

Appendix 1

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

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

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

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

I Ian David Moseley

(Insert name of applicant)

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

Part 1 – Premises or club premises details

Postal address of premises or, if none, ordnance survey map reference or description A1 News 59 Brady Street	
Post town London	Post code (if known) E1 5DW

Name of premises licence holder or club holding club premises certificate (if known) Mr Abdul Rab

Number of premises licence or club premises certificate (if known) 14616
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Part 2 - Applicant details

I am

Please tick yes

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
 - b) a body representing persons living in the vicinity of the premises
 - c) a person involved in business in the vicinity of the premises
 - d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

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

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

Please tick

Mr

Mrs

Miss

Ms

Other title
(for example, Rev)

Surname

First names

I am 18 years old or over

Please tick yes

Current postal
address if
different from
premises
address

Post town

Post Code

Daytime contact telephone number

E-mail address
(optional)

(B) DETAILS OF OTHER APPLICANT

Name and address

Telephone number (if any)

E-mail address (optional)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT

Name and address Ian David Moseley 6 th Floor Mulberry Place 5 Clove Crescent E14 2BG
Telephone number (if any) [REDACTED]
E-mail address (optional) [REDACTED]

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

Please tick one or more boxes

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

Please state the ground(s) for review (please read guidance note 1)

Failure to comply with existing licensing conditions including those relating to underage sales. Sales of single cigarettes.

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

Please see attached details.

Please tick yes

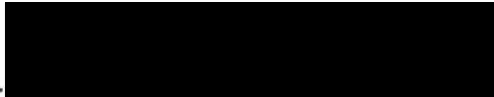
- I have sent copies of this form and enclosures to the responsible authorities and the premises licence holder or club holding the club premises certificate, as appropriate
- I understand that if I do not comply with the above requirements my application will be rejected

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

Part 3 – Signatures (please read guidance note 3)

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

Signature



Date

4/2/2015

Capacity

on behalf of Trading Standards

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

Post town

Post Code

Telephone number (if any)

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

Notes for Guidance

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

London Borough of Tower Hamlets

A1 News
59 Brady Street, E1 5DW

Licence No. 14616
Licensee Mr Abdul RAB

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

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this Review in relation to:-

the prevention of Crime and Disorder - licensing objective 1

the protection of children from harm - Licensing Objective 4.

1. An application for a licence for premises trading as A1 News, 59 Brady Street, E1 5DW was issued on 8th December 2010. Conditions applied to the licence when issued included items relating to the provision of CCTV coverage

"A CCTV camera system covering both internal and external to the premise is to be installed.

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.

At all times the premises is open, a person who can operate the CCTV system must be present on the premises."

Additionally the conditions included a requirement to adopt a "Challenge 21" policy, whereby intending purchasers appearing to be under 21 years of age would be required to produce proof of age.

2. In December 2010 and April 2011 Council records show that there were 2 complaints received alleging sale of single cigarettes to underage persons, however a test purchase attempt on 19/6/2011 was correctly refused.

Subsequently, records show that there have been a number of breaches of legislative requirements at these premises.

21/06/2012 Sale of cigarettes to underage TP volunteer

27/04/2013 Sale of alcohol to underage TP volunteer

20/09/2013 Possession of non duty paid cigarettes

11/09/2014 Possession of suspected counterfeit wine

In addition, during the visit on 11/9/2015 Officer LIENG from the Council's licensing service spoke to the person in charge of the premises at that time, a Mr. Abdul Malik. She also identified a number of breaches of licensing conditions including the failure to provide external CCTV, the failure to maintain recordings and Mr. Malik's inability to operate the system.

Mr. Malik was also not aware of the name or identity of the designated premises supervisor.

16/12/2014 Open packets of cigarettes found under counter, believed to be available for sale of single cigarettes. A statement of officer Nazir ALI is attached as IDM/A1/01

Ms LIENG was also present during this visit and noted that there were continuing breaches of the licensing conditions. Her statement covering both the visits, 11/09/2014 and 16/12/2014 is attached as IDM/A1/02

Information has also been received from the Police that underage youths found in possession of cigarettes have indicated that they purchased them from these premises.

However Members should note that test purchase attempts on 26/10/2014 (alcohol) and 29/10/2014 (single cigarettes) were correctly refused.

On a follow up visit to that of 16/12/2014, on the next day, Mr. Rab was given advice by officers on avoiding the commission of offences. At this point Mr. Rab advised officers that his CCTV system was not working, having been vandalised.

