

Appendix 1

Communities, Localities and Culture

Safer Communities

Head of Consumer and Business Regulations

Service: David Tolley

6th floor

Mulberry Place

5 Clove Crescent

London E14 2BG

Tel 020 7364 6840

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Enquiries to Ian Moseley

Email: ian.moseley@towerhamlets.gov.uk

www.towerhamlets.gov.uk

www.towerhamlets.gov.uk

Licensing Authority

Date 23/1/2015

Your reference

My reference M84349

**Licensing Act 2003 Section 51 – application for review of licence
Best Kebab, 275 Commercial Road, London E1 2PS - Licence 12473**

The London Borough of Tower Hamlets Weights and Measures Authority (Trading Standards) as a responsible authority within the meaning of the Licensing Act 2003 is applying for a review of the licence for the above premises

Please find herewith a copy of the application for the review of the premises licence.

Copies have been sent to the Responsible Authorities and to the License Holder

**Ian Moseley
Trading Standards**

**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 Best Kebab 275 Commercial Road	
Post town London	Post code (if known) E1 2PS

Name of premises licence holder or club holding club premises certificate (if known) Mr Ibrahim Kocager

Number of premises licence or club premises certificate (if known) 12473
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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 Mulberry Place (AH) PO Box 55739 5 Clove Crescent London, E14 1BY
Telephone number (if any) 020 7364 6840
E-mail address (optional) ian.moseley@towerhamlets.gov.uk

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

Please tick one or more boxes

- 1) the prevention of crime and disorder
- 2) public safety
- 3) the prevention of public nuisance
- 4) the protection of children from harm

<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

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

Prevention of Crime and Disorder
Prevention of Public Nuisance

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

Please see attached documents

Please tick yes

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

If yes please state the date of that application

Day Month Year

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

Please tick yes

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

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

Part 3 – Signatures (please read guidance note 3)

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

Signature

[Redacted Signature]

Date

23/4/2015

Capacity

ON BEHALF OF LOCAL TRADING STANDARDS AUTHORITY

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

Best Kebab
275 Commercial Road, E1 2PS

Licence No. 12473
Licensee Mr Ibrahim Kocager

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

London Borough of Tower Hamlets – Trading Standards Service

REPRESENTATIONS

1. The Trading Standards Service, as the Local Weights and Measures Authority is designated a 'responsible authority' for the purposes of the Act and it is raising this review in relation to the prevention of Crime and Disorder - licensing objective 1 and prevention of public nuisance - Licensing Objective 3.
2. Best Kebab, 275 Commercial Road, E1 2PS is licensed for the sale of alcohol and for the sale of late night refreshment after 11 pm up to 0200 Monday to Thursday, up to 0300 on Fridays and Saturdays and up to 0200 Sundays for food (0100 for alcohol).
3. On Tuesday the 1st of July 2014 PC O'Rourke of Tower Hamlets Licensing Police observed that the premises were open and apparently serving customers after 2.00 a.m. The officer was in plain clothes and was able to enter the premises and purchase a burger and a can of Stella lager, paying at 2.25 a.m. He then identified himself to the staff and noted that the premises were not displaying the licence summary and the persons on the premises were unable to supply a copy of this and could not produce a

copy of the full licence; a breach of regulatory requirements. A copy of PC O'Rourke's statement is attached as IDM/BK/01

4. On the 19th of January 2015, Officers Temple and Hickey of the Trading Standards Service visited the premises following receipt of a complaint alleging the sale of cigarettes to underage children from there. While on the premises they found a total of 1540 cigarettes which had been duty evaded and did not carry the required English language health warnings. At interview Mr Kocager admitted buying the cigarettes from a man who called at the shop. A copy of Ms Temple's statement is attached as IDM/BK/2.
5. On Saturday the 21st of February 2015 PC O'Rourke observed that the premises were still open after the 3.00 a.m. Saturday closing hour. He was able to enter the premises and purchase hot food at 4.24 a.m. although alcohol was not available. A copy of his statement is attached as IDM/BK/3
6. Information provided by Mr Kocager, the licensee and DPS, at interview is that he is only on the premises from 12 noon to 4 p.m. each day. The existing licence carries a condition stating that "At least one personal licence holder shall be present whilst the premise is open for business and alcohol is being sold". Although the other staff operating the late shift have stated to have been working there for approximately 2 years, there is no indication that any of them are personal licence holders or that any specific person has been authorised to sell alcohol by Mr Kocager.
7. Officers are concerned that Mr. Kocager has displayed a lack of regard for the legal requirements relating to a licenced premises in having contraband cigarettes on the premises, failing to ensure proper control of the premises with regard to the late hours and failing to adhere to licence conditions.
8. Officers therefore respectfully request that Members consider
 - 1] reducing the permitted hours for the sale of alcohol and late night refreshments
 - 2] removing Mr Kocager as Designated Premises Supervisor

3] suspending the licence for a period sufficient for the licence holder to find and appoint a new designated premises supervisor and sufficient personal licence holders to meet the licencing conditions throughout the permitted hours for the sale of alcohol

4] add conditions to the licence as follows :-

The premises licence holder and any other persons responsible for the purchase of stock should not purchase any goods from door-to-door sellers unless a valid receipt is supplied at the time of the purchase.

If stock is purchased from a door-to-door seller the premises licence holder shall ensure that a record is kept of the seller's vehicle registration number.

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

Seller's name and address

Seller's company details, if applicable

Seller's VAT details, if applicable

Copies of the documents referred to above should be made available to officers on request.

Ian David Moseley,

Senior Trading Standards Officer

London Borough of Tower Hamlets

RESTRICTED (when complete)

MG 11(T)

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: 4..... 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: **01/07/2014**

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 Best Kebabs,
275, COMMERCIAL ROAD, LONDON E1 2PS

Officers' original notes made at Bethnal Green Police Station at 18:30 hours in my own company.

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

On Tuesday, 1st July 2014, I was on duty in plain clothes conducting licensing compliance and enforcement visits around the borough.

I had previously received information that this kebab shop was regularly open long often is terminal hour for licensed activities. I reviewed the Premises Licence which allows for Licensable Activities authorised by the licence as being the 'Provision of Late Night Refreshment' and 'The sale by retail of alcohol'. It further states the hours permissible are:

Late Night Refreshment - Monday to Thursday until 02:00 hrs; Friday and Saturday until 03:00 hrs Sunday until 02:00 hrs. Sale by retail of alcohol - Monday to Thursday from 12:00 hrs to 02:00 hrs; Friday and Saturday from 12:00 hrs to 03:00 hrs and Sunday from 12:00 hrs to 01:00 hrs

Also the opening hours of the premises are Monday to Thursday from 12:00 hrs to 02:00 hrs; Friday and Saturday from 12:00 hrs to 03:00 hrs and Sunday from 12:00 hrs to 02:00 hrs.

