

Annex B

WITNESS STATEMENT


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

Statement of **Brendan Paul O'ROURKE** URN:

01	HT		14
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Age if under 18 **Over 18**..... (if over 18 insert 'over 18') Occupation: **Police Officer 230222**

This statement (consisting of: **5**..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature:  Date: **20/07/2014**.....

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

This statement is in relation to a breach of Premises Licence Conditions
at Café Bangla, 128, BRICK LANE LONDON E1 6RU on 20/07/14


Officers original notes made at Brick Lane Police Station at 18:15 hours in my own company.

I am a police officer with the Licensing Unit of Tower Hamlets Borough Police.

On Sunday, 20th July 2014, I was on duty in plain clothes on patrol in Brick Lane, at approximately 16:30 hrs, I was close to the junction of BRICK LANE and HANBURY STREET, near to the Sunday Up-Market at the Old Truman Brewery (the food stall market) when I saw two males, dressed as waiters (white shirts and black trousers) approaching multiple people exiting the Sunday Up-Market and offering business cards and "A FREE BOTTLE OF BEER" as an inducement for Café Bangla. However I took a CAD call over my radio for a theft at the top of BRICK LANE and left to deal with it.

I returned to the area at approximately 17:00 hrs and again saw the same males now across the road from Café Bangla approaching people exiting the Up-Market touting for business again. But I also took another call over my radio for suspects on a roof at SPITTLE STREET and went off to deal with that too..

However, that was dealt with very briefly and on my return at approximately 17:05 hrs, I saw that the same two males were still touting across the road. One male said to people leaving the market "I GIVE YOU FREE BEER AND 25% DISCOUNT", I saw he had a wad of business cards in his hand, which

Signature:  Signature witnessed by: **N/A**

Continuation of Statement of **Brendan Paul O'ROURKE**.....

were white with a black trim - that were for Café Bangla. I turned to him, but he recognised me and pulled away the business cards, which I believe he gave to the other male who then disappeared.

I approached him and identified myself as a police officer by producing my warrant card and saying "HELLO, I'M PC O'ROURKE FROM TOWER HAMLETS LICENSING, YOU HAVE BEEN SEEN TOUTING AND I'D LIKE TO TAKE YOUR DETAILS PLEASE, LET'S GO OVER HERE AND SIT DOWN".

He replied "SIR, WE ARE EMPTY WE NEED CUSTOMER".

The whole frontage of Café Bangla was open, as it has doors that fold back exposing the whole of the inside of the restaurant. We sat down at the table far left next to the street. The restaurant was empty with no customers, apart from a male sat on a middle table on the left, who was just staring out into the street.

I said to the male "I HAVE SEEN YOU TOUT MYSELF, CAN YOU TELL ME YOUR NAME PLEASE"?

He replied "KAMALI SHAH".

As I was writing this down the male sat in the middle started to shout at me "WHY ARE YOU TALKING TO HIM, HE DOES NOT WORK HERE, WHY ARE YOU TALKING TO HIM, YOU NEED TO SPEAK TO ME".

I said to the man shouting "I WILL TAKE HIS DETAILS FIRST AND I WILL SPEAK TO YOU SECOND, I KNOW HE WORKS HERE AS I HAVE BEEN WATCHING HIM ON AND OFF FOR SOME TIME".

I then continued with the male I was sat with and said "AND WHAT IS YOUR ADDRESS PLEASE"?

He replied "[REDACTED]"

I said "AND WHAT IS YOUR DATE OF BIRTH PLEASE"?

He replied "[REDACTED]"

I then said "WAS YOU BORN IN LONDON"?

He replied "NO [REDACTED]"

I said "WHAT DO YOU DO FOR A LIVING, A WAITER"?

He replied "NO A STUDENT, I AM STUDYING FOR A DEGREE IN BUSINESS AND LEISURE".

At 17:07 hrs, I said to him "MR SHAH I SHOULD POINT OUT IT IS AN OFFENCE UNDER THE TOWER HAMLETS BYELAWS TO TOUT FOR CUSTOM". I then cautioned them, using the 'now'

Signature: [REDACTED]

Signature witnessed by:

N/A.....

