staff.

Although there have been a number of convictions for touting, it does not deter some restaurants who will simply employ new touts.

However in relation to Papadoms itself, the following incident has occurred:

A police intelligence report states that on the 12th February 2010 at about 2239, a number of males were seen touting for the restaurant.

In conclusion, the Metropolitan Police Licensing Unit supports this review

Alan Cruickshank PC 189HT

# Appendix 5



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

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

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

### **Reviews arising in connection with crime**

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

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.



# Appendix 6



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

### **Crime and Disorder Act 1998**

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

### **Pool Conditions**

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

##### **Annex D**

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

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

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

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

## **CORE PRINCIPLES**

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

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

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

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

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

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

### **Text/Radio pagers**

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

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of

potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

### **Door supervisors**

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

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
  - keeping out individuals excluded by court bans or by the licence holder;
  - searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
  - maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
    - the number of supervisors;
    - the displaying of name badges;
    - the carrying of proof of registration;
    - where, and at what times, they should be stationed on the premises;
- and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

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

### **Bottle bans**

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for

consumption on the premises. This should be expressed in clear terms and include the following elements:

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

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

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

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

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

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

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

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

## **CCTV**

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

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

## **Restrictions on drinking areas**

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

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

## **Capacity limits**

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

## **Proof of age cards**

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

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

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

### **Crime prevention notices**

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

### **Drinks promotions**

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

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

### **Signage**

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



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

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

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

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

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



# Appendix 7



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

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



# Appendix 8





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

### **Conditions relating to the prevention of public nuisance**

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

### **Hours**

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

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

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time. In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

### **Noise and vibration**

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

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

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

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

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

### **Noxious smells**

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

### **Light pollution**

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

### **Other measures**

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

# Appendix 9



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

### Licensing Policy

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

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

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

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

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

### Police Powers

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

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

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

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

Licence conditions should not duplicate other legislation (1.16).

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

### Other Legislation

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

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

# Agenda Item 4.2

Committee: <b>Licensing Sub-Committee</b>	Date: 11 January 2011	Classification: UNRESTRICTED	Report No. LSC 52/011	Agenda Item No.
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Report of: <b>Colin Perrins</b> <b>Head of Trading Standards and Environmental Health (Commercial)</b>  Originating Officer: <b>Mohshin Ali</b> <b>Acting Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b>  <b>Application to Review the Premises Licence for Mango Restaurant, 90 Brick Lane, London E1 6RL</b>  Ward affected: <b>Spitalfields &amp; Banglatown.</b>
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## 1.0 Summary

Name and Address of premises: **Mango Restaurant**  
**90 Brick Lane, London E1 6RL.**

Licence under review: **Licensing Act 2003**

- **Sale by retail of alcohol**
- **Late night refreshment**

Representations: **Local Weights and Measures Authority**  
**Metropolitan Police**

## 2.0 Recommendations

2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

### LOCAL GOVERNMENT 2000 (Section 97) LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT

Brief description of "background paper"

Tick if copy supplied for register

If not supplied, name and telephone number of holder

- Guidance Issued under Section 182 of the Licensing Act 2003
- Tower Hamlets Licensing Policy
- File

Mohshin Ali  
020 7364 5498

### **3.0 Review Application**

- 3.1 This is an application for a review of the premises licence for **Mango Restaurant, 90 Brick Lane, London E1 6RL**. The review was triggered by London Borough of Tower Hamlets Weights and Measures Authority and supported by the Metropolitan Police.
- 3.2 This review is one of a number of reviews triggered during Operation Creek, a joint partnership operation tackle the problem of touting in the Brick Lane area. This includes compliance with the local touting byelaw, conditions of premises licences preventing the use of touts, the activities and behaviour of touts also the offers being given to customers.
- 3.3 A copy of the application for the review is contained in **Appendix 1**

### **4.0 The Premises**

- 4.1 The premises licence was issued on 21<sup>st</sup> October 2009. A copy of the current licence is contained in **Appendix 2**.
- 4.2 Maps showing the premises and the surrounding areas are included in **Appendix 3**.

### **5.0 Representations**

- 5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by London Borough of Tower Hamlets Trading Standards the local Weights and Measures Authority.
- 5.2 The review is further supported by Metropolitan Police. Please see **Appendix 4**.
- 5.3 Only representations that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.4 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the:
- prevention of public nuisance and
  - prevention of crime & disorder



## 6.0 Review Explained

- 6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”
- 6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 5**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in October 2010.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 In relation to its advice on representations the Home Office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems. see **Appendix 6**.
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 7**. The Pool Conditions in the Policy are the same as the Government’s.
- 6.6 The home office has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 8**.
- 6.7 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 9**.
- 6.8 The Home Office has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of

the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”

- 6.9 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 6.10 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.
- 6.11 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
  - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## **7.0 Review Advertisement**

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
  - Consultation is conducted for 28 full days
  - Other responsible authorities or interested parties may join in the review
  - Members conduct a hearing
  - Members make a determination
  - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## **8.0 Licensing Officer Comments**

8.1 The Governments advice in relation to reviews is contained in **Appendix 5**. Members must consider all the evidence and then decide from the following alternatives:

- Take no further action as they do not consider it proportionate to do so
- Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
- Suspend the licence for a period
- Revoke the licence completely

8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions does not have a reasonable prospect of ensuring that the licensing objectives are met.

8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.

8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”

8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

## **9.0 Legal Comments**

9.1 The Council’s legal officer will give advice at the hearing.

## **10.0 Finance Comments**

10.1 There are no financial implications in this report.

## **11.0 Appendices**

<b>Appendix 1</b>	Copy of the review application
<b>Appendix 2</b>	Current Premises Licence
<b>Appendix 3</b>	Maps of the premises and surrounding area
<b>Appendix 4</b>	Representations from Police
<b>Appendix 5</b>	Guidance issued under Section 182 by the Home Office for reviews
<b>Appendix 6</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
<b>Appendix 7</b>	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
<b>Appendix 8</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Public Nuisance
<b>Appendix 9</b>	London Borough of Tower Hamlets Policy in relation to the prevention of Public Nuisance

# Appendix 1



44617

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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I John Patrick McCrohan

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Mango Restaurant) 90 Brick Lane	
<b>Post town</b> London	<b>Post code (if known)</b> E1 6RL

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr. Hushiar Ali
--

<b>Number of premises licence or club premises certificate (if known)</b> 14003
--

**Part 2 - Applicant details**

I am

**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)

**LBTH**  
**TRADING STANDARDS**  
 27 OCT 2010  
**LICENSING**

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

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

**Surname**

**First names**

I am 18 years old or over

Please tick yes

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

<b>Name and address</b>
<b>Telephone number (if any)</b>
<b>E-mail address (optional)</b>



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

<b>Name and address</b> John Patrick McCrohan Trading Standards Service ( Local Weights and Measures Authority) Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
<b>Telephone number (if any)</b> 020 7364 6674
<b>E-mail address (optional)</b> john.mccrohan@towerhamlets.gov.uk

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

**Please state the ground(s) for review (please read guidance note 1) see attached form**

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

see attached form

**Please tick yes**

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

If yes please state the date of that application

Day		Month		Year	
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

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

Signature

Date

20/10/10

Capacity Applicant

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

Post town

Post Code

Telephone number (if any)

If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)

**Notes for Guidance**

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

London Borough of Tower Hamlets

**Mango Restaurant 90 Brick Lane London E1 6RL**

Licence No **14003** (Licence Holder: Hushiar Ali)

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

---

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

- 
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and Disorder , licensing objective 1 and prevention of public nuisance Licensing Objective 3.
  
  2. A test purchase was carried out at **Mango Restaurant 90 Brick Lane London E1 6RL** in the evening of 29<sup>th</sup> September 2010 where the test purchasers were induced to enter the premises by a male tout who escorted them to the restaurant. The encounter with the tout was captured on a covert video camera.

3. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter **Mango**.
4. The premises licence holder of **Mango Restaurant 90 Brick Lane London E1 6RL** is Hushiar Ali
5. There is a condition applied to the premises licence as follows at **Annex 3 - Conditions attached after a hearing by the licensing authority number 14**

“..The Premises Licence Holder or the DPS or any person who controls the premises or any persons concerned in the management of the premises shall not cause or permit a person to solicit for custom for the premises in any street or public place...”

6. Touting by the Restaurants in the Brick Lane area has been subject of concerns over crime and disorder for a number of years. In particular, there are a high number of restaurants in parts of Brick Lane to which the custom of passing Members of the public is highly sort after. This has resulted in some of the restaurants employing touts. The activities of these touts has led to a considerable number of complaints over the past few years as the methods used by the touts are causing nuisance and/or obstruction to others as well as local residents being threatened and occasionally assaulted by the touts. Further the touts make offers of inducements to customers, such as free drinks, and which are not honoured.

7. The current Council Licensing policy at paragraph 5.7 states:-

“..The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits "touting"..."

8. The Council enacted a bye law to ban touting and there have been a number of prosecutions of individual touts in recent years.

9. Complaints are still received about touting in Brick Lane by the restaurant trade.

10. For example the Council's CCTV Manager reported that over the weekend of the 24<sup>th</sup> and 25<sup>th</sup> July the Police were called twice to the junction of Hanbury Street and Brick Lane where touts had started fighting amongst themselves.

11. The Council's Community Safety Service conducted a residents' survey. 63.6% of resident questioned said that they had been approached by a restaurant tout. 67.9% of those approached said that the tout persisted even when they declined the offer.

12. To reiterate, the test purchasers were induced to enter the restaurant and the evidence shows that the tout was acting as an agent /employee of the

restaurant. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter the premises.

