

# Appendix 1



This form should be completed and forwarded to:

London Borough of Tower Hamlets,  
Licensing Service, Mulberry Place (AH), PO BOX 55739,  
5 Clove Crescent, London E14 1BY

**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 Andrew Heron..... (*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**

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

<b>Postal address of premises or club premises, or if none, ordnance survey map reference or description</b>  Sajna, 30 Osborn Street	
<b>Post town</b> London	<b>Post code (if known)</b> E1 6TD

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

**Mr Md. Abu Jahid**

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

**16711**

**Part 2 - Applicant details**

Please tick  yes

I am

- 1) an interested party (please complete (A) or (B) below) 
  - a) a person living in the vicinity of the premises
  - b) a body representing persons living in the vicinity of the premises
  - c) a person involved in business in the vicinity of the premises
  - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below) x
- 3) a member of the club to which this application relates (please complete (A) below)

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

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

**Surname**

N/a

**First names**

N/a

Please tick yes

**I am 18 years old or over**

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

N/a

**Post Town**

N/a

**Postcode**

N/a

**Daytime contact telephone number**

**E-mail address (optional)**

N/a

(B) DETAILS OF OTHER APPLICANT

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

**Surname**

N/a

**First names**

/a

Please tick  yes

**I am 18 years old or over**

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

N/a

**Post Town**

N/a

**Postcode**

N/a

**Daytime contact telephone number**

N/a

**E-mail address (optional)**

N/a

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address

Andrew Heron  
Licensing Authority  
London Borough of Tower Hamlets  
Mulberry Place  
5 Clove Crescent  
London E14 2BG

Telephone number (if any)

020 7364 2665

E-mail (optional)

Andrew.heron@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 note1)

Please refer to the attached document.

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

Please refer to the attached document.

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

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

N/a

Please tick  yes

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

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

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

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

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

Signature 

Date: 14/11/2013

Capacity: Licensing Officer

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



London Borough of Tower Hamlets

**SAJNA 30 Osborn Street, London, E1 6TD**

Licence No **16711** (License Holder: Mr Md. Abu JAHID)

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 – Licensing Authority

**REPRESENTATIONS**

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1. The Licensing Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to the prevention of Crime and Disorder , Licensing Objective 1 and prevention of public nuisance Licensing Objective 3.
  2. On Wednesday 2<sup>nd</sup> October 2013, an operation took place in the Brick Lane Area. SAJNA at 30 Osborn Street was found to be employing a tout to stand outside the premises and stop members of the public passing by.
  3. Two undercover volunteers were approached by a male tout at 18:45 with offers of free drinks. Copies of witness statement of the incident have been attached.

4. The premises licence holder of **SAJNA 30 Osborn Street, London, E1 6TD** is Mr Md. Abu JAHID, who was on the premises at the time of the incident.

5. This is not the first time that touting has been an issue at SAJNA. As a result of touting, the licence was reviewed in January 2012. The licence was **suspended for one day** and a condition was added to the licence, namely: **Annex 3 - Conditions attached after a hearing by the licensing authority on 24<sup>th</sup> January 2012:**

*“No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public within a 500 meter radius of the premises.”*

6. As a result of continued touting and another positive test purchase, the licence was reviewed again on **15<sup>th</sup> November 2012**. Members of the Sub Committee made the decision to **suspend the premises licence for a period of one week.**

7. As a result of the above test purchase, on **23<sup>rd</sup> May 2013** both the premises licence holder at 30 Osborn Street Mr JAHID and also a Mr Ali AKBOR attended and each pleaded guilty to an offence contrary to section 136(1)(a) of the Licensing Act 2003 in relation to touting. Mr JAHID and Mr ALI were each fined £350 and each ordered to pay costs of £394 as well as a £20 Victim Surcharge.