At approximately 01:55 hours I made my way to the venue and identified myself to LBTH CCTV and asked if they would monitor me as I was alone. I walked past the front of the venue at approximately

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

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

02:00 hours and the venue was still open with five customers inside and three staff. I could see that the burners on the doner kebab grill machine were fully lit and the meat was still being cooked. No effort had been made to close the venue on time.

I then carried on observing the premises from across the road, when at 02:15 hours, four customers left in two cars that were parked outside. At 02:19 hours, two new customers entered and placed orders. At approximately 02:20 hours I entered the premises, as I saw one staff member pull down one shutter. I ordered a small burger and chips with a drink which the menu display board advertised at £2.50.

It was ready at approximately 02:25 hours and whilst there was no alcohol advertised, I understood that the venue did sell alcohol and it was licensed to do so. The staff member said to me "WHAT DRINK WOULD YOU LIKE"?

I said "DO YOU HAVE ANY BEER"?

He replied "YES, ONE POUND FIFTY MORE".

I said "CAN I HAVE A HEINEKEN PLEASE"?

He replied "NO ONLY STELLA".

I said "THAT'S FINE, I'LL HAVE ONE PLEASE".

He then produced a can of Stella lager from a fridge under the counter and said "ONE POUND MORE". At approximately 02:25 hours I then paid a total of £3.50 (not £4.00) and left with my burger and beer, holding up the purchase to the CCTV camera as I stood outside. I seized the Stella in evidence and produce it as exhibit BOR/1, later sealed in evidence bag D43843363.

There was one customer still in the shop and I waited for him to leave and a few minutes later I re-entered the shop and I identified myself as a police officer by producing my warrant card saying "HELLO I'M PC O'ROURKE, FROM POLICE LICENSING, LET'S HAVE A WORD PLEASE"?

I then said to the male who served me "WHO IS IN CHARGE PLEASE"?

He replied "TOMORROW".

I said "WHO IS IN CHARGE NOW PLEASE"?

It appeared that English was not his Mother tongue and he had some difficulty understanding me.

I said "ARE YOU THE PREMISES LICENCE HOLDER OR THE DPS"?

Again, he did not appear to understand what I was asking.

I then said "CAN I SEE YOUR PREMISES LICENCE AND WHERE IS YOUR PART B ON DISPLAY IN THE SHOP"?

He searched behind the counter and produced a letter dated 11/02/14 from Mr Andrew Heron,

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

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

Licensing Officer at LBTH, ironically it was a warning letter sent to the venue reminding them to close on time and in particular to adhere to the opening times on their Premises Licence.

I said "THIS IS NOT YOUR LICENCE IT IS A LETTER FROM THE COUNCIL REMINDING YOU TO CLOSE ON TIME AND I CAN'T SEE YOU HAVE A COPY OF PART B ON THE WALL"?

I had a copy of the Premises Licence with me and showed it him asking "THIS IS A COPY OF IT, DO YOU HAVE YOURS HERE NOW PLEASE".

He replied "NO".

I said, "OK LET ME TAKE SOME DETAILS, CAN YOU TELL ME YOUR NAME PLEASE"?

He replied "IBRAHIM".

I saw on the Premises Licence that the PLH and DPS was a Mr Ibrahim KOCAGER. I showed it him pointing at the name Ibrahim KOCAGER and said "IS THIS YOU, IS THIS YOUR NAME"?

He replied "YES".

I asked him again and then said "SO YOU ARE THE PREMISES LICENCE HOLDER"?

He said "NO, TOMMORROW".

It appeared he had misunderstood me and I asked him to write down his name which he did as 'CUMA SENLOY'.

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

He replied '██████████'.

I then said "AND DO YOU LIVE UPSTAIRS"?

He replied "NO".

I said "CAN YOU WRITE DOWN YOUR ADDRESS FOR ME PLEASE"?

He then produced a small notebook with an address of ██████████
██████████ LONDON, ██████████'. I have since checked the voters register and indeed Mr SENLOY is registered to vote at that address.

I then said to him "DO YOU HAVE A PERSONAL LICENCE"?

He replied "YES"

I said "TO SELL ALCOHOL"?

He replied "NO".

I then said "AND DID YOU HAVE ANY EXTENSION TO OPEN TONIGHT, A 'TEN'"?

He looked at me blank. But I knew the venue had not submitted any 'TENS'.

Signature: ██████████

Signature witnessed by: *B. Paul O'Rourke*

N/A.....

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

I then completed Met Police Form Book 694

At 02:30 hours, I said to him "I SHOULD POINT OUT THAT IT IS AN OFFENCE UNDER THE LICENSING ACT 2003 TO COMMIT THE FOLLOWING OFFENCES

'UNDER 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',

IN PLAIN ENGLISH THAT MEANS YOU HAVE ALLOWED BREACHES OF THE PREMISES LICENCE BY BEING OPEN AFTER 2:00 AM AND SELLING HOT FOOD AND A CAN OF STELLA TO ME AT 02:25 AM. IT IS ALSO AN OFFENCE UNDER

- SECTION 57 (4) - FAIL TO PROMINENTLY DISPLAY A SUMMARY OF THE LICENCE AND
- UNDER SECTION 57 (7) - FAILE TO PRODUCE A PREMISES LICENCE OR CERTIFIED COPY

I SAID YOU MUST HAVE A COPY OF THIS ON THE PREMISES AND HAVE THESE TWO PAGES ON DISPLAY. BUT MR KOCAGER WILL BE RESPONSIBLE FOR THE LAST TWO OFFENCES".

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.

I completed Form Book 694 and showed it to him asking him to sign it, which he did and I gave me the top copy. I produce a copy in evidence as exhibit BOR/2 (copy attached).

At one point he said to me "WE SHOULD CLOSE AT 2AM BUT THE CUSTOMERS WERE IN THE SHOP".

I said "NO, I CAME IN AT 2:20 AM AND TWO MORE JUST BEFORE ME, YOU DID NOT TELL ME YOU WAS CLOSED AND YOU WAS HAPPY TO SERVE ME, YOU KNOW YOU SHOULD CLOSE AT 2AM AND I THINK YOU HAVE BEEN DOING THIS FOR A LONG TIME".

I then left the premises and as I did I asked Mr SENLOY "DO YOU HAVE ANYMORE QUESTIONS FOR ME"?

He replied "NO".

I then said "PLEASE MAKE SURE THAT YOU CLOSE ON TIME".

Notes completed 19:25 hrs.

Signature:

2003(1)

Signature witnessed by:

N/A.....