13. In order to improve the management of the premises in accordance with the Council's Licensing Policy and concerns about crime and disorder, the applicant seeks to have the two conditions below added to the premises licence to replace the condition in annex 3 number 14 — **although the Trading Standards Service does not seek to have the licence revoked, it does respectfully point out that the committee has within its gift the power to suspend the premises licence for a short period of time.**

14. Conditions:

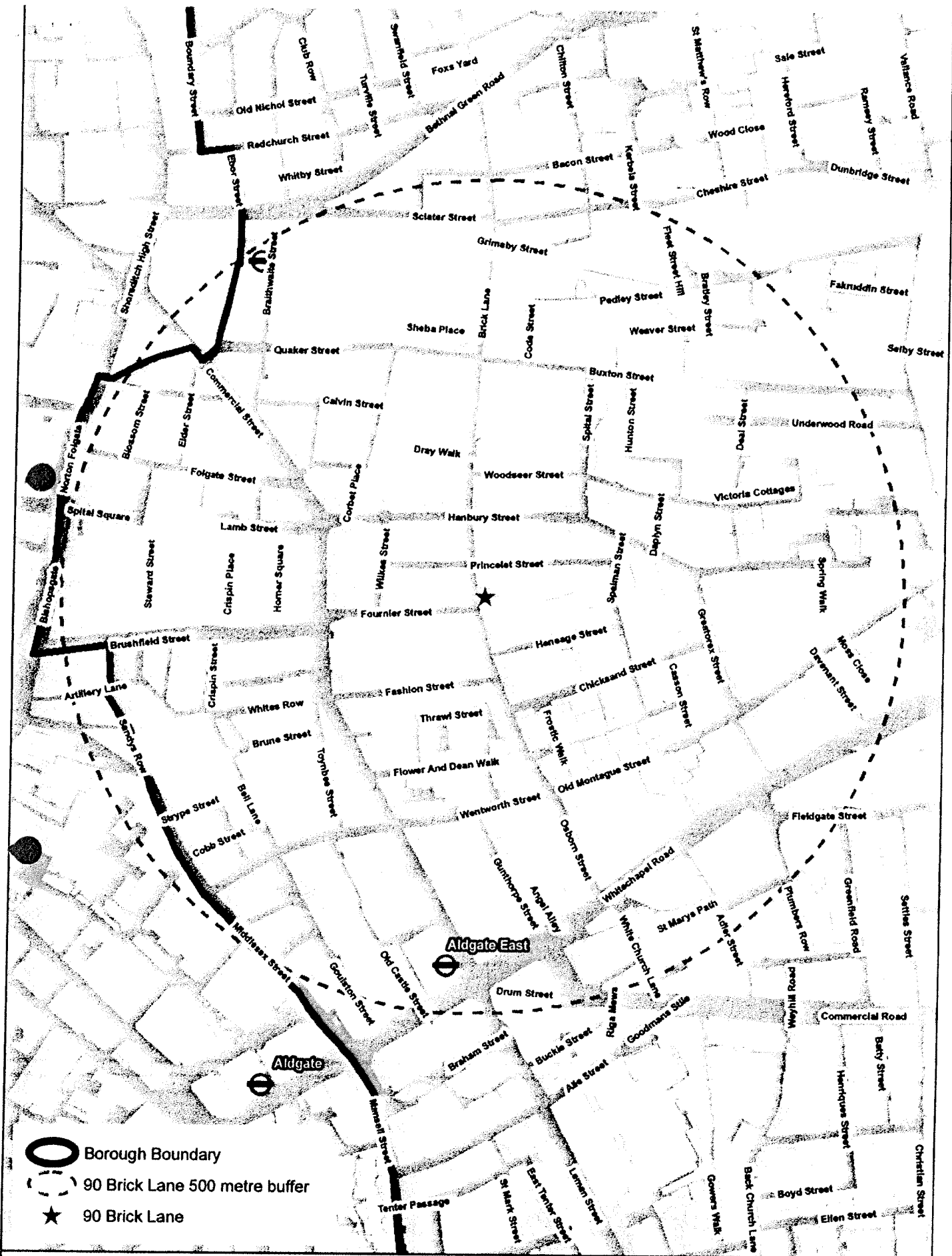
- 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 metres radius of the premises as shown edged red on the attached plan marked Appendix 1
- 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.




**John Patrick McCrohan**



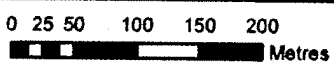
**Trading Standards Service Manager**


**London Borough of Tower Hamlets**



-  Borough Boundary
-  90 Brick Lane 500 metre buffer
-  90 Brick Lane

Produced by GIS Development & Renewal Tower Hamlets



 Appendix 1  
Licensing Act 2003  
Premises licence number 14003  
90 Brick Lane

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# Appendix 2





# TOWER HAMLETS

Licence / Registration

Certificate Number

14003

(Mango Restaurant)  
90 Brick Lane  
London  
E1 6RL

**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

Jacqueline Randall  
Licensing Services Manager

Date: 21<sup>st</sup> October 2009

**Part A - Format of premises licence**

Premises licence number

14003

**Part 1 - Premises details**

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

90 Brick Lane

**Post town**

London

**Post code**

E1 6RL

**Telephone number**

020 7247 9698

**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**

**Sale of Alcohol:**

Monday to Saturday from 12:00 hrs to 23:30 hrs

Sunday from 12:00 hrs to 23:00 hrs

**The Provision of Late Night Refreshment:**

Monday to Saturday until 00:00 hrs

Sunday until 23:30 hrs

**The opening hours of the premises**

Monday to Saturday from 12:00 hrs to 00:00 hrs

Sunday from 12:00 hrs to 23:30 hrs

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

On sales only

**Part 2**

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

Mr. Hushiar Ali



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

Not applicable

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

Mr. Hushiar Ali



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

London Borough of Tower Hamlets

No: 



## **Annex 1 - Mandatory conditions**

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.

**Effective from 10<sup>th</sup> October 2010:**

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.

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

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

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

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

1. Alcohol to be consumed by customers with meals only.
2. Signs to be displayed stating no sale of alcohol to underage persons
3. Customers shall be asked to leave quietly to prevent public nuisance.
4. Doors to be kept closed at all times to prevent noise breakout.
5. No congregation of groups will be allowed outside the premises.
6. Complementary black coffees will be offered where appropriate to customers prior to leaving the restaurant.
7. Children shall not be allowed to order alcohol for adults
8. Children shall not be accommodated near the bar
9. All children must be accompanied by adults.

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

10. Last orders for late night refreshment shall be:  
On Monday to Saturday by 23:30 hrs  
Sunday by 23:00 hrs
11. Waste materials shall not be placed in the external bins during the night hours (23:00 hrs to 07:00 hrs the following day)
12. There shall be no collection or deliveries between 23:00 hrs and 07:00 hrs.
13. CCTV to be installed or maintained (one to be positioned outside the main door). The CCTV system shall incorporate a recording facility and any recording shall be retained and stored in a suitable and secure manner for a minimum of 31 days. A system shall be in place to maintain the quality of the recorded image and a complete audit trail maintained. The system will comply with other essential legislation, and all signs as required will be clearly displayed. The system will be maintained and fully operational throughout the hours that the premises are open for licensable activity. There must also be someone on the premises who can download the images and present them immediately on request by a police officer or other regulatory authority.
14. The Premises Licence Holder or the DPS or any person who controls the premises or any persons concerned in the management of the premises shall not cause or permit a person to solicit for custom for the premises in any

street or public place.

15. To adhere to licensing objectives, the DPS, the Premises Licence Holder or a manager who has written permission, which can be supplied to the police or other responsible authority, to be on the premise.

#### **Annex 4 - Plans**

The plans are those submitted to the licensing authority on the following date:  
Ground Floor and Mezzanine floor  
14<sup>th</sup> August 2009



**Part B - Premises licence summary**

**Premises licence number** 14003

**Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> 90 Brick Lane	
<b>Post town</b> London	<b>Post code</b> E1 6RL
<b>Telephone number</b> [REDACTED]	

**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

**Sale of Alcohol:**  
Monday to Saturday  
from 12:00 hrs to 23:30 hrs  
Sunday from 12:00 hrs to 23:00 hrs

**The Provision of Late Night Refreshment:**  
Monday to Saturday until 00:00 hrs  
Sunday until 23:30 hrs

The opening hours of the premises

Monday to Saturday from 12:00 hrs to 00:00 hrs  
Sunday from 12:00 hrs to 23:30 hrs

Name, (registered) address of holder of premises licence

Mr. Hushiar Ali



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)