8. The Licensing Authority receives regular complaints from members of the public that they have felt harassed by employees of SAJNA whilst they have simply walked up the street past the premises. Most recently, complaints have been received on 22<sup>nd</sup> July 2013 at which a warning letter was sent to the premises (also attached for further information), 24<sup>th</sup> July and 28<sup>th</sup> August 2013. The complainants include clientele from surrounding pubs and bars that have been approached by Sajna employees whilst they have been drinking.
  
9. As a Licensing Officer for Tower Hamlets, I regularly walk along Osborn Street. Without fail, every time I walk past 30 Osborn Street, a gentleman I recognise as an employee known for touting is either stood at the door of Sajna or on the pavement approaching passers-by. The employees recognise me as an employee of the Council and will quickly enter the premises or walk up the street as soon as they see me coming.
  
10. Most recently, on Friday 8<sup>th</sup> November 2013 at 20:50, I was walking along Osborn Street in a northerly direction on the eastern side of the road. I was with PC Mark Perry of the Metropolitan Licensing Police. We walked past SAJNA restaurant. Outside Sonargaon Restaurant, the address of which is 32-38 Brick Lane, London, E1 6TD was a heavy-set Asian gentleman walking and talking to a white gentleman carrying a box. The white gentleman was continuing to walk away, but the tout continued to follow him. I could hear that an offer of 'free wine' was being made. I established that he worked for Sajna, though he was far from the entrance. The tout told us that 'all the restaurants are doing this; I'm just giving people the offers'. We returned the

tout to SAJNA at which the premises licence holder Mr Abu JAHID was again present. Mr JAHID asked us to forgive him, describing the incident as a 'one-off'.

11. The Licensing Department spends a greater-than-average amount of Officer Hours dealing with the Brick Lane Area in comparison with the remaining Borough. SAJNA at 30 Osborn Street is a premises that further stands out in the Area as continually causing anti-social behaviour. When the premises are visited, the employees always state that the Council is 'picking on them'. The truth is that every time an anti-touting operation is conducted in the area, Sajna is always caught as it continually commits offences.

12. 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.

13. 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"..."

14. The Council enacted a bye law to ban touting and there have been a large number of prosecutions of individual touts in recent years. 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 2013 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. Despite having a "no touting" condition, two previous reviews and a prosecution, the restaurant continues to regularly employ touts. The use of touts clearly shows a disregard for Licensing and Consumer Protection law.

18. On the 2<sup>nd</sup> October one of the undercover test purchasers was wearing a covert camera. Unfortunately, the camera did not work on that occasion. Had footage been forthcoming, a prosecution would have been sought by the Authority.

19. 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 a suspension of the premises licence. Due to the incessant nature of the touting and because of Mr. Md. Abu JAHID'S continuing and flagrant breaches of the Licensing Act that I ask that **the licence be suspended for a period of 4 weeks**. Please note that we are not requesting revocation at this time as the Authority believes it has greater access to redress for potential offences in the future.

**Andrew Heron**

**Licensing Officer**

# Appendix 2

**Postal Address**

(Sajna Indian Grill Restaurant)  
30 Osborn Street  
London  
E1 6TD

**Licensable Activities authorised by the licence**

The sale by retail of alcohol (on sales)  
The provision of late night refreshment  
The provision of regulated entertainment consisting of recorded music only

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

**Signed by**

**John McCrohan**   
**Trading Standards & Licensing Manager**

**Date: 14<sup>th</sup> October 2010**  
**(Varied on Review: 24<sup>th</sup> January 2012)**





**Part A - Format of premises licence**

Premises licence number

16711

**Part 1 - Premises details**

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

30 Osborn Street

**Post town**

London

**Post code**

E1 6TD

**Telephone number**

██████████

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

N/A

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

**Alcohol**

- On Sunday to Thursday, 11:00 hrs to 23:30 hrs
- On Friday and Saturday, 11:00 hrs to 00:30 hrs

**Late Night Refreshment**

- On Monday to Thursday, 23:00 hrs to 00:00 hrs (midnight)
- On Friday and Saturday, 23:00 hrs to 00:30 hrs