Continuation of Statement of **Brendan Paul O'ROURKE**.....

caution and said "THE FACTS OF THE MATTER WILL BE REPORTED AND YOU MAY BE PROSECUTED".

An excerpt from the Byelaws reads: London Borough of Tower Hamlets BYELAWS FOR GOOD RULE AND GOVERNMENT - *Byelaws made under section 235 of the Local Government Act 1972 by the Council of London Borough of Tower Hamlets for the good rule and government of the Borough of Tower Hamlets and for the prevention and suppression of nuisances. TOUTING 13 - No person shall in any street or public place for the purpose of selling or advertising any article or obtaining custom tout or importune to the annoyance or obstruction of passengers.*

I then went over to the male who had been shouting at me (he had repeated himself several times) and again I produced my warrant card and said "HELLO I AM PC O'ROURKE FROM THE LICENSING UNIT, ARE YOU THE MANAGER"?

He replied "PREMISES LICENCE HOLDER".

We both sat down at a large round table at the rear of the restaurant and I moved a stack of menus out of the way and put them on top of another pile. The male was already agitated and then got very upset and started shouting "WHY YOU MOVED ALL MY NAPKINS, YOU HAVE SAT DOWN AND MOVED EVERYTHING".

I said "YOU NEED TO CALM DOWN, THEY ARE MENUS NOT NAPKINS, THERE IS NO POINT IN SHOUTING AT ME".

I said "DO YOU HAVE A COPY OF YOUR PREMISES LICENCE PLEASE".

He pointed high up on a wall above the bar area and indeed there was copies of his licence on the wall, but practically on the ceiling and it was impossible to read.

He took it down, but it was not a full copy of the licence and it only contained pages 2,3,4 8 & 9.

Pages 8 & 9 are 'Part B Summary Licence' - which was good, at least that was on display, albeit it impossible for anyone to read pages as it was so high up on the wall.

Pages 2, 3 & 4 contain the basic details of the premises licence holder (PLH) and designated premises supervisor (DPS), but it appeared to me the conditions placed on the licence were missing and I did not have a copy of it with me, so I was unable to conduct a proper licensing visit as I could not inspect his full licence. I suspected there was a condition 'not to tout' and possibly one regarding CCTV - but I simply could not check. I said to him "YOU ARE A PERSONAL LICENCE HOLDER, YOU SHOULD KNOW WHAT THE LAW IS AND YOU SHOULD HAVE A COPY OF THE FULL

Signature: 

Signature witnessed by: N/A.....

PC Jellix

Continuation of Statement of **Brendan Paul O'ROURKE**.....

PREMISES LICENCE FOR INSPECTION AND ONLY PART B ON DISPLAY”.

He replied “I DID NOT KNOW, BUT HE HAD A COPY AT HOME”

He then blamed the situation on Jackie RANDALL at the Council, whom he said had told him to do various things with his licence (which I find hard to believe).

I could see on the licence that the PLH was a Mr Daras MIAH and I said to him, “SO YOU ARE MR DARAS MIAH”.

He replied “YES”.

I said “AND DO YOU STILL LIVE AT [REDACTED]”

He replied “YES”.

I then said “AND WHAT IS YOUR DATE OF BIRTH PLEASE”?

He replied “[REDACTED]”

He said to me “I KNOW ABOUT YOU, ALL THE STAFF IN BRICK LANE ARE TALKING ABOUT YOU, YOU ARE PICKING ON ALL THE RESTAURANTS, YOU WANT TO COME HERE ON SATURDAY AND SEE EVERYONE TOUTING AT THE JUNCTION OF HANBURY STREET”.

I said “NO-ONE IS BEING PICKED ON, I AM DEALING WITH PEOPLE BREAKING THE LAW AND YOU JUST DON'T LIKE IT BECAUSE YOU HAVE BEEN CAUGHT RED-HANDED”.

He replied “I HAVE NOT BEEN CAUGHT RED HANDED”.