Not applicable

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

Mr. Hushiar Ali

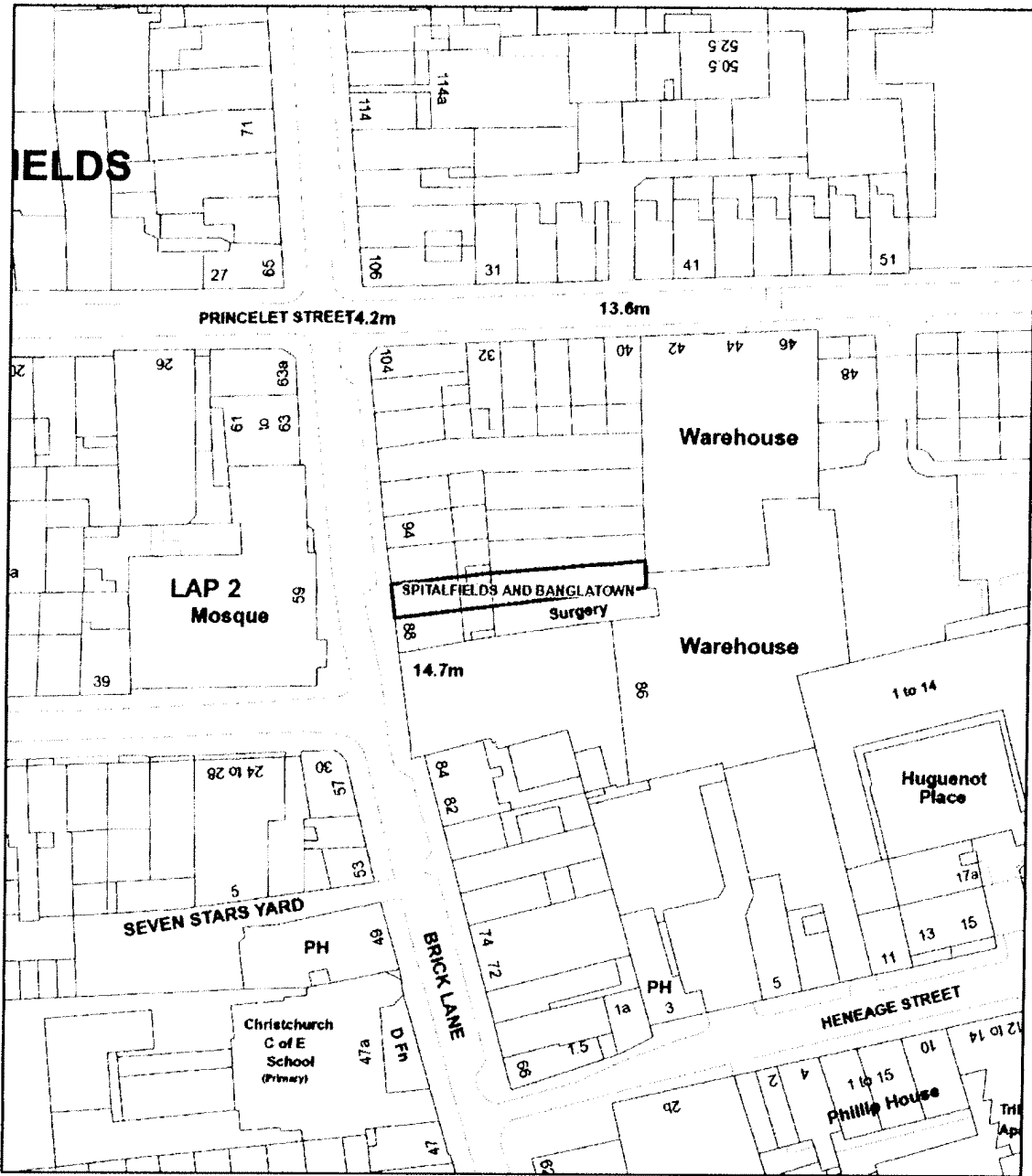
State whether access to the premises by children is restricted or prohibited

All children must be accompanied by adults

# Appendix 3





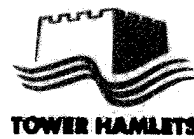
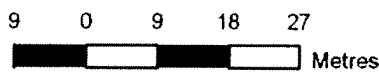


# Mango Restaurant

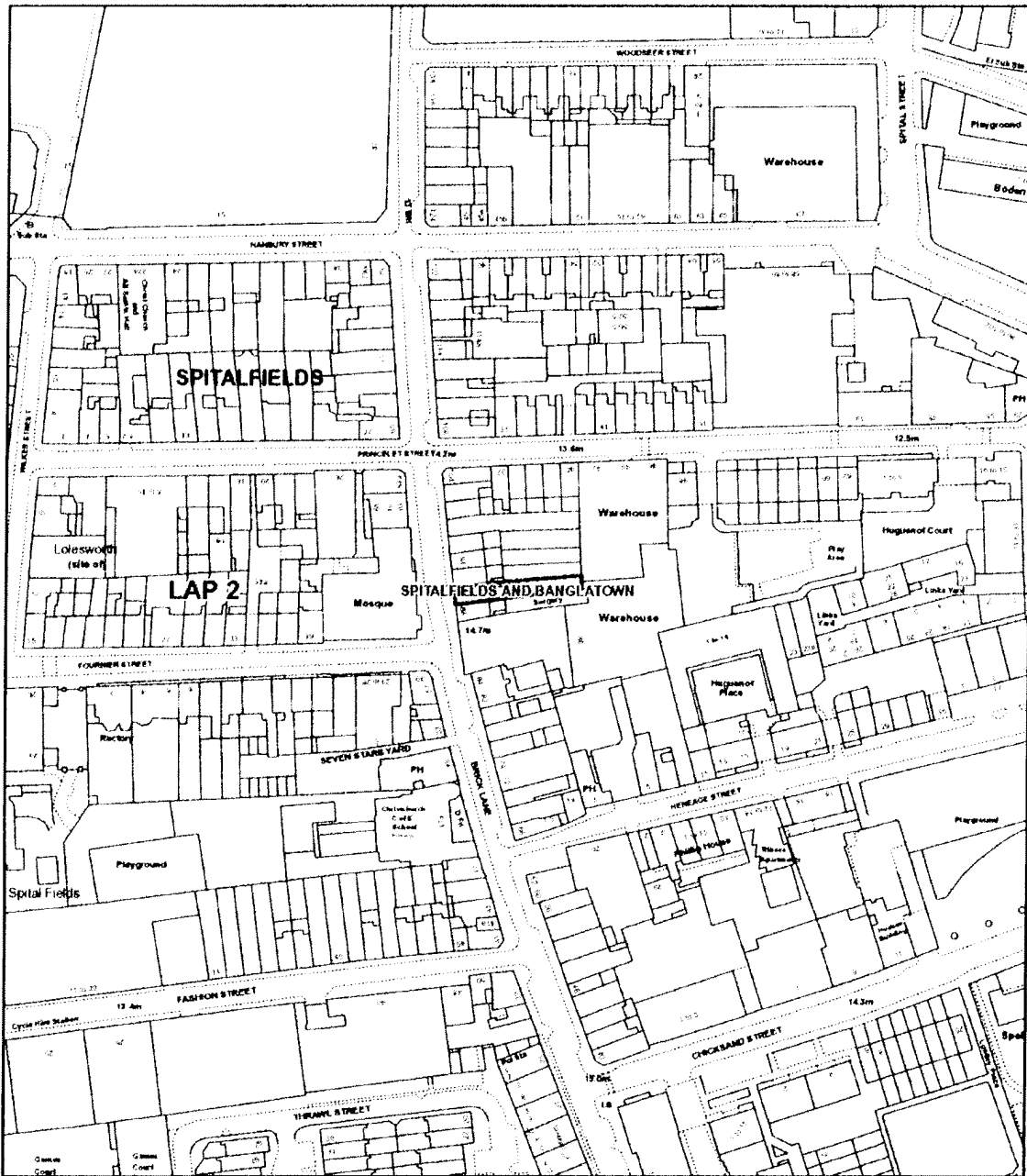
90 Brick Lane



Scale 1:836



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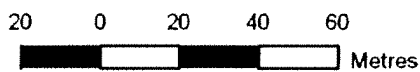


# Mango Restaurant

90 Brick Lane



Scale 1:1673



**TOWER HAMLETS**

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# Appendix 4





**METROPOLITAN  
POLICE**

Working together for a safer London

TERRITORIAL POLICING

Ms Randall  
LBTH Licensing  
Mulberry Place (AH)  
5 Clove Crescent  
E14

HT - Tower Hamlets Borough

Licensing Office  
Bethnal Green Police Station  
12 Victoria Park Square  
Bethnal Green  
E2 9NZ

Telephone: 0208 217 6699

Facsimile:

Email: Alan.Cruickshank@met.police.uk

www.met.police.uk

Your ref:

Our ref:

1st Nov 2010

Dear Ms Randall

**Re: Review of a premises licence**  
**Mango :90 Brick lane, E1 6RL**

I write with reference to the above review which was received in this office on the 27th October 2010.

Please accept this letter as notification that the police, as a responsible authority are supporting the review initiated by LBTH Trading Standards. **The crime and disorder and the prevention of public nuisance objectives have not been maintained or promoted**

Although Brick Lane is a very busy area, there are many restaurants competing against one another. This has led to the increased use of "curry touts" by a number of restaurants. People are accosted in the street and offered incentives to enter their own individual restaurant. This would include offering a "free drink" or a cheap set price.

As a result there has been a willingness by some touts to use violence to run off their competitors and this has resulted in some serious injuries, including a stabbing. On one occasion there was a mass brawl outside Café Reema involving two rival restaurants.

When diners eventually finish their meal, some waiters charge them the full amount and this has again resulted in fights between the customers and the restaurant staff.

Although there have been a number of convictions for touting, it does not deter some restaurants who will simply employ new touts.

However in relation to Mango itself, the following incidents have occurred

A police intelligence reports states that o the 12th February 2010 at about 2239 touts for the restaurant were seen to operate outside Mango.

On the 12th June 2010 at about 0050, two victims were subject to an unprovoked attack. Whilst one was fighting off a suspect he saw his friend being dragged into the doorway of Mango. On getting away from the other male, he entered Mango to see hid friend on the floor being punched and kicked by a number of Asian males. He was also then attacked. However, all the suspects had made off prior to police arrival? It is not known if these males were connected to the restaurant.  
CRIS 421454/10 refers

In conclusion, the Metropolitan Police Licensing Unit supports this review

Alan Cruickshank PC 189HT

# Appendix 5





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

### **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 on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.

11.17 The licensing authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the holder of the licence. However, where responsible authorities like the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to concerns, licensing authorities should not merely repeat that approach.

11.18 Where the licensing authority considers that action under its statutory powers are necessary, it may take any of the following steps:

to modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;

- to exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- to remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- to suspend the licence for a period not exceeding three months;
- to revoke the licence.

11.19 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than a necessary and proportionate response.

