

Current Licence

Licensing Act 2003 Part A Premises Licence Premises Licence Number : LAPRE1/08/10005	Licensing Authority: London Borough of Barnet, Community Protection (Regulation) Barnet House 1255 High Road Whetstone London N20 0EJ 21/02/2018
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey reference or description Lounge 404, 26-28 Cricklewood Lane	
Post Town London	Post Code NW2 1HB
Telephone number 0208 450 0427	

Where the licence is time limited the dates This premises licence is not time limited.
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Licensable activities authorised by the licence <ul style="list-style-type: none"> ●The Sale by Retail of Alcohol ●The Provision of Regulated Entertainment ●The Provision of Late Night Refreshment
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The times the licence authorises the carrying out of licensable activities

Sale or supply of Alcohol -

Standard Days & Timings

Friday to Saturday	10:00hrs - 01:00hrs
Sunday to Thursday	10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Exhibition of a film - Indoors Only

Standard Days & Timings

Friday to Saturday	10:00hrs - 01:00hrs
Sunday to Thursday	10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Playing of recorded music - Indoors Only

Standard Days & Timings

Friday to Saturday	10:00hrs - 01:30hrs
Sunday to Thursday	10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Performance of dance - Indoors Only

Standard Days & Timings

Friday to Saturday	10:00hrs - 01:00hrs
Thursday to Saturday	10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Entertainment facilities making music - Indoors Only

Standard Days & Timings

Friday to Saturday	10:00hrs - 01:00hrs
Sunday to Thursday	10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Similar to facilities for music/dance - Indoors Only

Standard Days & Timings

Friday to Saturday 10:00hrs - 01:00hrs

Sunday to Thursday 10:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

Provision of late night refreshment - Indoors Only

Standard Days & Timings

Friday to Saturday 23:00hrs - 01:00hrs

Monday to Thursday 23:00hrs - 00:00hrs

Saturday 23:00hrs - 00:00hrs

Non Standard Timings & Seasonal Variations:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

The hours that the premises are open to the public

Standard Timings

Friday to Saturday 10:00hrs - 01:30hrs

Sunday to Thursday 10:00hrs - 00:30hrs

Non Standard Opening Hours:

For all licensable activities an additional hour to the standard and non-standard times on the day British Summertime commences. On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day.

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

Both on and off the premises

Part 2

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

Mr Karshe A Mohamed
Flat 48
Brinklow House
Torquay Street
W2 5EN
kash_mohamed@hotmail.com

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

n/a

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

Karshe Mohamed

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

Personal Licence number: 12345678901234567890

Personal Licence Issuing Authority:

Annex 1 – Mandatory Conditions

1. No supply of alcohol may be made under the premises licence-
 - (a) at a time when 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.
2. Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.
3.
 - i. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises—
 - (a) games or other activities which require or encourage, or are (designed to require or encourage, individuals to—
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
 - ii. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
 - iii. (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to sale or supply of alcohol.

(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.

(3) The policy must require individuals who appear to the responsible specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—

(a) a holographic mark, or

(b) an ultraviolet feature.

iv. The responsible person must ensure that—

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml;

(b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and

(c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.”

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

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

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

(b) "permitted price" is the price found by applying the formula –

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

Where -

(i) P is the permitted price

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

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) The holder of the premises licence

(ii) The designated premises supervisor (if any) in respect of such a licence,

or

(iii) The personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from the paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

4. (1) Sub-paragraph (2) applies where the permitted price given by paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

5. Each individual employed in the role of guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage must be licensed by the Security Industry Authority.

6. The admission of a child or young persons under the age of 18 to the exhibition of any film shall be restricted in accordance with any recommendations made by any film classification body and or persons designated as such by the Secretary of State under section 4 of the Video Recordings Act 1984.