Notification of alleged offences under the Licensing Act 2003

Venue Name: Best kebab REF: (CAD/CRIS etc.)
 Address: 275 Commercial Road London E1 2PS Date: 11/7/14 Time: 0225
 Details of person in charge at the relevant time: Gemma SETHU/Alan
Limy SENLO 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:
Premises commercial open beyond licensing hours of 0200 hours
Serving alcohol after 0200 hours food on premises
open at 0225 hours served by Gemma SETHU DPS or PLH
not on premises

Issuing officer: PC [redacted] Print: [redacted]

I acknowledge receipt of this form: (venue) [redacted]

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

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: Geraldine Temple

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

Occupation: Consumer Services Officer

This statement (consisting of 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:

Tick if witness evidence is visually recorded:

(Supply witness details on last page)

Statement

I am a Consumer Services Officer employed by the London Borough of Tower Hamlets and am an Authorised officer under the Trade Marks Act 1994, Consumer Protection Act 1987 and associated legislation.

On 20th November 2014, Tower Hamlets Trading Standards received a complaint alleging that Best Kebab, 275 Commercial Road E1 2PS were selling illicit tobacco to minors from under the till area.

On 19th January 2015 at around 14:40 along with Martin Hickey; Trading Standards Officer, I entered Best Kebab, 275 Commercial Road, London E1 2PS. We showed our warrant identification cards to the man behind the counter. Officer Hickey explained that we were from Trading Standards and that we had received a complaint alleging they were selling illicit tobacco. The man invited us to come and look behind the counter. The member of staff identified himself as Ibrahim Kocager and said that he was the owner. Officer Hickey explained our powers under the

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

Consumer Protection Act 1987 and asked Mr Kocager if there was any illicit tobacco on the premises. Mr Kocager pointed at the till area and said there was some there. Officer Hickey found a small bucket containing 7 x packets of 20 Marlboro Gold cigarettes with Polish markings. They were not compliant with The Tobacco Products (Manufacture, Presentation and Sale)(Safety) Regulations 2002. I bagged and sealed them with seal number P00408868.

Officer Hickey checked the store room which you access at the back of the shop opposite the counter and returned with a cardboard box that contained 1400 x Marlboro Gold cigarettes that were non-compliant. I bagged and sealed them with seal number R00450357.

Officer Hickey cautioned Ibrahim Kocager at 14:49. He was unable to confirm whether he did or did not understand the caution and that he'd need a Turkish interpreter. A man in the shop who claimed to be a friend phoned a person named 'Iskender' who he claimed could interpret for Mr Kocager. Officer Hickey spoke to him followed by Mr Kocager.

Following this exchange, a receipt was issued by Officer Hickey on which Mr Kocager agreed to voluntarily sign over the seized goods. We then left the premises and returned to the office where the evidence was placed into secure storage.

At around 4pm on 11th February 2015, I accompanied Officer Hickey and Kevin Maple, Consumer Services Officer to Best Kebab. Officer Hickey wished to establish whether Mr Kocager could attend a PACE interview on 23rd February 2015. He introduced us and we showed our warrant cards. Mr Kocager started to say that we had not contacted him and that we had taken his cigarettes. He stated that he wanted to call the police. Officer Hickey said that was fine and reiterated that we were from Trading Standards and that we had given him a receipt for the goods that had been seized. Mr Kocager started to take photographs of us. Officer Hickey explained that

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

we wished to invite him to a formal interview and that a Turkish interpreter had been booked for him. A confirmation letter was to follow. Mr Kocager accepted this and we left the premises.

On 23rd February 2015, I interviewed Ibrahim Kocager along with Kevin Martin, Principal Consumer Services Officer. Also present was Marcus Afentakis, Turkish Interpreter from Language Shop. The interview commenced at 11:00. Mr Kocager was cautioned at 11:03. He has run Best Kebab for 12 years. In the last 2 years he has a shareholder called Ekrem but he is not in the country due to his visa expiring and will not be involved in the business much longer. He stated that he had purchased 10 cartons of 200 Marlboro Gold cigarettes from a man in his 40's, tall and slim with short, dark hair on either 11th or 12th January 2015. The man drives a white truck about 10-15m long. He approached his shop saying he needed money and food. He did not speak very good English. Mr Kocager paid £40 per carton. He claims that he works there 7 days per week between 12-4pm. He has two other full time staff members who have been there for 2 years. They are Ali Altunatmaz and Cuma Senkoy. The cigarettes were to be split between the 3 of them to use personally. He said he did not know that it was an offence to have those cigarettes on the premises.

He claimed that the ones in the till area were for them to smoke. He was asked about the complaint that we had received in November 2014 alleging that he was supplying cigarettes to children. He claimed that he did not sell cigarettes to children and implied that the complaint may be vexatious. He confirmed that kids visit his shop and can be troublesome. He then went on to say that customers sometimes ask him for a cigarette and he gives them one but does not charge. He said that he smokes with the customers outside but does not sell the cigarettes. Interview was terminated at 11:41.

Name / Signature:

Signature Witnessed by:

RESTRICTED (when complete)

MG 11(T)

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		15
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Age if under 18 Over 18..... (if over 18 insert 'over 18') Occupation: **Police Officer 230222**

This statement (consisting of: ... 4..... 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: **21/02/2015**.....

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 Best Kebabs,
275, COMMERCIAL ROAD, LONDON E1 2PS on 21/05/15

Officers' original notes made at Brick Lane Police Station at 05:40 hours in my own company.

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

On Saturday, 21st February 2015, I was on duty in plain clothes conducting licensing compliance and enforcement visits around the borough.

I had driven past Best Kebabs at 03:30 hrs and saw that they were still open, but had to go to Brick Lane Police Station to obtain a copy of the Premises Licence, to double check their hours. I returned having read they should have closed at 03:00 hrs.

I was also aware that on 19/01/15 Trading Standards seized 1,440 illegal Marlboro Gold cigarettes from the premises, so it would clearly appear that the Premises Licence Holder has no regard whatsoever for any of the legislative process.

I entered the premises at approximately 04:10 hours and there was five customers ahead of me, all waiting or paying for kebabs or kebabs and chips. There was also 4 people sat on a small table towards the rear of the premises. All 4 of them ate their food and then came to pay behind me, again it was all for kebabs.

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

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

It was clear to me the shop was in full swing, all the gas burners for the doner kebab grill were fully lit and meat was still being cooked and sliced. No effort had been made to close the venue on time.

I then decided to undertake an impromptu 'test purchase' and I waited my turn and then I ordered a small kebab and paid £3.50 for it at 04:24 hrs. I had asked the man who served me "FOR A STELLA" (lager), but he told me they had none. I left the premises and returned a few minutes later, with the police paperwork.

There was still three customers in the shop and I identified myself as a police officer by producing my warrant card saying "HELLO I'M PC O'ROURKE, FROM POLICE LICENSING, YOU NEED TO CLOSE NOW, YOU SHOULD HAVE CLOSED AT 3.00 AM". One male pleaded with me for his food, which he said he had paid for and as it was ready I agreed he may as well take it, but a second male who had not paid, but placed his order I politely asked to leave.