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

### **Reviews arising in connection with crime**

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

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

# Appendix 6



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

### **Crime and Disorder Act 1998**

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

### **Pool Conditions**

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

##### **Annex D**

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

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

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

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

## **CORE PRINCIPLES**

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

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

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

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

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

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

### **Text/Radio pagers**

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

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of



potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

### **Door supervisors**

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

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
  - keeping out individuals excluded by court bans or by the licence holder;
  - searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
  - maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
    - the number of supervisors;
    - the displaying of name badges;
    - the carrying of proof of registration;
    - where, and at what times, they should be stationed on the premises;
- and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

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

### **Bottle bans**

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for

consumption on the premises. This should be expressed in clear terms and include the following elements:

- no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;
  - no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

- but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

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

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

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

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

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

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

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

## **CCTV**

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

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

## **Restrictions on drinking areas**

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

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

## **Capacity limits**

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

## **Proof of age cards**

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

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

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

### **Crime prevention notices**

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

### **Drinks promotions**

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

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

### **Signage**

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

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

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

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

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

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



# Appendix 7





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

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



# Appendix 8



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

### **Conditions relating to the prevention of public nuisance**

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

### **Hours**

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

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

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time. In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

### **Noise and vibration**

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

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

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

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

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

### **Noxious smells**

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

### **Light pollution**

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

### **Other measures**

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

# Appendix 9





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

### Licensing Policy

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

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

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

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

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

### Police Powers

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

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

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

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

Licence conditions should not duplicate other legislation (1.16).

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

### Other Legislation

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

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

# Agenda Item 4.3

Committee: <b>Licensing Sub-Committee</b>	Date: 11 January 2011	Classification: UNRESTRICTED	Report No. LSC 53/011	Agenda Item No.
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Report of: <b>Colin Perrins</b> <b>Head of Trading Standards and Environmental Health (Commercial)</b>  Originating Officer: <b>Mohshin Ali – Acting Senior Licensing Officer</b>	Title: <b>Licensing Act 2003</b>  <b>Application to Review the Premises Licence for Cinnamon, 134 Brick Lane, London E1 6RU</b>  Ward affected: <b>Spitalfields and Banglatown</b>
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## 1.0 Summary

Name and Address of premises:	<b>Cinnamon 134 Brick Lane London E1 6RU</b>
Licence under review:	<b>Licensing Act 2003</b> <ul style="list-style-type: none"><li>▪ <b>Sale by retail of alcohol</b></li><li>▪ <b>Late night refreshment</b></li></ul>
Representations:	<b>Local Weights and Measures Authority Police Planning</b>

## 2.0 Recommendations

- 2.1 That the Licensing Committee considers the application for review and then adjudicates accordingly.

**LOCAL GOVERNMENT 2000 (Section 97)**  
**LIST OF "BACKGROUND PAPERS" USED IN THE DRAFTING OF THIS REPORT**

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none"><li>• Guidance Issued under Section 182 of the Licensing Act 2003</li><li>• Tower Hamlets Licensing Policy</li><li>• File</li></ul>		<b>Mohshin Ali 020 7364 5498</b>

### 3.0 Review Application

- 3.1 This is an application for a review of the premises licence for Cinnamon, 134 Brick Lane, London E1 6RU. The review was triggered by Trading Standards, the Local Weights and Measures Authority.
- 3.2 This review is one of a number of reviews triggered during Operation Creek, a joint partnership operation tackle the problem of touting in the Brick Lane area. This includes compliance with the local touting byelaw, conditions of premises licences preventing the use of touts, the activities and behaviour of touts also the offers being given to customers.
- 3.3 A copy of the review application is attached in **Appendix 1**.

### 4.0 The Premises

- 4.1 The premises licence was issued on 16<sup>th</sup> November 2007. During the enforcement visit it was established that the premises licence holder and designated premises supervisor was no longer at the premises and a new owner had taken over. A transfer and variation of Designated Premises Supervisor was received on 8<sup>th</sup> November 2010 to Mr. Hakim, however the Police objected to this on the grounds it will undermine the crime & disorder objective as there were relevant offences.

A further transfer was applied on 12<sup>th</sup> November 2010, the applicant being a relative of Mr. Hakim, the Police have requested that a condition be imposed on the licence to prevent Mr. Hakim being involved in the licensable activities taking place. Please see **Appendix 4** with the Police representation.

- 4.2 A variation of Designated Premises Supervisor was applied on 26<sup>th</sup> November 2010. A copy of the licence is contained in **Appendix 2**, however this has only incorporated the transfer. At the time of writing the report we were unable to confirm if the variation of DPS had been agreed by the Police.
- 4.3 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3**.

### 5.0 Representations

- 5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by: Trading Standards, the local Weights and Measures Authority.

5.2 The review is further supported by Metropolitan Police see **Appendix 4**.

**NB.** A email from the Metropolitan Police has been restricted as references have been made to personal details (Please see **Appendix 4A**).

5.3 The review is supported by the Planning Department see **Appendix 5**.

5.4 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to Planning and Building Control see **Appendix 6**.

5.5 Only representations that relate to the following licensing objectives are relevant:

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

5.6 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the prevention of public nuisance and prevention of crime & disorder.

## 6.0 **Review Explained**

6.1 The Licensing Act 2003 was described by the Government at the time as “light touch” but as Baroness Blackstone stated in the Lords at the time of the second reading (26 Nov 2002) “Local residents and businesses as well as expert bodies, will have the power to request that the licensing authority review existing licences where problems arise. Such a review could result in the modification of the licence, its suspension, or ultimately, revocation.”

6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 7**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in October 2010.

6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”

- 6.4 In relation to its advice on representations the Home Office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder, and the pool of conditions which might be considered in relation to any identified problems see **Appendix 8**.
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 9**. The Pool Conditions in the Policy are the same as the Government’s.
- 6.6 The home office has also issued guidance about the prevention of public nuisance and the pool of conditions which might be considered in relation to any identified problems is contained in **Appendix 10**.
- 6.7 The Council’s Licensing Policy in relation to Public Nuisance is contained in **Appendix 11**.
- 6.8 The Home Office has advised that in relation to reviews “It is important to recognise that the promotion of licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between those groups in a way that would undermine the benefits of co-operation. It would be good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. It is expected that a failure to respond to such warnings would lead to a decision to request a review.”
- 6.9 The licensing authority itself cannot trigger a review; that can only be done by a responsible authority or an interested party (local resident or business).
- 6.10 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing Services Manager Ms Jacqueline Randall is the delegated officer who deals with this on behalf of the licensing authority. All the matters stated in 5.0 were considered before any representations were accepted for inclusion in this report.

- 6.11 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:
- The ground is not relevant to one or more of the licensing objectives
  - In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## 7.0 Review Advertisement

- 7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.
- 7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.
- 7.3 The procedure for a review can be summarised as follows:
- A review is triggered by a responsible authority or interested party
  - Consultation is conducted for 28 full days
  - Other responsible authorities or interested parties may join in the review
  - Members conduct a hearing
  - Members make a determination
  - All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## 8.0 Licensing Officer Comments

- 8.1 The Governments advice in relation to reviews is contained in **Appendix 7**. Members must consider all the evidence and then decide from the following alternatives:
- Take no further action as they do not consider it proportionate to do so
  - Impose conditions (including altering existing permissions) that relate to problems which they consider have been identified and which are necessary and proportionate to ensure that the licensing objectives are met
  - Suspend the licence for a period
  - Revoke the licence completely
- 8.2 The licence should only be suspended or revoked if Members believe that alterations to the existing licence, including imposing new conditions

does not have a reasonable prospect of ensuring that the licensing objectives are met.

- 8.3 Members should bear in mind that conditions may not be imposed for any purpose other than to meet the licensing objectives.
- 8.4 In all cases the Members should make their decision on the civil burden of proof that is “the balance of probability.”
- 8.5 In all cases Members should consider whether or not primary legislation is the appropriate method of regulation and should only consider licence conditions when the circumstances in their view are not already adequately covered elsewhere.

## 9.0 **Legal Comments**

- 9.1 The Council’s legal officer will give advice at the hearing.

## 10.0 **Finance Comments**

- 10.1 There are no financial implications in this report.





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# Appendix 1



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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

Before completing this form please read the guidance notes at the end of the form. If you are completing this form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary.

You may wish to keep a copy of the completed form for your records.

I John Patrick McCrohan

*(Insert name of applicant)*

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

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> 134 Brick Lane known as CINNAMON	
<b>Post town</b> London	<b>Post code (if known)</b> E1 6RU

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Ali Amzad Chowdhury Hussain
--

<b>Number of premises licence or club premises certificate (if known)</b> 12338
--

**LBTH**  
TRAFFIC STANDARDS  
22 OCT 2010  
**LICENSING**

**Part 2 - Applicant details**

I am

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

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

2) a responsible authority (please complete (C) below)

**Please tick yes**

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

**Please tick**

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

**Surname**

**First names**

**I am 18 years old or over**

**Please tick yes**

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

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

**Name and address**

N/A

**Telephone number (if any)**

**E-mail address (optional)**

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

<b>Name and address</b> John Patrick McCrohan Trading Standards Service ( Local Weights and Measures Authority) Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
<b>Telephone number (if any)</b> [REDACTED]
<b>E-mail address (optional)</b> [REDACTED]

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

**Please tick one or more boxes**

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input type="checkbox"/>            |

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

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

please see attached document



Have you made an application for review relating to this premises before  **Please tick yes**

If yes please state the date of that application

Day	Month	Year
<input type="text"/>	<input type="text"/>	<input type="text"/>

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

n/a

Please tick yes

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

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

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

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

[Redacted signature area]

Date 22/10/10

Capacity APPLICANT

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)</b> N/A	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**Notes for Guidance**

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

London Borough of Tower Hamlets

134 Brick Lane, London, E1 6RU

Licence No **12338** (Licence Holder **All Amzad Chowdhury Hussain**)

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

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London Borough of Tower Hamlets – Trading Standards Service

#### REPRESENTATIONS

- 
1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and Disorder , licensing objective 1
  2. A test purchase was carried out at Cinnamon, 134 Brick Lane, London, E1 6RU, in the evening of 22<sup>nd</sup> September 2010 where the test purchasers were induced to enter the premises by a male tout who escorted them to the restaurant. The encounter with the tout was captured on a covert video camera.

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forma cinnamon.doc

3. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter Cinnamon.
  