**Regulated Entertainment Consisting of Recorded Music**

- On Monday to Thursday, 11:00 hrs to 00:00 hrs (midnight)
- On Friday and Saturday, 11:00 hrs to 01:00 hrs
- On Sunday, 11:00 hrs to 23:00 hrs

**The opening hours of the premises**

- On Monday to Thursday, 11:00 hrs to 00:00 hrs (midnight)
- On Friday and Saturday, 11:00 hrs to 01:00 hrs
- On Sunday, 11:00 hrs to 23:00 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 Md. Abu Jahid

[REDACTED]

[REDACTED]

**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**

Mrs Sultana Begum Kamali

[REDACTED]

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

Person Licence No. [REDACTED]

Issuing Authority - [REDACTED]

## **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.
4.
  - (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
  - (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.
5. The responsible person shall ensure that;
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml; and
  - (b) customers are made aware of the availability of these measures.

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

1. Staff training will include the prevention of crime and disorder and drug awareness.
2. Staff training will include health and safety law with regards to accident prevention and fire safety.
3. Staff will not serve alcohol to customers who are already intoxicated.

4. Door control will ensure that there are no crowds or queues outside the premises; all customers will leave quietly; customers waiting for taxis will do so indoors.
5. Music will be played at a level that is not audible outside the restaurant or by surrounding properties.
6. No early morning deliveries or late night deliveries/collections will take place.
7. Children will be protected from all alcohol sales. To confirm the age of a customer ask for ID such as UK driving licence, passport using the 'Challenge 21' scheme.
8. No adult entertainment will be provided.
9. No nudity or semi nudity to be permitted on the premises.

**Annex 3 - Conditions attached after a hearing by the licensing authority on 24<sup>th</sup> January 2012**

10. No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public within a 500 meter radius of the premises.
11. Clear signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.
12. Photo Identification badges must be worn by staff at all times and to be surrendered to an officer of a Responsible Authority upon request. *This condition is not currently effective and you will be notified prior to this condition becoming effective.*
13. CCTV camera system covering internal and external and full shop front of the premises is to be installed.
14. The CCTV recordings are to be maintained for 30 days and to be provided upon request to either a Police Officer or an officer of any other Responsible Authority.
15. At all times when the premise is open, a person who can operate the CCTV system must be present on the premises.

**Annex 4 - Plans**

The plans are those submitted to the licensing authority on the following date:  
3 September 2010 – GROUND FLOOR ONLY



**Part B - Premises licence summary**

**Premises licence number**

16711

**Premises details**

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

30 Osborn Street

**Post town**

London

**Post code**

E1 6TD

**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 (on sales)  
The provision of late night refreshment  
The provision of regulated entertainment consisting of recorded music only