I recognised two of the males from my earlier visit and in fact had that file with me with their details in it, I said to one male are you 'CUMA SENKOY'?"

He replied "YES"

I said "AND IS YOUR DATE OF BIRTH [REDACTED]"?

He replied "YES".

I then said "AND DO YOU STILL LIVE AT FLAT [REDACTED]"

[REDACTED] LONDON [REDACTED]"?

He replied "YES".

I then said to the other male, "YOU MUST BE ALI ALTINATMAZ"?

He replied "YES".

I asked him to write down his surname to be sure I had the correct spelling and it was as above.

I said "AND IS YOUR DATE OF BIRTH [REDACTED]"?

He replied "YES".

I said "AND DO YOU STILL LIVE AT [REDACTED] LONDON [REDACTED]"?

He replied "YES".

I then said to the third male "CAN YOU TELL ME YOUR NAME AND DATE OF BIRTH PLEASE"?

Signature: [REDACTED].....

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

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

He replied "MEMIK UGEZ, [REDACTED]".

I then said "AND WHAT IS YOUR ADDRESS PLEASE"?

He replied "[REDACTED] LONDON, [REDACTED]".

I then said, "WHO IS THE SUPERVISOR NOW"? Mr SENKOY said he was.

I then said "CAN I SEE YOUR PREMISES LICENCE PLEASE"? Mr SENKOY pointed to Part B on the wall which I retrieved and showed him the hours, pointing out that they should close at 02:00 hrs every day, apart from Friday and Saturday night when they can stay open one hour longer until 03:00 hrs. he just looked bemused. I said to him "AND WHERE IS MR KOCAGER"?

He replied "TOMMORROW, DAYTIME".

I said "IT'S HIM WHO HAS MADE YOU STAY OPEN AFTER HOURS ISN'T IT"?

He looked uncomfortable and I did not wish to make his life difficult by compromising his job. It appeared to me they were just three shop workers just being told what to do by their boss.

I then completed Met Police Form Book 694 - 'Notification of Alleged Offences under the Licensing Act 2003'.

At 04:30 hours, I said to him "I AM GOING TO GIVE YOU THESE FORMS, YOU ARE NOT IN TROUBLE YOURSELF, BUT MR KOCAGER IS. BUT I AM GIVING THEM YOU AS YOU ARE IN CHARGE RIGHT NOW. I SHOULD POINT OUT THAT IT IS AN OFFENCE UNDER SECTION 136 (1) OF THE LICENSING ACT 2003 TO CARRY ON OR ATTEMPT TO CARRY ON A LICENSABLE ACTIVITY ON OR FROM ANY PREMISES OTHERWISE AND IN ACCORDANCE WITH AN AUTHORISATION OR KNOWINGLY ALLOWING A LICENSABLE ACITIVITY TO BE CARRIED ON, WHICH MEANS, YOU HAVE SERVED HOT FOOD AFTER 03:00 AM".

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.

I completed Form Book 694 and showed it to him asking him to sign it, which he did and I gave him the top and Premises Licence Holder copies. I produce the Licensing Authority copy in evidence as exhibit BOR/2 (copy attached).

I then explained in great detail to all three staff, that they cannot allow Mr KOCAGER to make them

Signature:

[REDACTED SIGNATURE]

Signature witnessed by:

N/A.....

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

work after 03:00 hrs on a Friday or Saturday night and to keep doing so, will jeopardize the premises licence. I showed them very carefully the times on Part B of the Premises Licence, so that they cannot be in any doubt.

As I left at approximately 04:45 hrs, there were still customers trying to get inside, it seemed clear to me that it is regularly open late at weekends beyond their licensed hours...

Notes completed 06:20 hrs.

[Redacted signature]

Signature:

2003(1)

[Redacted signature]

Signature witnessed by:

N/A.....



TOTAL POLICING

DOR/2

Book 684

Licensing Authority Copy

Notification of alleged offences under the Licensing Act 2003

Venue Name: Res. 105025 REF: (CAD/CRIS etc.) _____

Address: 275 Commercial Road

London E1 2AS Date: 21/02/15 Time: 0430

Details of person in charge at the relevant time: James Sealby

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:

LNR until 0300 however site full until 0430 including
be told to go to a private at 0434 hrs.

Issuing officer: _____

Print: _____

I acknowledge receipt of this form: (venue) X

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

Appendix 2

**(Best Kebab)
275 Commercial Road
London
E1 2PS**

Licensable Activities authorised by the licence

Provision of Late Night Refreshment
The sale by retail of alcohol

See the attached licence for the licence conditions

Signed by

**John Cruse _____
Team Leader Licensing**

Date: 28/10/05

As amended 24th October 2007



Part A - Format of premises licence

Premises licence number

12473

Part 1 - Premises details

Postal address of premises, or if none, ordnance survey map reference or description
(Best Kebab)
275 Commercial Road

Post town
London

Post code
E1 2PS

Telephone number
[REDACTED]

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

The provision of late night refreshment
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment

Monday to Thursday until 02 00 hrs

Friday and Saturday until 03 00 hrs

Sunday until 02 00 hrs

Sale by retail of alcohol:

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 01:00 hrs

The opening hours of the premises

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 02:00 hrs

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

Ibrahim Kocager
(Best Kebab)
275 Commercial Road
London
E1 2PS

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. Ibrahim Kocager

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]

Annex 1 - Mandatory conditions

4.

- (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.
- (2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

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

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

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

Annex 2 - Conditions consistent with the operating Schedule

1. At least one personal licence holder shall be present whilst the premise is open for business and alcohol is being sold.
2. Alcohol is only to be sold when purchased with substantial takeaway food.
3. Any alcohol purchased will not be opened or consumed on the premises
4. Signage will be placed inside the premises informing customers that alcohol will only be sold when purchased with takeaway food and that it is not be opened on the premises.
5. The door closure will be used so that the premises door self closes.
6. That the extract system is annually inspected and serviced.
7. Notices shall be displayed asking customers to respect the neighbours and leave the area quietly.
8. Digital CCTV shall be installed and maintained. Recordings shall be kept securely for 31 days and made available to the Police on request.
9. No less than two members of staff will be present between the hours of 23:00 hrs and the terminal hour.