I then saw he was fiddling with his mobile phone and I said “I TAKE IT YOU ARE RECORDING THIS CONVERSATION, I SUPPOSE YOU DID NOT RECORD WHEN YOU WAS JUST SHOUTING AT ME THAT THE TOUTS DID NOT WORK FOR YOU? HE JUST TOLD ME WE ARE EMPTY WE NEED CUSTOMER, I HAVE HEARD HIM AND WATCHED HIM, YOU HAVE BEEN CAUGHT RED HANDED AND YOU DON'T LIKE IT”.

He replied “I DID NOT SAY THAT”.

I said “I CLEARLY HEARD YOU SHOUT AT ME, WHY YOU TALKING TO HIM, HE DOES NOT WORK HERE - WE BOTH KNOW HE DOES, WHY CAN'T YOU JUST TELL THE TRUTH”?

I then said “LET ME CHECK YOUR CCTV AND THAT WILL PROVE THAT THEY BOTH WORK HERE AND HAVE BEEN IN AND OUT ALL AFTERNOON”.

He said “I DO NO KNOW HOW TO WORK IT”.

I said “YOU'RE THE BOSS YOU SHOULD BE ABLE TO WORK IT”.

He invited me to try and I declined, I asked him once more and he still claimed he was unable to work it.

Signature/ [REDACTED]

Signature witnessed by: N/A.....

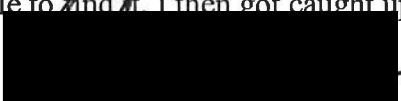
[Handwritten signature]

Continuation of Statement of **Brendan Paul O'ROURKE**.....

Due to no full premises licence, I was unable to check if that was an operating condition. I was sure the premises had a 'no touting' condition, but was unable to report him for process or issue a Section 19 Closure Notice without seeing it first. I told him I would go to Brick Lane and return if need be. I then completed Met Police Licensing Forms 'Book 694' "Notification of alleged offences under the Licensing Act 2003" and said to him a 17:27 hours "MR MIAH I SHOULD POINT OUT IT IS AN OFFENCE UNDER THE LICENSING ACT 2003 SECTION 57 (7) FAIL TO PRODUCE A PREMISES LICENCE OR CERTIFIED COPY, IN PLAIN ENGLISH THAT MEANS YOU MUST HAVE A COPY OF THE PREMISES LICENCE FOR INSPECTION AT ANY TIME AND NOT KEEP IT AT HOME".

I then gave the 'now' caution and said "THE FACTS OF THE MATTER WILL BE REPORTED AND YOU MAY BE PROSECUTED", he made no reply. The above offences are recorded on the Form Book 694, of which I gave it him to read and invited him to sign it, but he refused. I wrote this of the form and gave him a copy. I produce a copy in evidence as exhibit BOR/1 (copy attached).

I then left the premises and went to Brick Lane Police Station to check on the LBTH intranet for the Premises Licence, but I was unable to find it. I then got caught up in a theft of a bicycle and dealt with that before starting these notes..



Brendan Paul O'Rourke

Notes completed 19:20 hrs.

Signature 

Signature witnessed by: N/A.....

Brendan Paul O'Rourke



Notification of alleged offences under the Licensing Act 2003

Venue Name: Cafe Sangly REF: (CAD/CRIS etc.)

Address: 128 Brick Lane London E1 6RU

Details of person in charge at the relevant time: Mr Darius MIAH

Date: 20/7/14 Time: 1715
DPS Personal Licence Holder

Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y No)
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y No)
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y No)
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

Two workers seen to exit premises and shop people exiting the Sunday up Market - Mr KAMALI was heard to offer a free beer to a couple leaving. Could be verified as full premises licence not available.

Issuing officer: [Redacted] Print: [Signature]

I acknowledge receipt of this form: (venue) X refused to sign

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001



Home Office

CCTV supporting small businesses

Home Office Centre for Applied Science and Technology

This leaflet offers guidance to current or potential users of CCTV on how to get the most from this technology. Much like buying a new car or a television you have to make some important decisions before you buy to ensure that it actually meets your requirements and gives you a return on your investment.