4. The premises licence holder and designated premises supervisor of Cinnamon, 134 Brick Lane, London, E1 6RU is **All Amzad Chowdhury Hussain**.
  
5. There is a condition applied to the premises licence as follows at Annex 2 -  
Conditions consistent with the operating Schedule:-

**"Touting is not allowed"**

6. The permitted opening hours for the restaurant are:-

**Supply of Alcohol**

Sunday, Monday, Tuesday, Wednesday, Thursday,  
11:30 hours until 00:30 hours the following day.

Friday and Saturday

11:30 hours until 01:30 hours the following day

**Late Night Refreshment (starts at 23:00 hrs)**

Sunday, Monday, Tuesday, Wednesday, Thursday: 11:30 hrs until  
00:30 hrs the following day.

Friday and Saturday: 11:30 hrs until 01:30 hrs the following day.

7. On 19<sup>th</sup> October 2010 one **Abdul Akim** was interviewed under caution and tape recorded. He said that **All Amzad Chowdhury Hussain** had left the UK six months ago to live in **BANGLADESH** and that he, **Abdul Akim**, was now the owner of the business.

- 
8. On Sunday 17<sup>th</sup> October 2010 the premises was observed to be open and serving alcohol outside its permitted hours at 2.30 am. The officers observed that there were around 30 diners in the restaurant, many with full glasses of alcohol on their tables.
9. When the Licensing Officers entered the premises a member of staff kept asking them to move and said words to the effect that he didn't have to do anything they said as 'You're not the old Bill'. The officers reported that there was food being continually run from the kitchen and that the staff were very rude and aggressive. When asked to show the premises licence, the aforementioned member of staff refused. The officers decided to leave the restaurant and departed at around 02:40 as more curries were being bussed from the kitchen.
10. At 03:06 the officers drove past the restaurant again and said that they saw that it was still open, but most of the customers appeared to be leaving at that time.
11. Touting by the Restaurants in the Brick Lane area has been subject of concerns over crime and disorder for a number of years. In particular, there are a high number of restaurants in parts of Brick Lane to which the custom of passing Members of the public is highly sort after. This has resulted in some of the restaurants employing touts. The activities of these touts has led to a considerable number of complaints over the past few years as the methods used by the touts are causing nuisance and/or obstruction to others as well as

local residents being threatened and occasionally assaulted by the touts.  
Further the touts make offers of inducements to customers, such as free drinks, and which are not honoured.

12. The current Council Licensing policy at paragraph 5.7 states

"..The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits "touting"..."

13. The Council enacted a bye law to ban touting and there have been a number of prosecutions of individual touts in recent years.

14. Complaints are still received about touting in Brick Lane by the restaurant trade.

15. For example the Council's CCTV Manager reported that over the weekend of the 24<sup>th</sup> and 25<sup>th</sup> July the Police were called twice to the junction of Hanbury Street and Brick Lane where touts had started fighting amongst themselves.

16. The Council's Community Safety Service conducted a residents' survey.

63.6% of resident questioned said that they had been approached by a restaurant tout. 67.9% of those approached said that the tout persisted even when they declined the offer.

17. To reiterate, the test purchasers were induced to enter the restaurant and the evidence shows that the tout was acting as an agent /employee of the restaurant. Licensing Officers went to the premises after the test purchasers had left and were accosted by a male tout offering inducements to enter.

18. In the light of the fact that there is no premises licence holder and no designated premises supervisor for the premises, coupled with the use of touts and the behaviour of the staff towards Council Licensing Officers, the **Trading Standards Service therefore respectfully submits that the Licensing Sub-Committee exercises its power under Section 52 of the Licensing Act 2003 and revokes the premises licence.**

**John Patrick McCrohan**

**Trading Standards Service Manager**

**London Borough of Tower Hamlets**

**WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Andrew Heron ..... URN 

--	--	--	--

Age if under 18: Over 18 ..... (if over 18 insert 'over 18') Occupation: LICENSING OFFICER .....

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

Signature: ..... Date: 26.11.2010

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

I am Andrew HERON and I am employed as a Licensing Officer by the London Borough of Tower Hamlets Trading Standards Service.

On Wednesday 22nd September 2010 I was working with my colleague Kat hy DRIVER (Acting Principal Licensing Officer). In addition, we were working with two volunteers: [REDACTED]

[REDACTED] We were partaking in an under-cover touting project in the Brick Lane area (E1) of London, under the code name 'Operation Creek'.

**Covertly recorded test purchase**

On Wednesday 22nd September 2010 at about 19:00hours we went to the Brick Lane area. [REDACTED] was wearing a covert camera recording video and audio. Shortly after arriving, [REDACTED] departed along Redchurch Street towards Brick Lane, walking Southwards. I remained with Officer DRIVER.

Within 15 minutes, I received a text message from [REDACTED] to advise that they were

Signature: [REDACTED]  
2004(1)

Signature witnessed by:



**CONTINUATION OF STATEMENT OF WITNESS  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)**

in Cinnamon, the address of which I know to be 134 Brick Lane. I received a further text to advise that they were ordering. A further text to advise that there was a delay in the arrival of the food and a forth text to advise that they were paying the bill some time later.

Officer DRIVER and I met with [REDACTED] at around 21:10hours.

[REDACTED] gave me the covert camera and I was able to confirm that a recording had been made. Both volunteers gave a briefing of what happened as follows:-

- They advised that they had been met by a number of touts just past the Truman Brewery on the eastern side of the street. There was one tout directly outside Cinnamon described as being an IC4 male, 5'6", early 30s, clean shaven. He was wearing a black leather jacket zipped up, black shirt, black trousers and shoes.
- The tout stood directly in their path and would not let them pass.
- The offer was: 25% discount and two rounds of free drinks, including alcohol or a bottle of wine.
- Their meal cost £30.85 which they believe was about correct. They believed the bill would be more like £29.00. A service charge was added at 10% and stated on the menu. However, they were charged separately for the chutney that came with the poppadoms. This is not

Signature:

2004(1)

Signature witnessed by:

CONTINUATION OF STATEMENT OF WITNESS  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B

usual practice and in addition was not ordered by the volunteers. They did however order poppadoms.

- They noted that as they ate, the same tout brought in other diners. He was also joined by another 2 members of the waiter staff, both IC4 males, one in his 20s, clean shaven 5'7". The other was taller, much thinner in 30s, with a darker complexion. He was not clean shaven and receding.

Visit to Cinnamon, 134 Brick Lane, E1

Officer DRIVER and I went to Cinnamon, 134 Brick Lane, E1. We arrived at around 21:35 hours. Outside the restaurant there was an IC4 male, wearing a leather jacket and matching the description given by the volunteers. As we approached, he stood on the pavement blocking our path. He offered us a meal with a 25% discount and free drinks. We said that we would go into the restaurant. As we entered the door, we displayed our warrants and I asked to speak to the Manager.

The premise consists of long seating area, and a bar to the rear with the kitchen to the rear, in effect behind the seating area. There was also clearly a subterranean section that was very busy.

We asked to speak to the Manager. An IC4 gentleman, of very slim build and dark complexion with a short, trimmed beard on a square jaw (whom I took to be the 3<sup>rd</sup> staff member as

Signature  
2004(1)

Signature witnessed by:

**CONTINUATION OF STATEMENT OF WITNESS**  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)

described by the volunteers) advised that he was the Manager. His demeanour was aggressive, overly-assertive and unhelpful. He asked us wait for one minute while he went to the kitchen. A minute later, another gentleman, also IC4 and of larger build appeared and introduced himself as the manager. He invited us to sit down on one of the empty tables.

I advised as to our visit and advised that we were most concerned with the touting taking place outside. The gentleman advised that he was the Manager, the owner (in partnership) and also said that he was the 'supervisor for alcohol' which I took to be the Designated Premise Supervisor. He advised that his name is Mr Daras Miah, [REDACTED] and that his home address is [REDACTED]

As we discussed that our volunteers had been in, we advised that we had also been touted by the gentleman at the door. Mr Miah advised that he is employed by the restaurant and that he is only there to describe to people what the menu is like. I said that I didn't really believe him, as he touted us and our volunteers with the same offer. Further, I advised that our volunteers had witnessed the main tout introducing other customers to the restaurant. I further expanded by saying that two other members of staff also assisted him. I indicated to the thinner gentleman, whom took great offence to my suggestion that he was touting. He told Officer DRIVER and me in a raised angry voice that he wasn't a tout; he was just going outside to tell people that there was no corkage fee. He was very aggressive and so Mr Miah asked him to leave us.

Mr Miah stated that he knew that there is a bye-law in the Brick Lane area prohibiting touting.

Signature: [REDACTED]

2004(1)

Signature witnessed by:

**CONTINUATION OF STATEMENT OF WITNESS  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)**

He went on to say that everyone touts and that there are a thousand touts in Brick Lane tonight.

We asked to see the Premise Licence, which he was unable to produce. He said that the summary was on the wall. Officer DRIVER went to inspect the licence on the wall and advised me that it was only Page 2 of the licence, which would not be the summary. We advised him that he must put his summary on display. I advised that the Premise Licence Holder would be invited for a PACE interview. We left at 21:50hours.

**Additional Visit – Sunday 17<sup>th</sup> October**

As part of standard late-night visits, I accompanied Officer DRIVER to Cinnamon again. In the knowledge that the restaurant has a closing time on their licence as 01:30.

We arrived at 02:30. There was an IC4 gentleman standing at the door, wearing plain clothes. We asked him if we could come in and get a take-away. He said we could. He opened the door for us and signalled to the waiters all wearing black. They signalled to say that we could not come in, possible as one of them recognised me from the previous visit.

There were around 30 diners in the restaurant, many with full glasses of alcohol on their tables. We took out our badges and Officer DRIVER asked to speak to the manager and to see the Licence.