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

Not applicable

Annex 4 - Plans

The plans are those submitted to the licensing authority on the following date:
18 July 2005

Part B - Premises licence summary

Premises licence number

12473

Premises details

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

(Best Kebab)
275 Commercial Road

Post town

London

Post code

E1 2PS

Telephone number

[REDACTED]

Where the licence is time limited the dates

N/a

Licensable activities authorised by the licence

The provision of late night refreshment
The sale by retail of alcohol

The times the licence authorises the carrying out of licensable activities

Late Night Refreshment

Monday to Thursday until 02 00 hrs

Friday and Saturday until 03 00 hrs

Sunday until 02 00 hrs

Sale by retail of alcohol:

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 01:00 hrs

The opening hours of the premises

Monday to Thursday from 12:00 hrs to 02:00 hrs

Friday and Saturday from 12:00 hrs to 03:00 hrs

Sunday from 12:00 hrs to 02:00 hrs

Name, (registered) address of holder of premises licence

Ibrahim Kocager
(Best Kebab)
275 Commercial Road
London
E1 2PS

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

Off supplies only

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

Not applicable

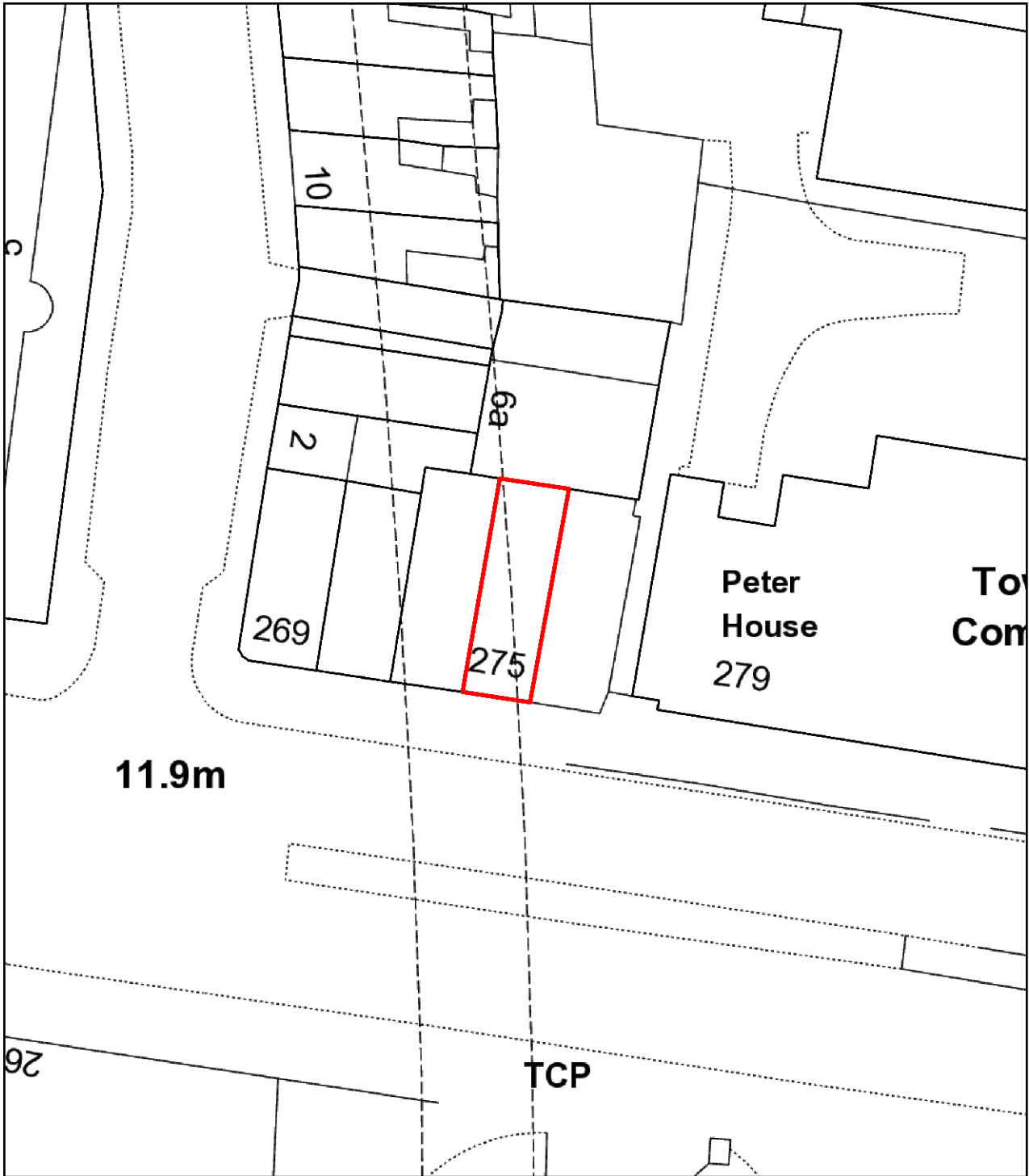
Name of designated premises supervisor where the premises licence authorises for the supply of alcohol