The times the licence authorises the carrying out of licensable activities

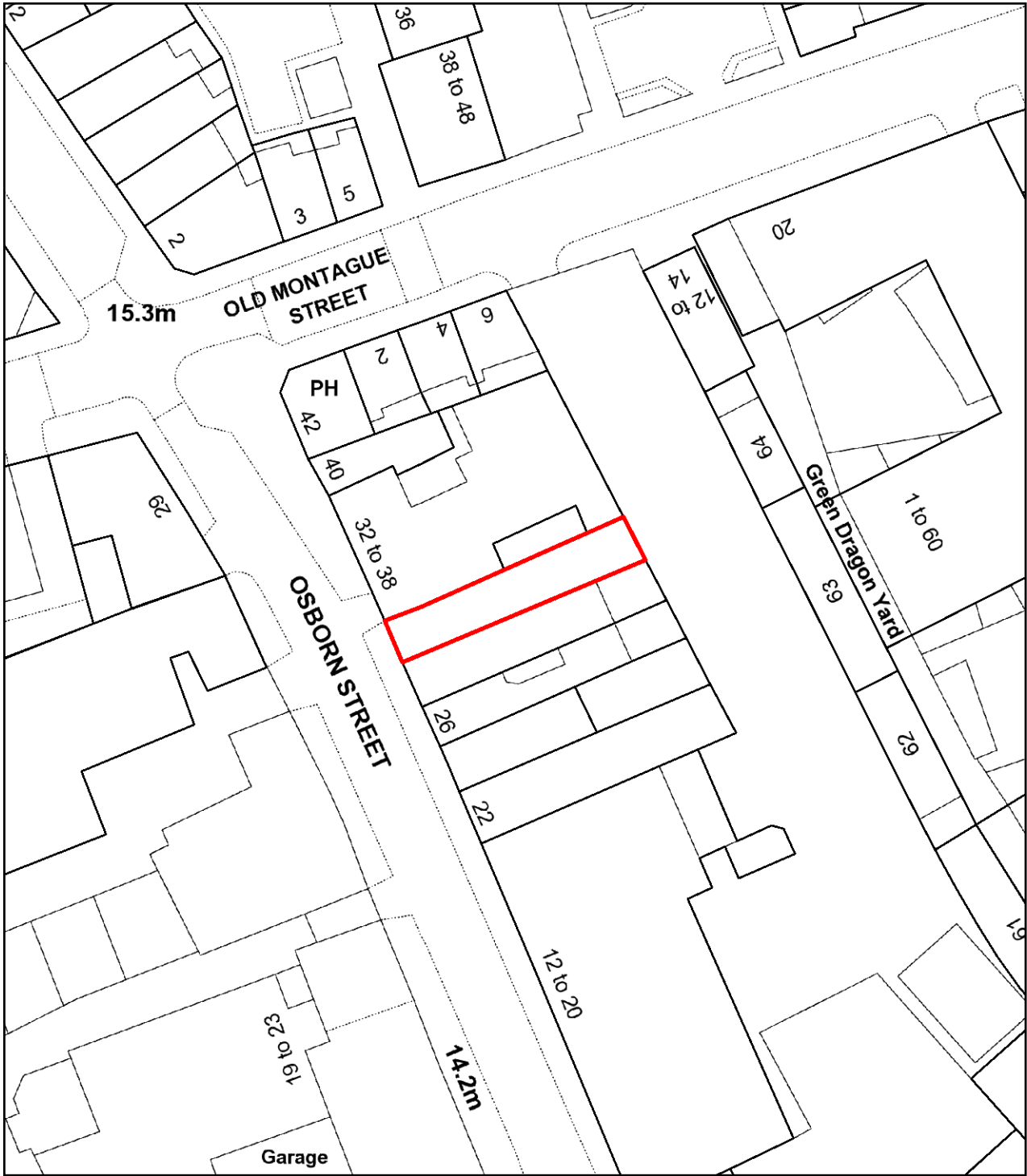
Alcohol

- On Sunday to Thursday, 11:00 hrs to 23:30 hrs
- On Friday and Saturday, 11:00 hrs to 00:30 hrs

<p>The opening hours of the premises</p>	<p><u>Late Night Refreshment</u></p> <ul style="list-style-type: none"> <li>• On Monday to Thursday, 23:00 hrs to 00:00 hrs (midnight)</li> <li>• On Friday and Saturday, 23:00 hrs to 00:30 hrs</li> </ul> <p><u>Regulated Entertainment Consisting of Recorded Music</u></p> <ul style="list-style-type: none"> <li>• On Monday to Thursday, 11:00 hrs to 00:00 hrs (midnight)</li> <li>• On Friday and Saturday, 11:00 hrs to 01:00 hrs</li> <li>• On Sunday, 11:00 hrs to 23:00 hrs</li> </ul> <p>See Full Licence for Details</p> <ul style="list-style-type: none"> <li>• On Monday to Thursday, 11:00 hrs to 00:00 hrs (midnight)</li> <li>• On Friday and Saturday, 11:00 hrs to 01:00 hrs</li> <li>• On Sunday, 11:00 hrs to 23:00 hrs</li> </ul> <p>See Full Licence for Details</p>
<p>Name, (registered) address of holder of premises licence</p>	<p>Mr Md. Abu Jahid</p> <p>[Redacted Address]</p>
<p>Where the licence authorises supplies of alcohol whether these are on and / or off supplies</p>	<p>On sales</p>
<p>Registered number of holder, for example company number, charity number (where applicable)</p>	<p>N/A</p>
<p>Name of designated premises supervisor where the premises licence authorises for the supply of alcohol</p>	<p>Mrs Sultana Begum Kamali</p>
<p>State whether access to the premises by children is restricted or prohibited</p>	<p>No</p>