Further guidance for users of CCTV will be available in the surveillance camera code of practice which, subject to the outcome of statutory consultation and the will of Parliament, will come into force in summer 2013. The code is intended to strike an appropriate balance between protecting the public and upholding civil liberties. This leaflet will be reissued after the code comes into force.

What can CCTV do for me and my customers?

If you install a poor system then the answer is probably "very little". You should have a very clear idea of what you want your system to do and how it should perform. This should be based on your own premises, its layout, and the specific problems you want to address. The mere visible presence of a CCTV camera is unlikely to assist your fight against crime in your business. It is the action that can be taken as a result of your system that is all important, whether that be at the time of an incident or afterwards. Performance has to be 'designed in' and cannot be taken for granted. CCTV needs to be of a high enough quality to ensure these elements actually work. It doesn't necessarily have to cost a fortune – it just needs to be well thought out.




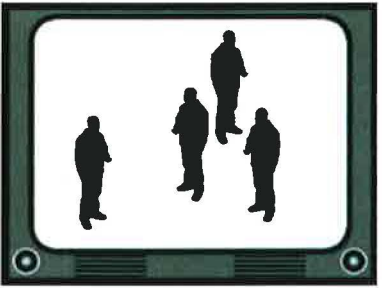
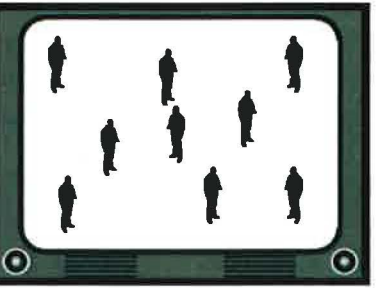
How good is your CCTV?

Benefits of a good quality CCTV system

<p>Crime detection</p> <p>CCTV is an electronic witness that can assist in proving guilt, innocence and association. It plays a significant part in many investigations by the police. There are two critical elements within the investigative process – the identification of suspects and the capture of events.</p>	<p>Staff and public safety</p> <p>The use of CCTV for the safety of users of your business is important. Often this requires some form of live time monitoring of the cameras to enable an early intervention by an appropriate person in an incident such as an assault or a violent shoplifter.</p>
<p>Crime reduction</p> <p>The reduction of crime is inextricably linked to the ability to detect and prosecute offenders. The potential reduction strategy is therefore based on the threat of being caught. This preventative benefit relies on knowledge by the public of the presence of cameras and also their effectiveness. Clearly people cannot be deterred from committing crime if they don't know they are being watched.</p>	<p>Shop management</p> <p>Some CCTV has an important part to play in the management of a store, e.g. seeing the arrival of a delivery lorry. This will probably mean however, that the same camera cannot be expected to be capable of identifying persons committing crime. In simple terms don't install a camera for one purpose and expect to use it for another because you and the police are likely to be disappointed.</p>

What do I need in a CCTV system?

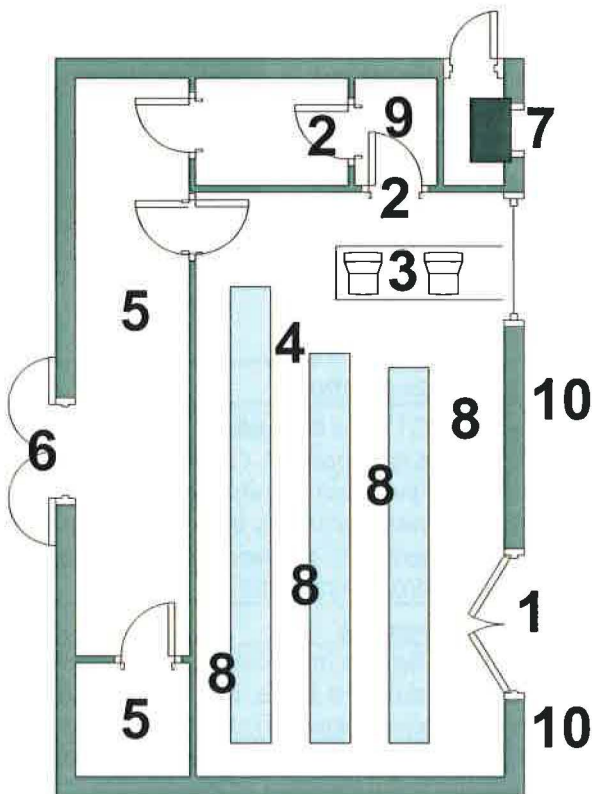
One of the most common failings in a CCTV system is having image sizes that are too small to enable identification and recognition. The pictures below demonstrate how large a person should look on screen, depending on the purpose of the camera.

