

Committee: <b>Licensing Sub-Committee</b>	Date:	Classification: UNRESTRICTED	Report No.	Agenda Item No.
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Report of: <b>David Tolley</b> <b>Head of Environmental Health &amp; Trading Standards</b>  Originating Officer: <b>Lavine Miller-Johnson</b> <b>Licensing Officer</b>	Title: <b>Licensing Act 2003</b>  <b>Application to Review the Premises Licence for The London Cocktail Club 9 Cabot Square Canary Wharf E14 4EB</b>  Ward affected: <b>Canary Wharf</b>
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## 1.0 Summary

Name and Address of premises: **The London Cocktail Club  
9 Cabot Square  
Canary Wharf  
London  
E14 4EB**

Licence under review: **Licensing Act 2003**  
▪ **Sale by retail of alcohol**

Representations: **Police**

## 2.0 Recommendations

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

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

Brief description of "background paper"	Tick if copy supplied for register	If not supplied, name and telephone number of holder
<ul style="list-style-type: none"> <li>Guidance Issued under Section 182 of the Licensing Act 2003</li> <li>Tower Hamlets Licensing Policy</li> <li>File</li> </ul>		Lavine Miller-Johnson 020 7364 2665

### 3.0 Review Application

- 3.1 This is an application for a review of the premises licence for The London Cocktail Club 9 Cabot Square London E14 4EB. The review was triggered by The Metropolitan Police.
- 3.2 A copy of the review application and supporting evidence MR/01 – MR/08 is attached in **Appendix 1**.

### 4.0 The Premises

- 4.1 The premises licence was issued on 21<sup>st</sup> March 2022. The premises licence holder is The London Cocktail Club Limited. Emma Heaney had been the DPS since the licence was granted in March 2022. A vary DPS was made 10<sup>th</sup> January 2023 to Simon Charles Kennington. A copy of the current licence is contained in **Appendix 2**.
- 4.2 Maps showing the premises, surrounding area and vicinity of local residents are included in **Appendix 3**.

### 5.0 Representations

- 5.1 This hearing is required by the Licensing Act 2003, because a review has been triggered by the Police.
- 5.2 Only representations that relate to the following licensing objectives are relevant:
- the prevention of crime and disorder
  - public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 5.3 In the view of the interested party and the responsible authorities it is necessary to achieve the licensing objectives of the Protection of children from harm and prevention of crime & disorder.
- 5.4 Supporting representation received
- (Giuseppe Talio) **Appendix 4**
  - (Sophie Cann) **Appendix 5**

### 6.0 Review Explained

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

could result in the modification of the licence, its suspension, or ultimately, revocation.”

- 6.2 The Home Office has issued guidance under Section 182 of the Licensing Act 2003 in relation to reviews and that is contained in **Appendix 6**. It is available on the Government’s website, [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk). It was last revised in December 2022.
- 6.3 Members are particularly asked to note the comments in relation Crime and Disorder. In particular the home office advice is that “The role of the licensing authority when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure that the crime prevention objective is promoted.”
- 6.4 In relation to its advice on representations the home office has also advised that “there is no requirement for an interested party or responsible authority to produce a recorded history of problems at a premises to support their representations.” It has also issued revised guidance about Crime and Disorder. **See Appendix 7**.
- 6.5 Members should also note the Council’s Licensing Policy in relation to Crime and Disorder, the relevant parts of which are contained in **Appendix 8**.
- 6.6 Guidance Issued by the Home Office concerning Protection of children from Harm **Appendix 9**.
- 6.7 London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm **Appendix 10**.
- 6.8 The Home Office has advised that in relation to reviews “ 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. ”
- 6.9 An interested party or a responsible authority can trigger a review at any time, but the grounds must be relevant to the licensing objectives. The form of the application, and the advertisement of the review are the subject of regulations (The Licensing Act 2003 (Premises Licences and Club Premises Certificate) Regulations 2005). In addition, the licensing authority has to satisfy itself of certain matters in relation to the Licensing Act 2003. The Licensing & Safety Team Leader is the delegated officer who deals with this on behalf of the Licensing Authority. All the matters

stated in 5.0 were considered before any representations were accepted for inclusion in this report.

6.10 The Licensing Act 2003 requires that the Licensing Authority satisfies itself that it should reject the grounds for a review because:

- The ground is not relevant to one or more of the licensing objectives
- In the case of an application by a local resident that the application is frivolous, vexatious or repetitious.

## **7.0 Review Advertisement**

7.1 The review was advertised by a blue poster, next to the premises, by the Licensing Section. This was periodically monitored by the Section to ensure it was on continuous display, and replaced as necessary. It was also advertised at Mulberry Place, 5 Clove Crescent, London E14 2BG.

7.2 The party that triggers the review must notify the licence holder and responsible authorities. The review documents were sent to the licence holders.

7.3 The procedure for a review can be summarised as follows:

- A review is triggered by a responsible authority or interested party
- Consultation is conducted for 28 full days
- Other responsible authorities or interested parties may join in the review
- Members conduct a hearing
- Members make a determination
- All the parties to the review have the right of appeal to the magistrates court (i.e. the licence holder, the person who triggered the review and those who have made a representation).

## **8.0 Licensing Officer Comments**

8.1 When licence holders or designated premises supervisors move, leave a premises or dispose of their premises they remain responsible in law until they have informed the licensing authority and surrendered the licence or arranged a transfer, which may involve notification to the Police as well. Any licensees or designated premises supervisors who are not sure what to do should contact the licensing authority. Please note that should the DPS cease to work/be employed by the premises the Licensing Authority will consider that there is no DPS for those premises.

This consideration shall apply regardless of whether that person is still named on the Premises Licence, or whether they have asked for their name to be removed from it. This consideration shall apply until such time that an application is received to nominate a new premises supervisor. In such cases, the Licensing Authority shall expect no sales of alcohol to take place until an application to vary the DPS has been submitted to the Licensing Authority. (27.1 Licensing Policy)

8.2 The Governments advice in relation to reviews is contained in **Appendix 6**. Members must consider all the evidence and then decide from the following alternatives:

- 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);
- 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.

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

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

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

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

## 9.0 **Legal Comments**

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

## 10.0 **Finance Comments**

10.1 There are no financial implications in this report.

## 11.0 Appendices

<b>Appendix 1</b>	Copy of the review application & Evidence supporting review
<b>Appendix 2</b>	Current Premises Licence
<b>Appendix 3</b>	Maps of the premises and surrounding area
<b>Appendix 4</b>	Supporting representation (Giuseppe Talio)
<b>Appendix 5</b>	Supporting representation (Sophie Cann)
<b>Appendix 6</b>	Guidance issued under Section 182 by the Home Office for reviews
<b>Appendix 7</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Crime and Disorder
<b>Appendix 8</b>	London Borough of Tower Hamlets Licensing Policy in relation to the prevention of Crime and Disorder
<b>Appendix 9</b>	Guidance Issued by the Home Office under Section 182 of the Licensing Act 2003 concerning Protection of children from Harm.
<b>Appendix 10</b>	London Borough of Tower Hamlets Policy in relation to the Protection of Children from Harm.