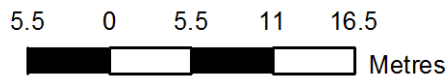
# Appendix 3

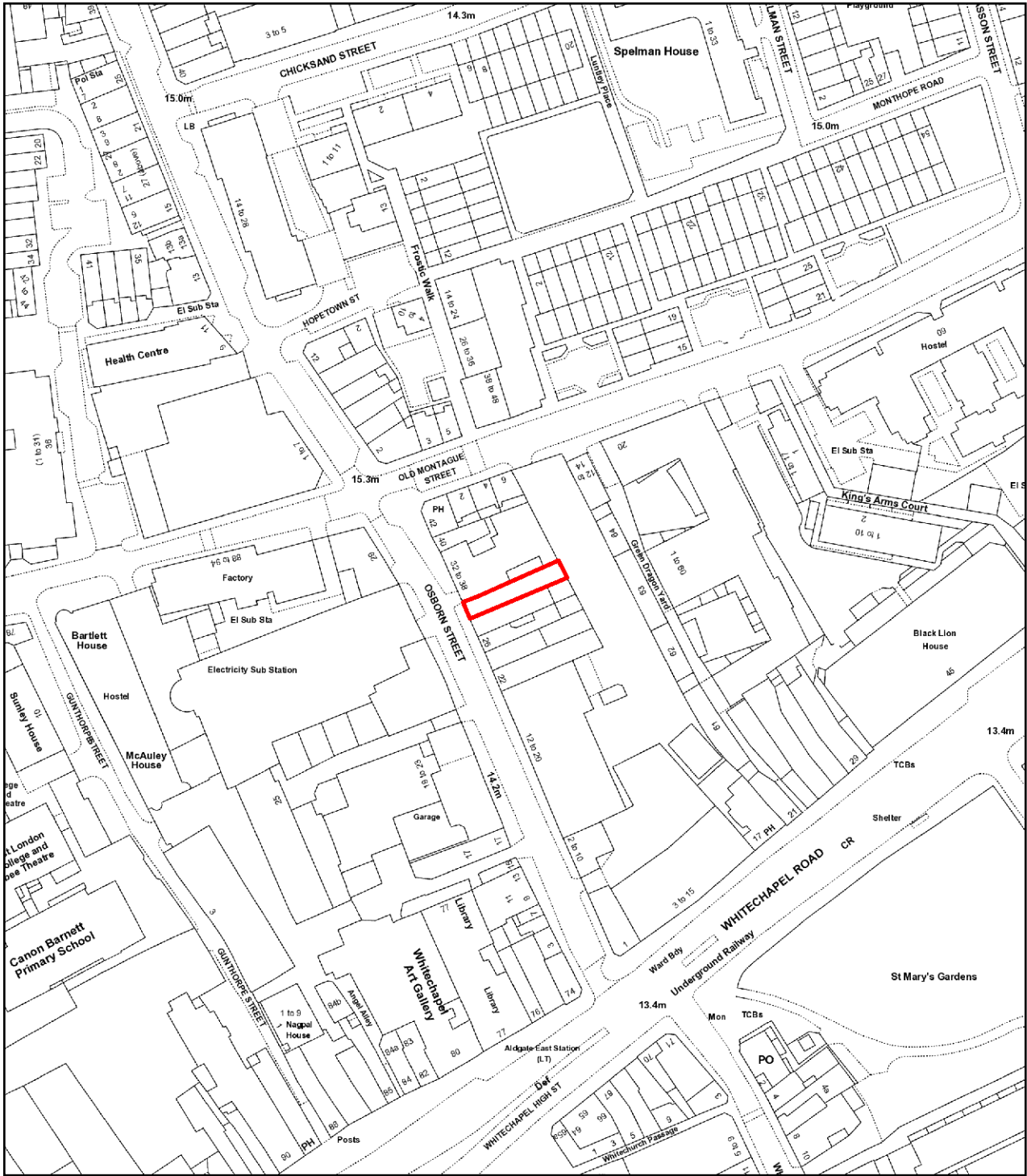


# 30 Osborn Street



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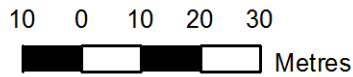




# 30 Osborn Street



Scale 1:1555



# Appendix 4

## Section 182 Guidance - June 2013

### The review process

11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

11.3 An application for review may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.

11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

## 11. Reviews

11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.

11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent written representation. The licensing authority may also agree in advance that the representation need not be given in writing.

11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

### **Repetitious grounds of review**

11.12 A repetitious ground is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- representations considered by the licensing authority when the premises licence or certificate was granted; or
- representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

### Reviews arising in connection with crime

11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, 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. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

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

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

- for the sale and distribution of 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 illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;
- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale of smuggled tobacco and alcohol.

11.28 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.



# Appendix 5

## June 2013 - Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

### Crime and disorder

2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).

2.2 In the exercise of their functions, licensing authorities should seek to cooperate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.

2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.

2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.

2.5 In the context of crime and disorder and public safety, the preservation of order on premises may give rise to genuine concerns about the ability of the management team with responsibility for the maintenance of order. This may occur, for example, on premises where there are very large numbers of people and alcohol is supplied for consumption, or in premises where there are public order problems.

2.6 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

2.7 It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. However, licensing authorities must ensure that they do not stray outside their powers and duties under the 2003 Act. This is important to ensure the portability of the personal licence and the offences set out in the 2003 Act and to ensure, for example, that the prevention of disorder is in sharp focus for all managers, licence holders and clubs.

# Appendix 6

## 2013 - Licensing Policy Adopted by the London Borough of Tower Hamlets

### 6 Crime and Disorder

6.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.

6.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.

6.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.

6.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.