There was food being continually run from the kitchen. The staff were very rude and

Signature

2004(1)

Signature witnessed by:

**CONTINUATION OF STATEMENT OF WITNESS**  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)

aggressive. The thin, bearded IC4 male recognised me and said that we had been in as few weeks ago. He told us that they were very busy and to 'get out the way'. His voiced was raised and his manner was wholly aggressive and uncooperative. He kept asking us to move and said that he didn't have to do anything we said as 'You're not the old Bill'. He refused to show us the Licence. We decided to leave the restaurant and departed at around 02:40 as more curries were being bussed from the kitchen.

At 03:06 we drove past the restaurant again. We could see that it was still open, but most of the customers appeared to be leaving at that time. [REDACTED]

Signature [REDACTED]

2004(1)

Signature witnessed by:

**WITNESS STATEMENT**

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Kathy Driver ..... URN 

--	--	--	--

Age if under 18: Over 18 ..... (if over 18 insert 'over 18') Occupation: Acting Principal Licensing Officer .....

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

Signature: [Redacted] ..... Date 26/11/10

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

I am Kathy Driver, Acting Principal Licensing Officer in the Licensing Section, employed by the London Borough of Tower Hamlets.

On Wednesday 22<sup>nd</sup> September 2010 I was working with Andrew HERON, also a licensing officer alongside [Redacted] who were volunteer officers also employed by the London Borough of Tower Hamlets to work undercover for an operation (Operation Creek) to look at touting in Brick Lane area for possible breaches of conditions of licence and possible breaches of a local byelaw within Tower Hamlets that prevents touting.

Around 21:00 hours we arrived in Redchurch Street area. Officer HERON ensured that the covert camera was operating which [Redacted] was wearing and [Redacted] and [Redacted] proceeded to head in a southerly direction towards Brick Lane.

I was informed by officer HERON that the two officers had been approached and were now eating at the premises Cinnamon Restaurant, 134 Brick Lane, London E1 6RU.

At 21:15 I was informed by [Redacted] that they had been stopped by an IC4 male wearing black leather jacket, black trousers and shoes in early 30's and clean shaven, they were offered 25% discount plus any two free drinks or a bottle of wine. The officers stated the menu stated service charge not included but were however charged for chutney without requesting it. They also stated the IC4 male brought other customers into the

Signature [Redacted]  
2004(1)

Signature witnessed by:

CONTINUATION OF STATEMENT OF WITNESS  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)

restaurant while they sat and ate. There were other touts operating for the premises one early 20's clean shaven 5'7" – 5'8" and a tall bearded male in his 30's who they recognised to be a waiter on premises.

At 21:34 I arrived at the premises Cinnamon, 134 Brick Lane, London E1 6RU with [REDACTED] immediately I recognised that an IC4 male fitting the description from [REDACTED] [REDACTED] black leather jacket and trousers, was standing outside the premises. He offered a discounted meal and free drinks and proceeded to escort us into the restaurant. On entering I produced my authorisation and asked to speak to the manager, I proceeded to walk towards the rear of the premises where the small bar area was positioned on the left. I was introduced to a Daras Miah who informed me was the owner. Officer HERON proceeded to inform him as to the nature of our visit. I requested to view a copy of the premises licence to which they pointed towards the wall behind the bar, this revealed one page that was fixed to wall displaying Part A page 2 of the licence No: 12338. The staff appeared to be very unhelpful. Mr. Miah was unable to produce the full version of the premises licence and Part B – the Summary was not on display. Officer HERON advised of the operation of the touts in the restaurant of which the waiters, described as one of the touts became very defensive and raise his voice, to which Mr. Miah asked him to move away. I advised Mr. Miah of the requirement to produce the premises licence and to display the summary. We then left the premises at around 21:50 hours. I produce a copy of the licence No. 12338 as exhibit CINN/001. The premises licence contains a condition in Annexe 2 which states: **Touting is not allowed**

Signature: 

2004(1)

Signature witnessed by:



# TOWER HAMLETS

Licence / Registration

Certificate Number

12338

134 Brick Lane  
 London  
 E1 6RU

I identify this exhibit as that referred  
 to in the statement signed by me  
 CINN/  
 Exhibit number... 001 Date... 26/11/07  
 Signed... *[Signature]*  
 Name... KATHY DRIVER .

**Licensable Activities authorised by the licence**  
 The sale by retail of alcohol  
 Provision of late night refreshment

See the attached licence for the licence conditions

Signed by

John Crus  
Team Lead



*[Handwritten initials]*

Date: 16/11/2007

FOR OFFICE USE	Receipt Number	Fee Paid	Fee Req.	Date	Initial
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TOWER HAMLETS

LICENSING ACT 2003

**Part A - Format of premises licence**

Premises licence number

12338

**Part 1 - Premises details**

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

134 Brick Lane

**Post town**  
London

**Post code**  
E1 6RU

**Telephone number**  
[REDACTED]

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

The sale by retail of alcohol  
Late Night Refreshment

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

**Supply of Alcohol**

Sunday, Monday, Tuesday, Wednesday, Thursday,  
11:30 hours until 00:30 hours the following day.

Friday and Saturday

11:30 hours until 01:30 hours the following day.

**Late Night Refreshment (starts at 23:00 hrs)**

Sunday, Monday, Tuesday, Wednesday, Thursday: 11:30 hrs until 00:30 hrs the following day.

Friday and Saturday: 11:30 hrs until 01:30 hrs the following day.

**Note:** New Years Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 11pm on New Years Eve and 11am on New Years Day.

**The opening hours of the premises**

Sunday, Monday, Tuesday, Wednesday, Thursday: from 11:30hrs until 01:00 hrs  
Friday and Saturday : from 11:30hrs until 02:00 hrs the following day

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

On sales only

**Part 2**

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

**All Amzad Chowdhury Hussain**



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

**N/A**

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

**All Amzad Chowdhury Hussain**



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

**Licence Number: 12084**

**Issuing Authority: London Borough of Tower Hamlets**

## **Annex 1 - Mandatory conditions**

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.

**Effective from 10<sup>th</sup> October 2010:**

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.

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

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, such individuals must be licensed with the Security Industry Authority.

This does not apply to premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001, (premises with premises licences authorising plays or films), or in respect of premises in relation to any occasion mentioned in paragraph 8(3)(b) or (c) of Schedule 2 (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising plays or films or under a gaming licence), or any occasion within paragraph 8(3)(d) of Schedule 2 (occasions prescribed by regulations under that Act) unless the Licence specifically states otherwise.

Security activity means an activity to which paragraph 2(1)(a) of Schedule 2 of the Private Security Industry Act 2001 of that schedule applies, and Paragraph 8(5) of Schedule 2 (interpreting of references to an occasion) applies as it applies in relation to paragraph 8 of Schedule 2 of the Private Security Industry Act 2001

**Note:** However, New Years Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 11pm on New Years Eve and 11am on New Years Day.

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

**Touting is not allowed**

**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: 11/09/2007



**Part B - Premises licence summary**

**Premises licence number** 12338

**Premises details**

<b>Postal address of premises, or if none, ordnance survey map reference or description</b> 134 Brick Lane	
<b>Post town</b> London	<b>Post code</b> E1 6RU
<b>Telephone number</b> [REDACTED]	

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

**Licensable activities authorised by the licence** The sale by retail of alcohol  
Provision of Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

**Supply of Alcohol**  
Sunday, Monday, Tuesday, Wednesday, Thursday,  
11:30 hours until 00:30 hours the following day.  
Friday and Saturday  
11:30 hours until 01:30 hours the following day.

**Late Night Refreshment (starts at 23:00 hrs)**  
Sunday, Monday, Tuesday, Wednesday, Thursday: 11:30 hrs until 00:30 hrs the following day.  
Friday and Saturday: 11:30 hrs until 01:30 hrs the following day.

The opening hours of the premises

**Sunday, Monday, Tuesday, Wednesday, Thursday** - from 11:30hrs until 01:00 hrs the following day

**Friday and Saturday:**  
from 11:30hrs until 02:00 hrs the following day

Name, (registered) address of holder of premises licence

**All Amzad Chowdhury Hussain**

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)

N/A

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

**All Amzad Chowdhury Hussain**

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

No



**WITNESS STATEMENT**

(CJ Act 1987, s.9; MC Act 1980, ss.5A(3) (a) and 5B; MC Rules 1981, r.70)

Statement of: Kathy Driver ..... URN 

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Age if under 18: Over 18 ..... (if over 18 insert 'over 18') Occupation: Acting Principal Licensing Officer .....

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

Signature: Kathy Driver ..... Date: 26/10/10 .....

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

I am Kathy Driver, Acting Principal Licensing Officer in the Licensing Section, employed by the London Borough of Tower Hamlets.

On the night of 16<sup>th</sup> October 2010 and morning of 17<sup>th</sup> October 2010 I was working on enforcement visits with Andrew HERON, Licensing Officer to various premises within the remit of Tower Hamlets.

I arrived at Brick Lane around 02:30 and noted Cinnamon, 134 Brick Lane, London E1 6RU still had their lights on and appeared to be open for business.

As officer HERON and I arrived I noted around 30 people inside eating and drinking, as we approached the premises I saw an IC4 male inside walk towards the entranced door and he opened the door. We asked if we could obtain a takeaway and responded yes and turned to walk inside, myself and officer HERON started to walk behind him, officer HERON behind me.