3. The premises are 250 metres from a secondary school and have 2 primary schools with walking distance. Given the allegations of sale of single cigarettes and the discovery of open packets behind the counter officers are concerned that members of staff may be selling only to children known to be from these schools, rendering test purchases ineffective.

Officers are also concerned that neither Mr. Rab as licensee nor Mr. Mahmud as DPS are controlling the premises effectively.

4. Members are therefore respectfully requested to consider the following actions.

Removal of Mr. Mahmud as Designated Premises Supervisor

Additional conditions to be added to the licence:-

No sales of alcohol to take place unless a personal licence holder is present on the premises

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.

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. Sellers VAT details, if applicable*
- iv. Vehicle registration details, if applicable*

Legible copies of the documents referred to above shall be retained on the premises and made available to authorised officers on request.

The CCTV system will be maintained and fully operational throughout the hours that the premises are open for any licensable activity.

5. Members are also asked to consider a period of suspension of licence to allow these changes to be put in place.

Ian David Moseley

**Senior Trading Standards Officer
London Borough of Tower Hamlets**

**LONDON BOROUGH OF TOWER HAMLETS,
TRADING STANDARDS FOOD SAFETY, LICENSING, HEALTH
and SAFETY.**

Witness Statement

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

URN:

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Statement of: **Cam Coun Lieng**

Age if under 18 (if over insert "over 18"):

Occupation: **Licensing Officer**

This statement (consisting of **3** Pages(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Name / Signature: 

Date: **2/2/2015**

Tick if witness evidence is visually recorded: (Supply witness details on last page)

Statement

I, Cam Lieng (LIENG) produce this witness statement. I have been a Licensing Officer for Tower Hamlets Council for the last 13 months. I am an authorised Licensing officer. Prior to this, I was a Smoke Free Technical Officer for 6.5 years at Tower Hamlets Council as part of the Environmental Health Smokefree Team.

I was invited with Trading Standard officers Geraldine Temple (TEMPLE) and Kevin Maple (MAPLE) by the Metropolitan police and Tower Hamlets Homes to take part in a joint working operation around the Collingwood Estates on the 11th September 2014.

TEMPLE, MAPLE and I attended a briefing at Orion House, E1 at 1pm before entering A1 Brady News, 59 Brady Street at approximately 1:38pm. As we entered the premises, MAPLE introduced himself, TEMPLE and myself to a Asian gentleman standing behind the counter.

I asked for the gentleman's name, he stated Mr Abdul Malik (MALIK). No copy of the licence summary was seen displayed on the premises at the time of the visit. As part of the Licensing Act 2003, it is required that a summary of his licence is displayed on the premises. Other copies of the license must be kept in a safe place on the premises. I asked MALIK for a full

Name / Signature: 

Signature Witnessed by: _____

~~RESTRICTED (when complete)~~ MG 11
**LONDON BOROUGH OF TOWER HAMLETS,
TRADING STANDARDS FOOD SAFETY, LICENSING, HEALTH
and SAFETY.**

Witness Statement

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

copy of his licence. He stated he didn't know where it was and failed to provide a copy of the license of the premises.

I asked to speak to the DPS, Mr Mohammed Mahmud, MALIK stated he didn't know who he was.

There was no Challenge 21 poster displayed, I asked MALIK if he had 'Challenge 21 Policy' in place, he stated he did not know. This is a breach of condition on the licence.

I asked MALIK if the premises had a refusal book and whether it was in use and maintained. MALIK stated he didn't have one. This is a breach of condition on the licence.

A CCTV camera system was installed internally by not externally of the premises. This is a breach of condition on the licence.

I asked if I was able to see CCTV recording that should be maintained for 30 days, MALIK stated he did not know how to operate the CCTV and was unable to prove it was not working. He was unable to turn it on. This is a breach of conditions on the licence.

There was no signs display at the exit of the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly. This is a breach of conditions on the licence.

I explained to MALIK, the premises breached all the conditions of the licence. He had no comment.

MAPLE and TEMPLE found bottles of wine on the shelves which they believed to be counterfeit and seized at the time of the visit.

Name / Signature: 

Signature Witnessed by:

~~RESTRICTED (when complete)~~
**LONDON BOROUGH OF TOWER HAMLETS,
TRADING STANDARDS FOOD SAFETY, LICENSING, HEALTH
and SAFETY.**

Witness Statement

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

On the 16th December 2014, I revisited the premises with TEMPLE and Trading Officer Nazir Ali (ALI) at approximately 4:10pm as part of a joint working operation with the police and Tower Hamlets Homes.