Mr. Ibrahim Kocager

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

No restrictions

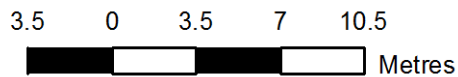
Appendix 3

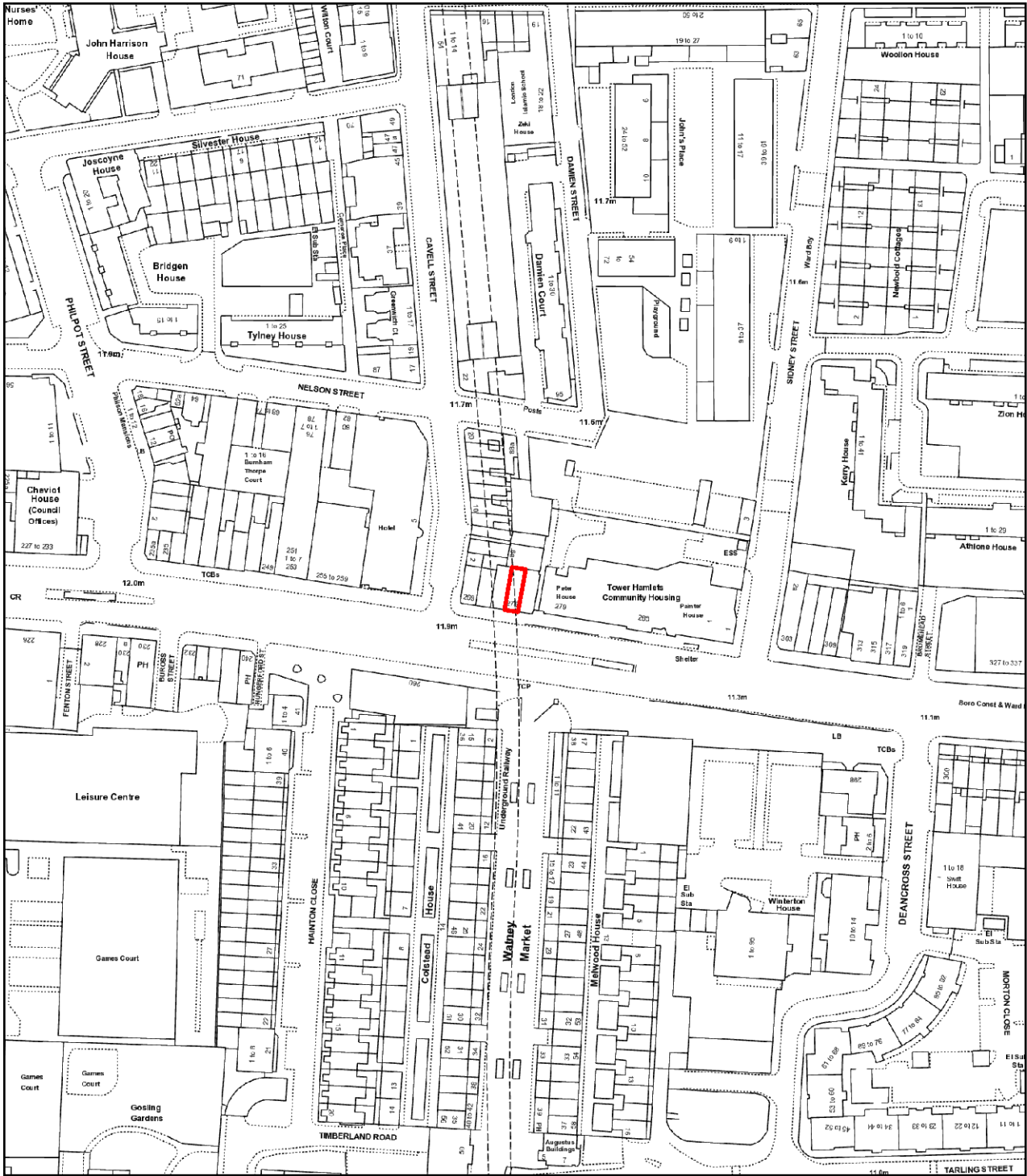


275 Commercial Road



Scale 1:384





275 Commercial Road



Scale 1:1922

10 0 10 20 30



Metres



TOWER HAMLETS

Appendix 4

Mohshin Ali

From: Andrew Heron on behalf of Licensing
Sent: 29 April 2015 12:26
To: Mohshin Ali
Subject: FW: Best Kebab, 275 Commercial Rd, E1
Attachments: Best Kebab (review April 15).doc

From: Alan.D.Cruickshank@met.pnn.police.uk [<mailto:Alan.D.Cruickshank@met.pnn.police.uk>]
Sent: 29 April 2015 10:52
To: Licensing
Cc: Ian Moseley
Subject: Best Kebab, 275 Commercial Rd, E1

Dear Licensing

Please accept my letter of support for the review of Best Kebab

Regards

Alan Cruickshank PC 189HT

Total Policing is the Met's commitment to be on the streets and in your communities to catch offenders, prevent crime and support victims. We are here for London, working with you to make our capital safer.

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John McCrohan
LBTH Licensing
Toby Club
Vawdrey Close
E1 4UA

HT - Tower Hamlets Borough
Licensing Unit

Licensing Office
Limehouse Police Station
27 West India Dock Road &
5 Birchfield Street
E14 8EZ

Telephone: 0207 161 8792

Facsimile:

Email:

Alan.D.Cruickshank@met.pnn.police
.uk

www.met.police.uk

Your ref:

Our ref:

24 April 2015

Dear Mr McCrohan

Review of a premises licence

Best Kebab, 275 Commercial Road,E1 2PS

I write with reference regarding the above application. Please accept this letter as notification that the police as a responsible authority wish to support this application on the following two licensing objectives.

The prevention of crime and disorder

The prevention of public nuisance

Trading Standards have already highlighted that on the 1st July 2014, my colleague, PC O'Rourke purchased a burger and a can of Stella lager after Best Kebab's licensable hours had finished.

The PLH and also the DPS, Mr Ibrahim KOCAGER was also reported for failing to produce the premises licence and failure to display a summary of the Licence (Part B)

Once more on the 21st February 2015 PC O'Rourke observed that the premises was still open after the 0300 licensing hours. He was able to purchase hot food at 0424.

A member of staff was then reported for unauthorised licensable activities.

Further to the above, the following incidents involve Best Kebab.

On Thursday 25th December 2014 at 0120 a very drunk victim entered the kebab shop and he thought someone had jumped the queue in front of him. He became angry and staff said he began spitting at people. At this point an unknown suspect hit him over the head, cutting a small part of his head. Once again CCTV was not working, the staff stating that the police had removed it for another incident.

The victim was so drunk, he couldn't sign the officer's pocket book and refused to make any allegations.

On Tuesday 30th December 2014 at about 0252 an argument began between two parties. The victim and her friends had been drinking and whilst in the kebab shop an argument occurred with a group of Asian males. At some point the victim ran out of the shop, straight into the path of a LFB tender. The wing mirror struck the victim, causing sever facial injuries and although she eventually recovered, she may have lost the vision in her left eye.

The CCTV inside the shop was not working and this fact obviously hindered the investigation.

More importantly, the kebab shop should have closed at 0200. The incident should never had taken place as the altercation took place around 0252

Due to the late hours it is often difficult to check to see whether the venues are abiding by their licensing hours and more importantly their licensing objectives, especially those of crime and disorder and public nuisance. It is an issue of trust between the Premises Licence Holder and the responsible authorities.

It is clear that the PLH / DPS does not abide by the Licensing Act. PC O'Rourke has reported the venue for twice selling past their hours.

It is anyone's guess how many times the staff of Best Kebab have flouted the Licensing Act.

Further to this, the incident on the 30th December highlights that Best Kebab continually breaches its licensable hours. Such late hours often have to be taken on trust. It would appear that Mr KOCAGER has no intention of maintaining his hours or promoting the licensing objectives.

Whilst supporting Trading Standard, I would ask the committee to consider not only reducing the hours but to remove the sale of alcohol.

Alan Cruickshank PC 189HT

Appendix 5

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

Updated March 2015

The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.
- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

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

Repetitious grounds of review

- 11.12 repetitious ground is one that is identical or substantially similar to: a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or representations considered by the licensing authority when the premises licence or certificate was granted; or representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.
- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

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 which it may exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.
- 11.17 The licensing authority may decide that the review does not require it to take any further steps appropriate 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 informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as 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 address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:
- 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;
 - 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)¹⁰;
 - remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
 - suspend the licence for a period not exceeding three months;
 - revoke the licence.
- 11.20 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 that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 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.

- 11.22 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 that impact upon the licensing objectives.
- 11.23 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 an appropriate 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 appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises

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

11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises: for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 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 prostitution or the sale of unlawful pornography;

by organised groups of paedophiles to groom children;

as the base for the organisation of criminal activity, particularly by gangs;

for the organisation of racist activity or the promotion of racist attacks;

for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;

for unlawful gambling; and

for the sale or storage of smuggled tobacco and alcohol.