		
Identify (100% screen height)*	Recognise (50% screen height)*	Observe (25% screen height)*
Sufficient picture quality and detail to identify an individual beyond reasonable doubt.	Viewers can say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before.	Some characteristic details of the individual, such as distinctive clothing can be seen.

Screen height is how much space vertically a 1.7m tall figure would occupy, as shown in the diagram above

*on a standard definition image

Generic Site Plan



	Location	Activity	Image Quality
1	Door – Customer	Any	Identify
2	Door – Secure	Any	Recognise / Observe
3	Tills	Robbery / Assault / Theft / Fraud	Identify
4	High Value Items	Theft	Recognise / Observe
5	Stock Room	Theft	Recognise / Observe
6	Loading Bay	Theft / Vandalism / Health & Safety	Recognise / Observe
7	ATM	Theft / Assault / Fraud	Identify
8	Aisles	Theft / Health & Safety	Observe
9	Cash Counting	Theft / Fraud	Identify
10	Car Park	Theft / Assault	Observe

A key element of most systems is the ability to identify persons entering and leaving the premises. By recording large images at these 'pinch points', smaller image sizes and therefore wider overview coverage is likely to be acceptable at other parts of the building to provide sufficient evidence of what took place.

As a minimum, your system should therefore meet the following standard:

- At least one camera must provide identifiable quality images of everyone entering your premises, i.e. clear image of the face plus characteristics of clothing, items carried etc. The best place to capture these images is usually at the main doorway. It is strongly recommended that a second camera with similar capabilities is placed near the till.
- The video signal from these cameras should be recorded at a minimum of six frames per second. All other cameras should record at six frames per second for higher risk locations or a minimum of two frames per second at lower risk locations.
- Make sure the recorded image quality is similar to that of the live view. The video should be recorded at its original size with a minimal amount of compression.

In addition to these cameras you should then identify the most important areas of your premises from the table and generic site plan above and ensure that they are also covered with additional cameras to the required standard.

As well as choosing the best location for your cameras, it is also important to consider the angle of view and lighting conditions as the pictures below illustrate. Additional lighting may need to be installed to achieve good quality images.



Camera set too high



Camera view obscured



View too wide to identify vehicle



Subject strongly backlit



Good position and lighting



Good coverage to identify vehicle

What else do I need to know?

Storage and Retention. What should you keep and for how long?

- The system should be capable of saving and securing recorded images for review or export at a later date.
- Information should be kept secure and retained for no longer than is necessary for the purpose of the system. A minimum of 14 days is recommended for small CCTV systems.
- The system clock should be set correctly and kept accurate (taking account of GMT and BST). This will be very important if a police investigation is carried out.

Playback and Export. Can the pictures be quickly reviewed and can the police take them away as evidence easily?

- There should be someone available at all times who is trained and able to replay recordings and produce copies for the police.
- The user should know the retention period of recordings
- The system should be able to quickly export video and stills onto a removable storage medium e.g. CD/DVD with the time and date integral to the relevant picture and without any drop in quality.
- Exported images should include any software needed to view or replay the pictures.
- Equipment and installation should be compliant with BS EN 50132-7.

Who should install a CCTV system for me?

It is likely that you have a 'monitored' intruder alarm. You could choose to use that company or another company who specialises in CCTV. They should be CCTV accredited by a UKAS approved scheme to ensure that the installation and subsequent maintenance are of a professional standard. The company should perform testing of the system using an approved audit and commissioning test and 'prove' that the system meets your specified requirement. We recommend the Home Office CAST test targets, which can be found on the Home Office website.