On entering the premises nearly all of the tables inside had customers sitting at them eating. However upon entry it appeared the staff recognised either myself or officer HERON and told us they were closed. I then approached the bar area to the rear of the premises on the left, there was a male waiter behind the bar, I showed them my authorisation and asked to see their licence, the waiter became very irate and stated that we had already visited the premises, and pointed to the one page of the licence that was on display behind the bar. This was the

Signature: Kathy Driver

Signature witnessed by:

**CONTINUATION OF STATEMENT OF WITNESS  
(Criminal Procedure Rules r27.1(1): Criminal Justice Act 1967,  
S.9; Magistrates Courts Act 1980 5B)**

same page that was on display on my previous visit of 22<sup>nd</sup> September 2010. It was page 2 of Part A. When I asked for the licence they said to me "you are not old bill" and refused to cooperate. I recognised one of the waiters from my previous visit who had interrupted our discussions with the owner who was aggressive then also. The staff continued to go about their business and ignore us. I stood next to the bar area in the gangway between the tables and proceeded to look into the door which had small glass window, inside was the kitchen area where I noted a member of staff preparing food. He was placing a curry dish (red in colour with what appeared to be a pouring of cream in the centre) onto a tray with rice. One of the waiters told me to move out of the way as he brought out a tray of food which was the red curry I had seen with rice, this was noted at being 02:34am. On noting the tables the whole of the right hand side of the restaurant were full of customers 4 persons also on left near to the staircase which led to a basement area. There were large size bottles of cobra on the tables, the bottles were half full and the glasses were  $\frac{3}{4}$  full. The staff appeared to become more aggressive and not one member of the staff wanted to discuss the situation with us. I felt that the situation could become worse if we remained and therefore to prevent any risk we left the premises around 02:40 hours.

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2004

Signature witnessed by:

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# Appendix 2





# TOWER HAMLETS

Licence / Registration

Certificate Number

14591

134 Brick Lane  
London  
E1 6RU

**Licensable Activities authorised by the licence**


The sale by retail of alcohol  
Provision of late night refreshment

See the attached licence for the licence conditions

Signed by

Jacqueline Ra   
Acting Licensing Services Manager

Date: 16/11/2007

As Amended transfer PLH 12-11-2010 

FOR OFFICE USE

Receipt Number 22065 Fee Paid £23 Fee Req. 23 Date 12-11-10 Initial KD

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**Part A - Format of premises licence**

Premises licence number

14591

**Part 1 - Premises details**

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

134 Brick Lane

**Post town**  
London

**Post code**  
E1 6RU

**Telephone number**

**Where the licence is time limited the dates**

Not applicable

**Licensable activities authorised by the licence**

The sale by retail of alcohol  
Late Night Refreshment

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

**Supply of Alcohol**

Sunday, Monday, Tuesday, Wednesday, Thursday:  
11:30 hours until 00:30 hours the following day.

Friday and Saturday:  
11:30 hours until 01:30 hours the following day.

**Late Night Refreshment**

Sunday, Monday, Tuesday, Wednesday, Thursday: 23:00 hrs until 00:30 hrs the following day.

Friday and Saturday: 23:00 hrs until 01:30 hrs the following day.

**Note:** New Years Eve is subject to the Regulatory Reform (Special Occasion Licensing) Order 2002. Which means that while that order is in effect the premises may remain open for the twelve hours between 11pm on New Years Eve and 11am on New Years Day.

**The opening hours of the premises**

Sunday, Monday, Tuesday, Wednesday, Thursday: from 11:30hrs until 01:00 hrs  
Friday and Saturday : from 11:30hrs until 02:00 hrs the following day

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

On sales only

## **Part 2**

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

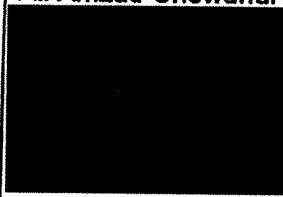
Mr. Muhammed Abdul Rauf  
134 Brick Lane  
London  
E1 6RL

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

N/A

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

Ali Amzad Chowdhury Hussain



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

Licence Number: 12084  
Issuing Authority: London Borough of Tower Hamlets



## **Annex 1 - Mandatory conditions**

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.

**Effective from 10<sup>th</sup> October 2010:**

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.

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

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

Touting is not allowed

**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: 11/09/2007



TOWER HAMLETS

Licensing Act 2003

### Part B - Premises licence summary

**Premises licence number**

14591

#### Premises details

**Postal address of premises, or if none, ordnance survey map reference or description**  
134 Brick Lane

**Post town**  
London

**Post code**  
E1 6RU

**Telephone number**  
[REDACTED]

**Where the licence is time limited the dates**

N/A

**Licensable activities authorised by the licence**

The sale by retail of alcohol  
Provision of Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

**Supply of Alcohol**

Sunday to Thursday:  
11:30 hours until 00:30 hours the following day.  
Friday and Saturday:  
11:30 hours until 01:30 hours the following day.

**Late Night Refreshment**

Sunday to Thursday until 00:30 hrs the following day.  
Friday and Saturday until 01:30 hrs the following day.

The opening hours of the premises

**Sunday to Thursday:**

11:30hrs until 01:00 hrs the following day

**Friday and Saturday:**

11:30hrs until 02:00 hrs the following day

Name, (registered) address of holder of premises licence

Mr. Muhammed Abdul Rauf  
134 Brick Lane  
London  
E1 6RL

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)

N/A

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

Ali Amzad Chowdhury Hussain

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

No

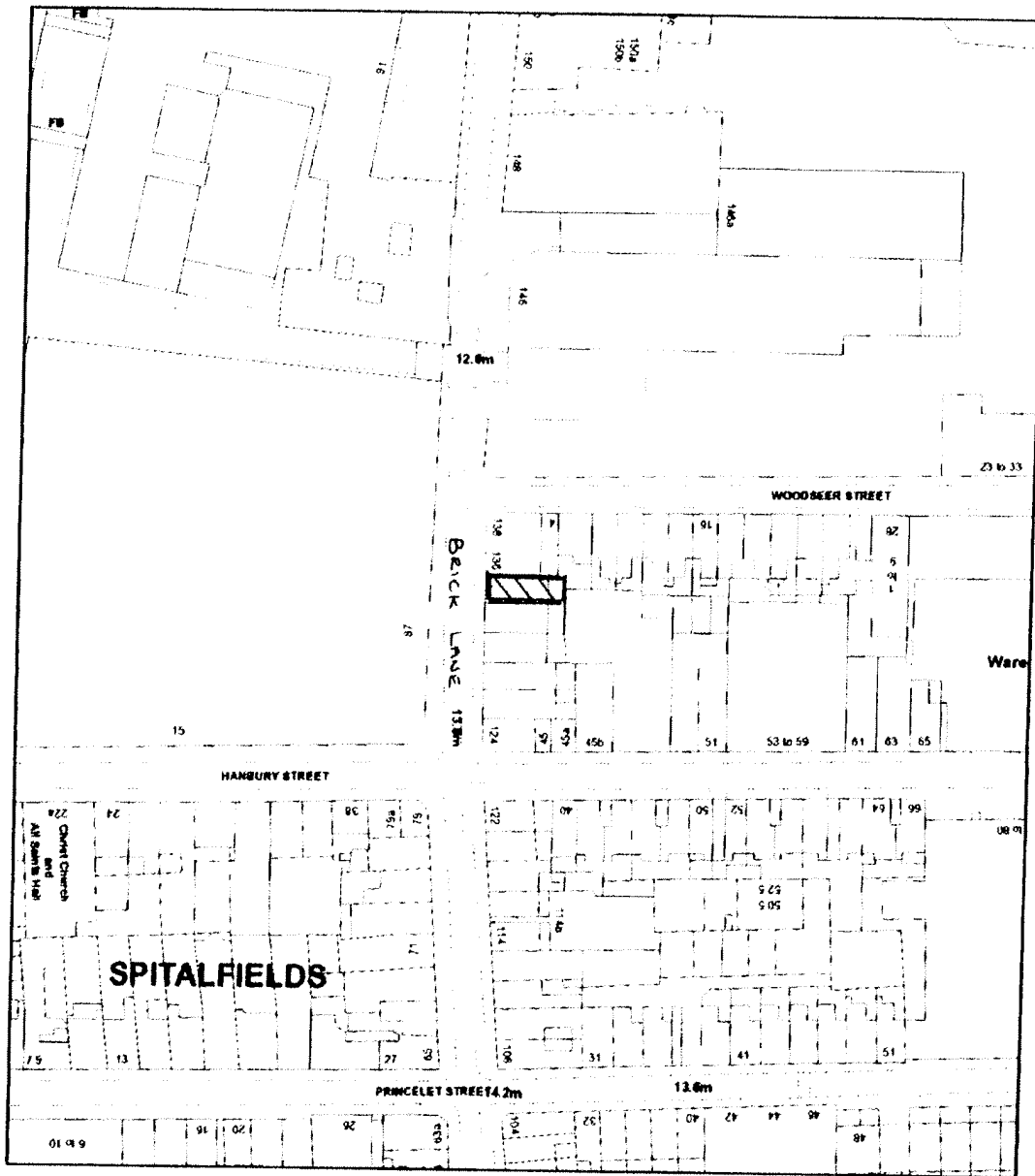


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# Appendix 3



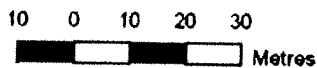




## 134 Brick Lane



Scale 1:1109



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# Appendix 4





METROPOLITAN  
POLICE

Working together for a safer London

TERRITORIAL POLICING

HT - Tower Hamlets Borough

Ms Randall

Licensing Office  
Bethnal Green Police Station  
12 Victoria Park Square  
Bethnal Green  
E2 9NZ  
Telephone: 0208 217 6699  
Facsimile:  
Email: Alan.Cruickshank@met.police.uk  
www.met.police.uk  
Your ref:  
Our ref:  
27th Oct 2010

Dear Ms Randall

**Re: Review of a premises licence  
Cinnamon, 134 Brick lane, E1 6RU**

I write with reference to the above review which was received in this office on the 22nd October 2010.

Please accept this letter as notification that the police, as a responsible authority are supporting the review initiated by LBTH Trading Standards. **The crime and disorder licensing objective has not been maintained or promoted**

Although Brick Lane is a very busy area, there are many restaurants competing against one another. This has lead to the increased use of "curry touts" by a number of restaurants. People are accosted in the street and offered incentives to enter their own individual restaurant. This would include offering a "free drink" or a cheap set price.