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

Review of a premises licence following closure order

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order. The relevant time periods run concurrently and are as follows:

when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;

the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;

notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

Review of a premises licence following persistent sales of alcohol to children

11.30 The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures). However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

Appendix 6

Crime and disorder - S182 Updated March 2015

- 2.1 Licensing authorities should look to the police as the main source of advice on crime and disorder. They should also seek to involve the local Community Safety Partnership (CSP).
- 2.2 In the exercise of their functions, licensing authorities should seek to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.
- 2.3 Conditions should be targeted on deterrence and preventing crime and disorder. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.
- 2.4 The inclusion of radio links and ring-round phone systems should be considered an appropriate condition for public houses, bars and nightclubs operating in city and town centre leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the police and facilitate a rapid response to any disorder which may be endangering the customers and staff on the premises.
- 2.5 Conditions relating to the management competency of designated premises supervisors should not normally be attached to premises licences. It will normally be the responsibility of the premises licence holder as an employer, and not the licensing authority, to ensure that the managers appointed at the premises are competent and appropriately trained. The designated premises supervisor is the key person who will usually be responsible for the day to day management of the premises by the premises licence holder, including the prevention of disorder. A condition of this kind may only be justified as appropriate in rare circumstances where it can be demonstrated that, in the circumstances associated with particular premises, poor management competency could give rise to issues of crime and disorder and public safety.

Appendix 7

Public nuisance - S182 Updated March 2015

- 2.14 The 2003 Act enables licensing authorities and responsible authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, licensing authorities and responsible authorities focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 2.15 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.
- 2.16 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 15). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.
- 2.17 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

- 2.18 Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.
- 2.19 Measures to control light pollution will also require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.
- 2.20 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engages in anti-social behaviour is accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, that requires the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

Appendix 8

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

Updated March 2015

Protection of children from harm

- 2.21 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). Licensing authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.
- 2.22 The Government believes that it is completely unacceptable to sell alcohol to children. Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm should be carefully considered. Moreover, conditions restricting the access of children to premises should be strongly considered in circumstances where:
- adult entertainment is provided;
 - a member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
 - it is known that unaccompanied children have been allowed access;
 - there is a known association with drug taking or dealing; or
 - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 2.23 It is also possible that activities, such as adult entertainment, may take place at certain times on premises but not at other times. For example, premises may operate as a café bar during the day providing meals for families but also provide entertainment with a sexual content after 8.00pm. It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to consider this point carefully. This would broadly include topless bar staff, striptease, lap-, table- or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language.

- 2.24 Applicants must be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration should also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 2.25 Licensing authorities and responsible authorities should expect applicants, when preparing an operating schedule or club operating schedule, to set out the steps to be taken to protect children from harm when on the premises.
- 2.26 Conditions, where they are appropriate, should reflect the licensable activities taking place on the premises. In addition to the mandatory condition regarding age verification, other conditions relating to the protection of children from harm can include:
- restrictions on the hours when children may be present;
 - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
 - restrictions on the parts of the premises to which children may have access;
 - age restrictions (below 18);
 - restrictions or exclusions when certain activities are taking place;
 - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 2.27 Please see also Chapter 10 for details about the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010.

- 2.28 Licensing authorities should give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers. Where a responsible authority, or other person, presents evidence to the licensing authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the licensing authority should also consider what action is appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, it is recommended that the licensing authority considers what conditions may be appropriate to ensure that this objective is promoted effectively.
- 2.29 The 2003 Act provides that, where a premises licence or club premises certificate authorises the exhibition of a film, it must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence (the British Board of Film Classification is currently the only body which has been so designated) or by the licensing authority itself. Further details are given in Chapter 10.
- 2.30 Theatres may present a range of diverse activities and entertainment including, for example, variety shows incorporating adult entertainment. It is appropriate in these cases for a licensing authority to consider restricting the admission of children in such circumstances. Entertainments may also be presented at theatres specifically for children. It will be appropriate to consider whether a condition should be attached to a premises licence or club premises certificate which requires the presence of a sufficient number of adult staff on the premises to ensure the wellbeing of the children during any emergency.

Offences relating to the sale and supply of alcohol to children

2.31 Licensing authorities are expected to maintain close contact with the police, young offenders' teams and trading standards officers (who can carry out test purchases under section 154 of the 2003 Act) about the extent of unlawful sales and consumption of alcohol by minors and to be involved in the development of any strategies to control or prevent these unlawful activities and to pursue prosecutions. Licensing authorities, alongside the police, are prosecuting authorities for the purposes of these offences, except for the offences under section 147A (persistently selling alcohol to children). Where, as a matter of policy, warnings are given to retailers prior to any decision to prosecute in respect of an offence, it is important that each of the enforcement arms should be aware of the warnings each of them has given.

Table of relevant offences under the 2003 Act	Section	Offence	Prosecuting Authority
	Section 145	Unaccompanied children prohibited from certain premises	Police and/or Licensing Authority
	Section 146	Sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
	Section 147	Allowing the sale of alcohol to children	Police, Licensing Authority and/or Local Weights and Measures Authority
	Section 147A	Persistently selling alcohol to children	Police and/or Local Weights and Measures Authority
	Section 148	Sale of liqueur confectionery to children under 16. (This offence will be repealed by the Deregulation Act 2015 on 26 May 2015).	Police and/or Licensing Authority
	Section 149	Purchase of alcohol by or on behalf of children	Police and/or Licensing Authority
	Section 150	Consumption of alcohol by children	Police and/or Licensing Authority
	Section 151	Delivering alcohol to children	Police and/or Licensing Authority
	Section 152	Sending a child to obtain alcohol	Police and/or Licensing Authority
	Section 153	Prohibition of unsupervised sales by children	Police and/or Licensing Authority

Appendix 9

Crime and Disorder – Licensing Policy, updated March 2015

- 6.1 Licensed premises, especially those offering late night / early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems.
- 6.2 When addressing crime and disorder the applicant should initially identify any particular issues (having regard to their particular type of premises and / or activities) which are likely to adversely affect the promotion of the crime and disorder objective. Such steps as are required to deal with these identified issues should be included within the applications operating schedule. Where a Crime Prevention Officer from the Metropolitan Police makes recommendations for premises that relate to the licensing objectives, the operating schedule should normally incorporate the suggestions.
- 6.3 Applicants are recommended to seek advice from Council Officers and the Police as well as taking into account, as appropriate, local planning and transport policies, with tourism, cultural and crime prevention strategies, when preparing their plans and Schedules.
- 6.4 In addition to the requirements for the Licensing Authority to promote the licensing objectives, it also has a duty under Section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the Borough.
- 6.5 The Licensing Authority, if its discretion is engaged, will consider attaching Conditions to licences and permissions to deter and prevent crime and disorder both inside and immediately outside the premises and these may include Conditions drawn from the Model Pool of Conditions relating to Crime and Disorder given in Section 182 of the Licensing Act 2000. (See **Appendix 2.**)
- 6.6 **CCTV** - The Licensing Authority, if its discretion is engaged, will attach conditions to licences, as appropriate where the conditions reflect local crime prevention strategies, for example the provision of closed circuit television cameras.
- 6.7 Touting - The Council has had a significant number of complaints relating to premises which are substantially or mainly restaurants where "touting" is a problem. Touting is soliciting for custom. Consequently, in relation to such premises the Licensing Authority, where its discretion is engaged will insert a standard condition that prohibits 'touting' as follows:-
 - 1) No person shall be employed to solicit for custom or be permitted to solicit for custom for business for the premises in any public place within a 500 meters radius of the premises as shown edged red on the attached plan.(marked as Appendix -)
 - 2) Clear Signage to be placed in the restaurant windows stating that the premises supports the Council's 'No Touting' policy.