<http://www.homeoffice.gov.uk/science-research/hosdb/industry-download/>

Do I have to comply with the Data Protection Act?

Yes. It's simpler than you might think. The Information Commissioners' Office has published specific guidance on CCTV, which contains a lot of useful information and step by step help specifically for small businesses like yours. Visit their website at

http://www.ico.gov.uk/for_the_public/topic_specific_guides/cctv.aspx

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

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. Licensing authorities and other responsible authorities (in considering applications) and applicants for premises licences and clubs premises certificates (in preparing their operating schedules) should consider whether the measures set out below are appropriate to promote the licensing objectives.
2. Any risk assessment to identify appropriate measures should consider the individual circumstances of the premises and the nature of the local area, and take into account a range of factors including:
 - the nature, type and location of the venue;

- the activities being conducted there and the potential risk which these activities could pose to the local area;
- the location (including the locality in which the premises are situated and knowledge of any local initiatives); and
- the anticipated clientele.

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

3. 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, they become enforceable under the law and breach could give rise to prosecution.
4. Licensing authorities should carefully consider conditions to ensure that they are not only appropriate but realistic, practical and achievable, so that they are capable of being met. Failure to comply with conditions attached to a licence or certificate could give rise to a prosecution, in particular, as the provision of unauthorised licensable activities under the 2003 Act, 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 must be excluded.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

RADIO LINKS AND TELEPHONE COMMUNICATIONS

Two-way radio links and telephone communications connecting staff of premises and clubs to local police and other premises can enable rapid responses to situations that may endanger the customers and staff on and around licensed premises. It is recommended that radio links or telephone communications systems should be considered for licensed premises in city and town centre leisure areas with a high density of premises selling alcohol. These conditions may also be appropriate in other areas. It is recommended that a condition requiring a radio or telephone link to the police should include the following requirements:

- the equipment is kept in working order (when licensable activities are taking place);
- the 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;
- relevant police instructions/directions are complied with where possible; and
- instances of crime or disorder are reported via the radio 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 relation to:

- keeping out individuals excluded by court bans or by the licence holder;
- searching those suspected of carrying illegal drugs, or carrying offensive weapons;
- assisting in the implementing of the premises' age verification policy; and
- ensuring that queues outside premises and departure of customers from premises do not undermine the licensing objectives.

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, it may also be appropriate for conditions to stipulate:

- That a sufficient number of supervisors be available (possibly requiring both male and female supervisors);
- the displaying of name badges;
- the carrying of proof of registration; and
- where, and at what times, they should be in operation.

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

RESTRICTING ACCESS TO GLASSWARE

Traditional glassware and bottles may be used as weapons or result in accidents and can cause very serious injuries. Conditions can prevent sales of drinks in glass for consumption on the premises. This should be expressed in clear terms and can include the following elements:

- no glassware, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar; or
- no customers carrying glassware 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 given to customers 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.

The banning of glass may also be a relevant and appropriate measure to promote public safety (see Part 2).

ALTERNATIVES TO TRADITIONAL GLASSWARE

Where appropriate, consideration should therefore be given to conditions requiring the use of safer alternatives to prevent crime and disorder, and in the interests of public safety. Location and style of the venue and the activities carried on there are particularly important in assessing whether a condition is appropriate. 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 alternatives to traditional glassware may be an appropriate condition during the showing of televised live sporting events,

such as international football matches, when there may be high states of excitement and emotion.

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 (e.g. glasses and opened bottles) for example, by requiring the use of bottle bins on the premises. This may again be appropriate to prevent the use of these containers as offensive weapons, or to prevent consumption of alcohol, in surrounding streets after individuals have left the premises. Restrictions on taking open containers from the premises may also be appropriate 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 location of each camera, the requirement to maintain cameras in working order, to retain recordings for an appropriate period of time and produce images from the system in a required format immediately to the police and local authority. The police should provide individuals conducting risk assessments as part of preparing their operating schedules with advice on the use of CCTV to prevent crime.