As a result there has been a willingness by some touts to use violence to run off their competitors and this has resulted in some serious injuries, including a stabbing.

Once the diners eventually finish their meal, some waiters charge them the full amount and this has again resulted in fights between the customers and the restaurant staff.

Although there have been a number of convictions for touting, it does not deter some restaurants who will simply employ new touts.

I am now aware that there is no premises licence holder and DPS, which is a clear breach of the Licensing Act. Further to this, the attitude shown to the Council officers on the 17th October 2010 would indicate a clear disregard for the work of the responsible authorities.

However in relation to Cinnamon itself, the following incidents have occurred

On the 22nd November 2009 at about 0048, the victim was passing the restaurant and fell to the ground. He got up and accused a staff member who was standing outside of tripping him up. An argument ensued and blows were exchanged. A group of 7-12 Asian males then joined in the attack and eventually ran off. The victim was left with bruises to his head, cuts and sore ribs.

The officers who attended made enquiries at the restaurant and the two nearby restaurants and no one witnessed this sustained attack.

A police intelligence report completed on the 26th February 2010, detailed touting activities on the 12th February 2010, 24 incidents of touting over a 35 minute period. One of which was Cinnamon. A tout was heard to say "special offer £7.95"

On the 11th July 2010 at about 0213 [REDACTED] an assault took place at the restaurant. The victim received facial injuries after a disagreement over the payment. However the victim did not wish to pursue this matter

On the 2nd October 2010 at about 2238 [REDACTED] police received a call to a fight at the restaurant. Further calls were made indicating an ongoing fight in Brick Lane but no one wished to make any allegations.

In conclusion, the Metropolitan Police Licensing Unit supports this review and the revocation of the licence.

Alan Cruickshank PC 189HT

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# Appendix 5







## Memorandum

To Licensing Department  
From Planning Enforcement  
Contact Andrew Dickson  
Extension [REDACTED]  
Date 18/11/10  
Our Ref.  
Your Ref.  
Subject Review of the Premises Licence

Development & Renewal Directorate  
Planning Enforcement  
Mulberry Place (AH)  
PO Box 55739  
5 Clove Crescent  
London E14 1BY  
Tel 020 7364 5376  
Fax 020 7364 5415  
e-mail  
andrew.dickson@towerhamlets.gov.uk  
[www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk)

### **Objection to Premises License Variation: 134 Brick Lane, London, E1 6RU (known as 'Cinnamon')**

The Planning Department wishes to support the application for the review of the premises license at 134 Brick Lane on the basis of licensing objective (3) – public nuisance.

Brick Lane is very much a mixed use area that has a large residential population as well as a range of bars and restaurants that contribute to a thriving and in some instances out of control night time economy. Over the last 10 years the nature of the area has changed considerably with the influx of numerous restaurants, bars and clubs and there is a serious issue in Brick Lane with the cumulative effect of having so many bars and restaurants being concentrated in a small area and along a narrow road, and being within close proximity of residents within the surrounding area. With the influx of these types of uses has come an influx of people and Brick Lanes reputation as a place to eat and go out has become famous for Londoners and tourists alike. No one wishes to see the unique culture of Brick Lane eroded but there needs to be a balance between night time activities and the right to a period of peace and quiet for the many residents who live in the area.

The Council's Planning Enforcement Team, as part of a pro-active project to address the hours of operation of many of the premises down Brick Lane, has conducted a number of site visits within the area, particularly during the summer months and including into the early hours of the morning. It has been observed that there is a large amount of activity on the streets of Brick Lane, especially at 1am (Friday and Saturday) and beyond into the early hours of the morning. Officers, for example, have observed taxis still being prevalent on the streets tooting for business and tooting their horns up until 4am and merry and intoxicated people walking away from venues still operating beyond their restricted hours, through residential streets shouting and laughing to the detriment of the people living in the area.

The Enforcement Team is aware of a number of premises breaching the hours of their permissions and within the last year the team has undertaken enforcement action to address the breaches of planning control, including serving notices and prosecuting when the use of the premise is in breach of the notice served. This project is on-going and further work is required in order to control the impact that the bars and restaurants are having on the amenity of surrounding residents and the general area.

The premise is subject of a planning permission for use as a restaurant at the ground and basement level. In 2008, planning permission was granted (PA/08/02045) for a variation to the hours that the restaurant could operate, enabling till 12am (midnight) Sunday to Thursday, and till 0100 hours on Friday and Saturday.

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The excessive opening hours into the early hours of the morning witnessed by the Trading Standards Service is consistent with the observations of the Planning Enforcement Service down Brick Lane. The operation and management of the premises beyond the hours restricted by the premises licence, as well as its planning permission, shows a complete disregard for the controls set by the local authority and contributes to the cumulative effect of public nuisance down Brick Lane, resulting in noise and disturbance to residents far later into the evening than what the controls allow.

Andrew Dickson  
**Planning Enforcement Officer**

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# Appendix 6



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## **Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Planning and Building Control**

### **PLANNING AND BUILDING CONTROL**

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



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# Appendix 7





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

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

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

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

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

11.24 Where the licensing authority is conducting a review on the ground that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licensee and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any necessary steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual holder of the premises licence.

11.25 As explained above, it is not the role of a licensing authority to determine the guilt or innocence of individuals charged with licensing or other offences committed on licensed premises. There is therefore no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. As stated above, at the conclusion of a review, it will be for the licensing authority to determine on the basis of the application for the review and any relevant representations made, what action needs to be taken for the promotion of the licensing objectives in respect of the licence in question, regardless of any subsequent judgment in the courts about the behaviour of individuals.

11.26 There is certain criminal activity that may arise in connection with licensed premises, which the Secretary of State considers should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of Class A drugs and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected; for the purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for unlawful gaming and gambling; and
- for the sale of smuggled tobacco and alcohol.

11.27 It is envisaged that licensing authorities, the police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the licensing authority determines that the crime

prevention objective is being undermined through the premises being used to further crimes, it is expected that revocation of the licence – even in the first instance – should be seriously considered. We would also encourage liaison with the local Crime and Disorder Reduction Partnership.

- 11.28 It should be noted that it is unlawful to discriminate or to refuse service on grounds of race or by displaying racially discriminatory signs on the premises. Representations made about such activity from responsible authorities or interested parties would be relevant to the promotion of the crime prevention objective and justifiably give rise to a review.

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# Appendix 8



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

### **Crime and Disorder Act 1998**

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

### **Pool Conditions**

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

### **Annex D**

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

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

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

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

## **CORE PRINCIPLES**

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

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

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

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

1 Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those below, as a step they intend to take to promote the licensing objectives. When measures are incorporated into the licence or certificate as conditions, they become enforceable under the law and any breach could give rise to prosecution.

2 Licensing authorities should carefully consider conditions to ensure that they are not only necessary but realistic, practical and achievable, so that they are capable of being met. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. As such, it would be wholly inappropriate to impose conditions outside the control of those responsible for the running of the premises. It is also important that conditions which are imprecise or difficult to enforce should be avoided.

5. It should be borne in mind that club premises operate under codes of discipline to ensure the good order and behaviour of members and that conditions enforcing offences under the Act are unnecessary.

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

### **Text/Radio pagers**

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

Pagers provide two-way communication, allowing licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and the police to warn those operating a large number of other premises of



potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. Pager systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

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

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

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

### **Door supervisors**

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

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
  - keeping out individuals excluded by court bans or by the licence holder;
  - searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
  - maintaining orderly queuing outside venues. Where the presence of door supervisors conducting security activities is to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with:
    - the number of supervisors;
    - the displaying of name badges;
    - the carrying of proof of registration;
    - where, and at what times, they should be stationed on the premises;
- and
- whether at least one female supervisor should be available (for example, if female customers are to be given body searches).

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

### **Bottle bans**

Glass bottles may be used as weapons to inflict serious harm during incidents of disorder. A condition can prevent sales of drinks in glass bottles for

consumption on the premises. This should be expressed in clear terms and include the following elements:

no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar;

• no customers carrying open or sealed bottles shall be admitted to the premises at any time that the premises are open to the public (note: this needs to be carefully worded where off-sales also take place);

In appropriate circumstances, the condition could include exceptions, for example, as follows:

but bottles containing wine may be sold for consumption with a table meal by customers who are seated in an area set aside from the main bar area for the consumption of food.

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

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

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

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

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

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

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

## **CCTV**

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

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

## **Restrictions on drinking areas**

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

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

## **Capacity limits**

Capacity limits are most commonly made a condition of a licence on public safety grounds (see Part 2), but should also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is considered necessary, door supervisors may be needed to ensure that the numbers are appropriately controlled (see above).

## **Proof of age cards**

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

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

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

### **Crime prevention notices**

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

### **Drinks promotions**

Licensing authorities should not attach standardised blanket conditions promoting fixed prices for alcoholic drinks to premises licences or club premises certificates in an area as this is likely to breach competition law. It is also likely to be unlawful for licensing authorities or police officers to promote voluntary arrangements of this kind as this can risk creating cartels.

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

### **Signage**

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

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

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

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

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

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



# Appendix 9





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

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



# Appendix 10



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

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

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

#### **Hours**

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

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

Restrictions might also be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time. In premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to the following conditions.

#### **Noise and vibration**

In determining which conditions are necessary and appropriate, licensing authorities should be aware of the need to avoid unnecessary or disproportionate measures that could deter the holding of events that are valuable to the community, such as live music. Noise limiters, for example,

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are very expensive to purchase and install and are likely to be a considerable burden for smaller venues. The following conditions may be considered:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by one or more of the following conditions:

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

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

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

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

#### **Noxious smells**

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

#### **Light pollution**

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

#### **Other measures**

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

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# Appendix 11





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

### Licensing Policy

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

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

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

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

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

### Police Powers

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

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

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

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

Licence conditions should not duplicate other legislation (1.16).

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

### Other Legislation

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

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

# Agenda Item 5.1

By virtue of paragraph(s) 1 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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