- 6.8 **Street Furniture** - This would include Advertising Boards, they are sometimes placed in such a way as to be a nuisance to the public on the highway, or they encourage the consumption of alcohol in areas that are not licensed. The Licensing Authority expects applicants to have ensured that they fully comply with the Council's rules relating to authorisation of obstructions on the highway and a licence permission to place advertising boards or street furniture on the highway should normally have been obtained from Tower Hamlets Markets Service before an application for a licence is made. Where proportionate and appropriate, and its discretion is engaged, the Licensing Authority will impose conditions in relation to street seats and tables or boards, including on private land.
- 6.9 **Fly Posting** - The Council has experienced significant problems with "fly posting" in relation to venues that offer entertainment. Fly posting is the unauthorised posting of posters / advertisements etc. Where it considers it appropriate and its discretion is engaged, the Licensing Authority will attach conditions relating to the control of fly posting to ensure that venues clearly prohibit all fly posting in their contract terms with others and they effectively enforce this control.
- 6.10 **Responsible Drinking** - The Licensing Authority expects alcohol to be promoted in a responsible way in the Borough. This should incorporate relevant industry standards, such as the Portman Group. Where appropriate and proportionate, if its discretion is engaged, the Licensing Authority will apply conditions to ensure responsible drinking. The Licensing Authority also recognises the positive contribution to best practice that "Pubwatch" and other similar schemes can make to achieving the licensing objectives and is committed to working with them. Model Pool Conditions from the Licensing Act 2003, Section 182 Guidance are in Appendix 2.
- 6.11 **Illicit Goods: Alcohol and Tobacco** - The Licensing Authority will consider licence review applications where there is evidence that illicit alcohol has been offered for sale on the premises. Where other illicit goods, such as tobacco, have been found this may be considered by the Licensing Authority as evidence of poor management and have the potential to undermine the licensing objectives.
- 6.12 Illicit alcohol means alcohol that is, counterfeit, bears counterfeit duty stamps and or smuggled.
- 6.13 Illicit tobacco means, counterfeit, and/or non UK duty paid tobacco products.
- 6.14 Illicit goods mean articles that are counterfeit, that do not comply with the classification and labelling requirements of the Video Recordings Acts and/or that breach other Trading Standards legislation such as consumer safety and unfair commercial practices

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

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

Smuggled goods

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

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

I. Seller's name and address

II. Seller's company details, if applicable

III. Seller's VAT details, if applicable

IV. Vehicle registration detail, if applicable

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

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

5) Where the trader becomes aware that any alcohol may be not duty paid they shall inform the Police of this immediately.

Appendix 10

Prevention of Nuisance – Licensing Policy, updated March 2015

- 10.1 Licensed premises, especially those operating late at night and in the early hours of the morning, can cause a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 10.2 The concerns mainly relate to noise nuisance both from the premises and customer egress, light pollution, noxious smells and disruption from parked vehicles and due regard will be taken of the impact these may have in considering a licence. The Licensing Authority will expect Operating Schedules to satisfactorily address these issues. Applicants are advised to seek advice from the Council's Environmental Health Officers before preparing their plans and Schedules.
- 10.3 The Licensing Authority, where its discretion is engaged, will consider, where appropriate, attaching conditions to licences and permissions to prevent the problems identified in 8.2, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.

Appendix 11

Protection of children from harm – Licensing Policy Updated

March 2015

11 Prevention of Harm to Children

- 11.1 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.
- 11.2 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.
- 11.3 Applicants are recommended to consult with the Area Child Protection Committee or such other body, as the Licensing Authority considers appropriate.
- 11.4 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. The following are examples of premises that will raise concern:-
- Where there have been convictions for serving alcohol to minors or with a reputation for underage drinking
 - With a known association with drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment of an adult or sexual nature is provided
 - Where irresponsible drinking is encouraged or permitted.
- 11.5 Where its discretion is engaged, the Licensing Authority will consider any of the following options when dealing with a licence application where limiting the access of children is considered necessary to prevent harm to children:
- Limitations on the hours when children may be present
 - Limitations on ages below 18
 - Limitations or exclusion when certain activities are taking place
 - Requirements for an accompanying adult
 - Full exclusion of people under 18 from
- 11.6 No conditions will be imposed requiring that children must be admitted to any premises and, where no limitation is imposed, this will be left to the discretion of the individual licensee.
- 11.7 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 11.8 All licence holders will be expected to comply the Portman Group Code of Practice, and in particular the Retailer Alert Bulletin.

- 11.9 The Licensing Authority expects all licensed suppliers of alcohol to have robust measures, effectively managed and monitored, in place to ensure that minors are fully protected from harm.

12 Access to Cinemas

- 12.1 Films cover a vast range of subjects, some of which deal with adult themes and / or contain, for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 12.2 In order to prevent children from seeing such films, the Licensing Authority will impose conditions requiring licensees to restrict children from viewing age restricted films classified according to the recommendations of the BBFC, or the Council itself. The Licensing Authority will not consider reclassifying any films already classified by the BBFC. The Council will charge for classifying films, on a full cost recovery basis.
- 12.3 The Licensing Authority will classify films itself where it is satisfied that no BBFC classification exists. It will inform relevant licensee and require such classifications to be clearly contained in any advertising or informative material relating to such films.

13 Children and Public Entertainment

- 13.1 Many children go to see and / or take part in an entertainment arranged substantially for them. Consequently additional arrangements are required to safeguard them at such times.
- 13.2 Where 11.1 applies, and its discretion is engaged, the Licensing Authority will require the following arrangements in order to control their access and egress and to assure their safety:-
- An adult member of staff to be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
 - No child unless accompanied by an adult to be permitted in the front row of any balcony
 - No standing to be permitted in any part of the auditorium during the Performance
- 13.3 Where children are taking part in any regulated entertainment, and its discretion is engaged, the Licensing Authority will require the operating schedule to clearly state the steps taken to assure their safety.
- 13.4 Where its authority is engaged, the Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Model Pool of Conditions in Appendix 2.