As we entered the premises, MALIK was behind the counter. I introduced myself again and explained the reasons for my visit. There was still no license displayed however MALIK was able to provide a copy on premises. I got MALIK to display Part B of the license on his front glass window.

The refusal book had been used however not maintained. CCTV was still not in operation and MALIK was unable to use it. There was no 'Challenge 21' Policy in place and no signs display at the exit of the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly. The premises continue to breach the conditions on the licence.

MALIK calls the licensee and TEMPLE spoke with him over the phone.

We left the premises at approximately 4:40pm.

Name / Signature: 

Signature Witnessed by:

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: Nazir Ali
Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Senior Trading Standards Officer

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

Signature: [Redacted] Date 26th January 2015

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

I am a Senior Trading Standards Officer, employed and authorised by the London Borough of Tower Hamlets to carryout trading standards enforcement duties. I am authorised to enforce various pieces of legislation including the Licensing Act 2003, the Children and Young Persons Act 1933 and the Trade Marks Act 1994.

Visit to A1 Brady News, 59 Brady Street, London E1 5DW

On the 16th December 2014, at about 16:25 hours, I accompanied Consumer Services Officer; Geraldine TEMPLE and Licensing Officer; Cam LIENG to the premises know as A1 Brady News, 59 Brady Street, London E1 5DW. Officer LIENG introduced us to an Asian male of about 5'5" tall. He said he was the brother of the owner and was known to both Officer LIENG and Officer TEMPLE. He gave his name as Mr Malik HAI. Whilst, Officer LIENG was checking some licensing matters such as not displaying part B and summary of the licence, I inspected the alcohol and tobacco for any suspect counterfeit. However; I found two opened packets of cigarettes under the counter amongst some paperwork. One packet contained 3 Benson & Hedges cigarettes and the other packet contained 12 Sovereign cigarettes. Mr HAI said he didn't know they were there and said may belong to his nephew and brother who smoke. He could not produce the refusal book and did not know what challenge policy they operated in the business. There were several groups of 5-6 young school children coming in and out of the shop. They were suspicious of our presence. Several of them spoke in Bengali and said that we look like police and not to ask for anything to the trader. At this stage I asked whether the CCTV was working, Mr HAI said that it was not working and they are waiting for the engineer to come. Officer LIENG reminded him on previous visits to sort out the CCTV as it was part of

Signature: [Redacted] Signature witnessed by:

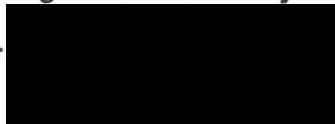
CONTINUATION OF STATEMENT OF WITNESS

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

his licensing conditions. I took the cigarettes away and got Mr HAI to voluntarily sign them over as I suspected they were selling them as 'single' cigarettes which was illegal. I produce the receipt as NA/A1/01.

Visit to premises on 17th December 2015.

The next day I revisited the premises with Geraldine TEMPLE to meet Mr Abdul RAB, the owner of A1 Brady News. Mr RAB explained that the CCTV was damaged when he had a burglary and the repair costs a lot of money, which he is now looking into. He said a repairer came this morning and went away to get some parts, quoting him £1000 for repair costs. As for the cigarettes, he said he smokes and Sovereign cigarettes and his son smokes the Benson and Hedges cigarettes. He showed me a packet of Sovereign in his car. He said he hides them so that his wife doesn't complain and leaves them in the shop. He said a lot of the people in the community make malicious complaints about him because he is very successful and will never sell alcohol or tobacco to young children as he has children of his own. Officer TEMPLE made him put up the warning posters for proxy sale of alcohol. I advised Mr RAB in Bengali as well as in English. I showed him how to fill up the refusal book and the training record of his staff. Officer TEMPLE did a mock sale and showed him where to write things and always to ask for ID. She invited him for the forthcoming underage sales prevention and Responsible Trader scheme training of 15th January 2015. Subsequently, no one from A1 Brady News attended the training.



Signature:

Signature witnessed by:



Exhibit Number NA/A1/01
 Signed [Redacted]
 Date 26/01/2015
 I identify the exhibit above as that referred to in the statement signed by me

NO 00B 1148

Trading Standards Service
 Mulberry Place (A11)
~~PO Box 55739~~
 5 Clove Crescent
 London E14 1BY

Name: A1 Brady News
 Address: 59 Brady Street
London E1 5DW

Tel: 020 7364 ~~6008~~ 6682

Officer:

Date: 16/12/2014
@ 16.25

- * You are advised that the following matters need attention and should be rectified within _____ days.
- * This document is an official receipt for the items below which have been seized on behalf of the London Borough of Tower Hamlets for retention at the above office. The items will be made available for inspection if required and if practicable to do so.