RESTRICTIONS ON DRINKING AREAS

It may be appropriate to restrict the areas of the premises where alcoholic drinks may be consumed after they have been purchased. An example would be at a sports ground where it is appropriate to prevent the consumption of alcohol on the terracing during particular sports events. Conditions should not only specify these areas, but indicate the circumstances and times during which the ban would apply. Restrictions on drinking areas may also be relevant and appropriate 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 can also be considered for licensed premises or clubs where overcrowding may lead to disorder and violence. If such a condition is appropriate, door supervisors may be required to ensure that the numbers are appropriately controlled (see above).

PROOF OF AGE CARDS

It is unlawful for persons aged under 18 years to buy or attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent the commission of these criminal offences, the mandatory conditions require licensed premises to ensure that they have in place an age verification policy. This requires the production of age verification (which must meet defined criteria) before alcohol is served to persons who appear to staff at the premises to be under 18 (or other minimum age set by premises).

Such verification must include the individual's photograph, date of birth and a holographic mark e.g. driving licence, passport, military ID. Given the value and importance of such personal documents, and because not everyone aged 18 years or over necessarily has such documents, the Government endorses the use of ID cards which bear the PASS (Proof of Age Standards Scheme) hologram. PASS is the UK's national proof of age accreditation scheme which sets and maintains minimum criteria for proof of age card issuers to meet. The inclusion of the PASS hologram on accredited cards, together with the verification made by card issuers regarding the personal details of an applicant, gives the retailer the assurance that the holder is of relevant age to buy or be served age-restricted goods. PASS cards are available to people under the age of 18 for other purposes such as access to 15 rated films at cinema theatres so care must be taken to check that the individual is over 18 when attempting to purchase or being served alcohol.

CRIME PREVENTION NOTICES

It may be appropriate 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 voluntarily display 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 appropriate 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 licences or club premises certificates in an area. This may be unlawful under current law. It is also likely to be unlawful for licensing authorities or the police to promote generalised voluntary schemes or codes of practice in relation to price discounts on alcoholic drinks, 'happy hours' or drinks promotions. The mandatory licensing conditions (see chapter 10 of the statutory guidance) ban defined types of behaviour referred to as 'irresponsible promotions'.

SIGNAGE

It may be appropriate that the hours at which licensable activities are permitted to take place are displayed on or immediately outside the premises so that it is clear if breaches of these terms are taking place. Similarly, it may be appropriate 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 that have exceptionally high capacities, are used primarily or exclusively for the sale and consumption of alcohol, and provide little or no seating for their customers.

Where 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 Chapter 10 to control entry for the purpose of compliance with the capacity limit.

Appendix 7

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 public nuisance, including 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 appropriate 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 for the prevention of public nuisance. Licensing authorities are best placed to determine what hours are appropriate. However, the four licensing objectives should be paramount considerations at all times.

Restrictions could be appropriate 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 appropriate 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 are 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 appropriate, licensing authorities should be aware of the need to avoid 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 licence holder to take measures to ensure that music will not be audible above background level at the nearest noise sensitive location;
- require licence holder to undertake routine monitoring to ensure external levels of music are not excessive and take action where appropriate;
- noise limiters on amplification equipment used at the premises (if other measures have been unsuccessful);
- prominent, clear and legible notices to be 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; and
- the placing of refuse – such as bottles – into receptacles outside the premises to take place at times that will minimise the disturbance to nearby properties.

NOXIOUS SMELLS

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

LIGHT POLLUTION

Flashing or particularly bright lights at the 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 crime prevention objective may also be relevant as appropriate 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 8

Appendix 8

Licensing Policy Adopted by the London Borough of Tower Hamlets in relation to the Prevention of Crime and Disorder

- 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 9

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

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 (2.34)

Licence conditions should not duplicate other legislation (1.17).

Necessary and appropriate conditions should normally focus on the most sensitive periods (2.37) 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 (2.39).

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.