6.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 200. (See **Appendix 2.**)

6.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.

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

1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.( marked as Appendix -)

2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

6.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Council's rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.

6.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.

6.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them

Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.

6.11 **Illicit Goods: Alcohol and Tobacco** - The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.

6.12 Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled

6.13 Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products.

6.14 Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices.

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

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

#### Smuggled goods

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

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

- I. Seller's name and address
- II. Seller's company details, if applicable
- III. Seller's VAT details, if applicable
- IV. Vehicle registration detail, if applicable

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

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

5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately. Effective 1<sup>st</sup> November 2013

# Appendix 7

## June 2013 - Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003

### Public nuisance

2.18 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.

2.19 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It is important to remember that the prevention of public nuisance could therefore include low level nuisance, perhaps affecting a few people living locally, as well as major disturbance affecting the whole community. It may also include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

2.20 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or more sophisticated measures like the installation of acoustic curtains or rubber speaker mounts. Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises. Licensing authorities should be aware of the need to avoid inappropriate or disproportionate measures that could deter 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.

2.21 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

2.22 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, music noise from premises usually occurs from mid-evening until either late-evening or early-morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. In certain circumstances, conditions relating to noise immediately surrounding the premises may also prove appropriate to address any disturbance anticipated as customers enter and leave.

2.23 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

2.24 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area and to respect the rights of people living nearby to a peaceful night.

# Appendix 8

## **2013 - London Borough of Tower Hamlets Policy in relation to the Prevention of Public Nuisance**

### **10 Prevention of Nuisance**

10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.

10.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.

10.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.