(*Delete whichever is inapplicable)

It is illegal to sell loose cigarettes,
they must be sold in their original packaging
of 10, 20 or 25 etc. with the required
health warnings. The fine for selling
loose cigarettes is £1,000.

Voluntarily signed over the following cigarettes
found open & on premises: —

3 X Benson & Hedges Cigarettes + 12 X Sovereign Cigarettes
sealed NO2641107.

Received by [Redacted]

Status Worker

Signed H/A1

Date 16/12/2014

Appendix 2

**(A1 News)
59 Brady Street
London
E1 5DW**

Licensable Activities authorised by the licence

The sale by retail of alcohol

See the attached licence for the licence conditions

Signed by

Jacqueline Randall _____
Licensing Services Manager

Date: 8th December 2010



LICENSING ACT 2003

Part A - Format of premises licence

Premises licence number

14616

Part 1 - Premises details

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

59 Brady Street

Post town

London

Post code

E1 5DW

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Sale of Alcohol (off sales only)

Monday to Saturday 09:00 hours – 23:00 hours

Sunday from 10:00 hours – 23:00 hours

The opening hours of the premises

Monday to Sunday 07:00 hours – 23:00 hours

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

Off sales only

Part 2

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

Abdul Rab
(A1 News)
59 Brady Street
London
E1 5DW

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

Not applicable

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

Mr Abdul Rab

[Redacted address and telephone number]

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

[Redacted personal licence number and issuing authority]

Annex 1 - Mandatory conditions

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

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

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

3.

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy
- (3) 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 either—
 - (a) a holographic mark, or
 - (b) an ultraviolet feature.

5. 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

2. For the purposes of the condition set out in paragraph 1—

(a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) “permitted price” is the price found by applying the formula —

$$P = D + (D \times V)$$

where —

- (i) **P** is the permitted price
- (ii) **D** is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

- (iii) **V** is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
 - (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence
 - (i) the holder of the premises licence
 - (ii) the designated premises supervisor (if any) in respect of such a licence, or
 - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence
 - (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member prevent the supply in question; and
 - (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994
3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
4. (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day

Annex 2 - Conditions consistent with the operating Schedule

Not applicable

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

1. To introduce the ‘Challenge 21 Policy’
2. A refusal book to be used and maintained
3. A CCTV camera system covering both internal and external to the premise is to be installed.
4. 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.

5. At all times the premises is open, a person who can operate the CCTV system must be present on the premises.
6. Prominent and clearly legible notices shall be displayed at all exits of the premises requesting patrons to respect the needs of local residents and to leave the premises and area quietly.

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:
12th July 2010 (Drawing dated 01/07/2010 covering the ground floor of the premises only).



Licensing Act 2003

Part B - Premises licence summary

Premises licence number

14616

Premises details

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

59 Brady Street

Post town

London

Post code

E1 5DW

Telephone number

Where the licence is time limited the dates

N/A

Licensable activities authorised by the licence

The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Sale of alcohol.
Monday to Saturday 09:00 hrs – 23:00 hrs
Sunday 10:00 hrs – 23:00 hrs

The opening hours of the premises

Monday to Sunday
07:00 hours – 23:00 hours

Name, (registered) address of holder of premises licence

Abdul Rab
(A1 News)
59 Brady Street
London
E1 5DW

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

Off sales only

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

Not applicable

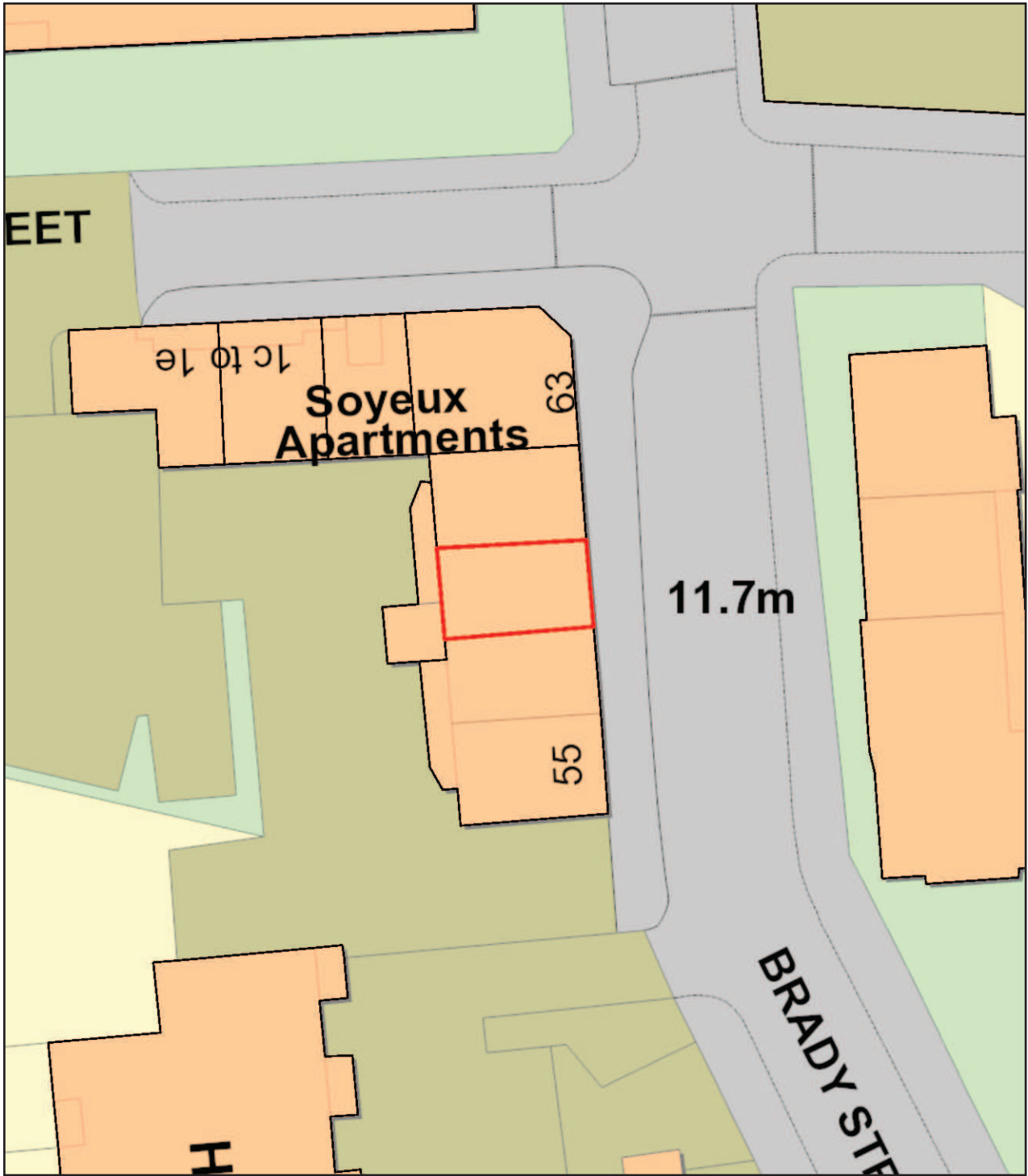
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr Abdul Rab

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

No restrictions

Appendix 3

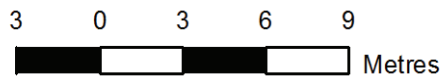


59 Brady Street

Map 1



Scale 1:334



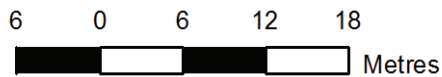


59 Brady Street

Map 2



Scale 1:668



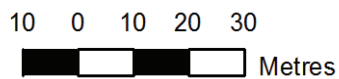


59 Brady Street

Map 3



Scale 1:1669



Appendix 4

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 5

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).

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).

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 6

Appendix 6

London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder

Licensing Policy Adopted by the London Borough of Tower Hamlets

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

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

Appendix 7

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

CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM

An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely. This would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm. Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm while on the premises.

Access for children to licensed premises – in general

Restrictions on the access of children under 18 to premises where licensable activities are being carried on should be made where it is necessary to protect children from harm. Precise policy and details will be a matter for individual licensing authorities.

The Secretary of State recommends (unless there are circumstances justifying the contrary) that:

- for any premises with known associations (having been presented with evidence) with or likely to give rise to:
 - heavy or binge or underage drinking;
 - drugs;
 - significant gambling; or
 - any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature,there should be a strong presumption against permitting any access at all for children under 18 years.

- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access under the above circumstances, should when preparing new operating schedules or club operating schedules or variations of those schedules:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case the Secretary of State recommends that, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act

Age Restrictions – specific

Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, licensing authorities will need to consider:

- the hours of day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity that are unlikely to require age restrictions, for example:
 - family entertainment; or
 - non-alcohol events for young age groups, such as under 18s dances,
- types of event or activity which give rise to a more acute need for age restrictions than normal, for example:
 - during “Happy Hours” or on drinks promotion nights;
- during activities outlined in the first bullet point in the first paragraph above.

The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

The Portman Group operates, on behalf of the alcohol industry, a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel’s decisions are published on the Portman Group’s website, in the trade press and in an annual report. If a product’s packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important mechanism in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors.

Consideration can be given to attaching conditions to premises licences and club premises certificates that require compliance with the Portman Group’s Retailer Alert Bulletins.

Proof of Age cards

Proof of age cards are discussed under Part 1 in connection with the prevention of crime and disorder. However, a requirement for the production of proof of age cards before any sale or supply of alcohol is made could be attached to any premises licence or club premises certificate for the protection of children from harm.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

Since many adults in England and Wales do not currently carry any proof of age, the wording of any condition will require careful thought. For example, many premises have adopted the “Challenge 21” or other similar initiatives. Under the “Challenge 21” initiative those premises selling or supplying alcohol require sight of evidence of age from any person appearing to be under the age of 21 and who is attempting to

buy alcohol. Making this a licensing condition would ensure that most minors – even those looking older – would need to produce appropriate proof of age before making such a purchase.

Appendix 8

London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm

Licensing Policy

The Policy recognises the wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or Entertainment. The Act does not prohibit children from having access to any licensed premises, the Council recognises that limitations may have to be considered where it appears necessary to protect children from harm. (**See Section 9 of the Licensing Policy**).

The Licensing Authority will judge the merits of each separate application before deciding whether to impose conditions limiting the access of children to individual premises (**See Section 9.4 of Licensing Policy**).

The Licensing Authority recommends applicants to consult with the Area Child Protection Committee or such other body, as they consider appropriate. (**See Section 9.3 of the Licensing Policy**).

The Licensing Authority will consider attaching conditions to protect children from harm and these may include Conditions drawn from the Model Poll of Conditions relating to the Protection of Children from Harm. (**See Appendix 2 Annex H of the Licensing Policy**). In particular Members may wish to consider a range of conditions that are to be tailored to the particular premises and their activities (this list is not exhaustive):

- Limiting access of children to premises
- Limitations on the hours when children maybe present
- Limitations or exclusions when certain activities are taking place
- for any premises with known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.
- for any premises, not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 23:00, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time
- Notices on premises displaying age restrictions
- Conditions requiring sufficient number of adult staff on the premises to ensure the wellbeing of children present on the premises during any emergency
- Requirements of staff supervision in areas occupied by children
- Whether conditions appropriate for restricting use of special effects around children
- Adequate chaperones for children

- Requirement for production of proof of age cards

Police Powers

Part 8 of the Licensing Act 2003 enables a senior police officer to close down a premises for up to 24 hrs when there is, or is likely imminently to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interests of public safety.

Section 169A(2) of the Licensing Act 2003 enables a senior police officer (or inspector of weights and measures) to close premises for maximum of 48 hours to prohibit the sale of alcohol for repeatedly selling alcohol to underage persons.

Guidance Issued under Section 182 of the Licensing Act 2003

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

The protection of children from harm includes the protection of children from moral, psychological and physical harm (2.41)

In the context of many licensed premises such as pubs, restaurants, café bars and hotels, it should be noted that the Secretary of State recommends that the development of family-friendly environments should not be frustrated by overly restrictive conditions in relation to children. (2.42)

Licence conditions should not duplicate other legislation (1.16).

Conditions, where they are necessary, should reflect the licensable activities taking place on the premises (2.47)

The Secretary of State considers that representations made by the child protection bodies and the police in respect of individual applications should be given considerable weight when they address necessary issues regarding the admission of children. (2.48)

Other Legislation

Violent Crime Reduction Act 2006

The Act introduces new measures to ensure that police and local communities have the powers they need to tackle guns, knives and alcohol-related violence.

Confiscation of Alcohol (Young Persons) Act 1997

Alcohol Confiscation – any person in a public place or trespassing **if any under 18** have drunk or likely to drink. Dispose on the spot unless local instructions direct otherwise.