Annex 2 – Conditions consistent with the operating schedule

7. The existing CCTV system shall continue to operate for the hours shown on this premises licence.

8. Notices stating that the CCTV is in operation shall be displayed throughout the premise.

9. Any persons who appear to be intoxicated will not be allowed entry to the premise.

10. The premise shall actively participate in the local pub watch or equivalent scheme.

11. Toughened glass shall be used for the hours shown on this premises licence.

12. The number of door supervisors on duty shall be reviewed in consultation with the Police.

13. Door supervisors shall ensure as far as possible that any bottles and glasses are not removed from the premise.
14. All instances of crime and disorder shall be reported to the Police and shall be kept in an incident log book which shall be monitored by the Area Manager.
15. Customers shall be searched on a random basis and any persons found to be in possession of illegal drugs or weapons will, as far as legally possible, be retained and the Police called.
16. Any illegal drugs or weapons found will be stored in a secure facility and arrangements made with the Police for their delivery to the Police.
17. The current level of lighting outside the premise shall continue for the hours shown on this premises licence.
18. No recorded music shall be played outside the premise.
19. Reasonable steps shall be taken to recognise the needs of the local residents and to encourage customers to leave quietly.
20. Music shall be played at a quieter level for the last thirty minutes of trading during which time the levels of lighting shall be raised.
21. Any persons who appear to be under the age of 18 shall be required to provide proof of age before being allowed entry to the premise, or attempting to purchase or consume alcohol.
22. No persons under the age of 18 shall be allowed to enter or remain on the premise after 21:00 hrs.
23. Alcohol shall not be sold or supplied except during permitted hours.
24. Notices shall be displayed at the exit to the premises asking customers to leave quietly.
25. If a disc jockey is used on any night the he / she will ask customers to leave the premises quietly.
26. The above restrictions do not prohibit:

during the first twenty minutes after the above hours, the taking of the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking meals there if the alcohol was supplied for consumption as ancillary to the meals;

consumption of the alcohol on the premises or the sale or supply of alcohol to any person residing in the licensed premises;

the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

the sale of alcohol to a trader or club for the purpose of the trade or club;

the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

the taking of alcohol from the premises by a person residing there;

or

the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or for the consumption of alcohol by persons so supplied;

or

the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

Annex 3 – Conditions attached after hearing by the licensing authority

27. All remedial works suggested by the LFEPA are to be carried out before 24th November 2005.

Annex 4 – Plan

As submitted to the Council with the application for the grant of a premises licence under schedule 8 of the Licensing Act 2003. Reference LAPRE1/08/10005

Representation(s)

The London Borough of Barnet
Regulatory Services
Environmental Health
Barnet House
1255 High Road
Whetstone
London N20 0EJ

Tel: 020 8359 7995 / 7453

17th April 2018

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

Premises: Lounge 404, 26-28 Cricklewood Lane NW2 1HB

The responsible authority for Health and Safety within Environmental Health has been notified of the application for the review of the premises licence for the above.

We are satisfied that allowing this premises to continue to operate in accordance with their current premises licence would result in contraventions to smoke free legislations and the Health and Safety legislation:

Health and Safety at Work etc Act 1974, section 2(1) and section 3(1)

The control of Substances Hazardous to Health Regulations 2002 (as amended) Regulation 7 (1)

The Health Act 2006 – The Smokefree (Premises and Enforcement) Regulations 2006

26th October 2017

I (Alison Patmore -Team Leader) carried out a routine food hygiene inspection of the premises on 26th October 2017. I left an instant inspection report with the owner / food business operator, Mr with Mr Karshe Mohamed. It was highlighted in the report that smoking is prohibited in this premises as is substantially closed.

Smoking is banned in all enclosed public and work places under the Health Act 2006 – The Smokefree (Premises and Enforcement) Regulations 2006. Smoking may only take place in smoking shelters which are at least 50% open. Doors, windows, tent covers or side panels are classed as part of the wall. Any furniture, carpets, sheeting, plants or other objects which are used to block openings are also considered part of the wall and have to be included in the wall space calculation.

12th February 2018

Michael Polyviou (Environmental Health Officer) and I carried out a visit to the premises in response to a referral from our Licensing team regarding shisha smoking taking place in a substantially closed premises on 12th February 2018 at 16:32 and recorded elevated levels of Carbon monoxide which were above the daily exposure limit (*The highest level recorded on our Carbon monoxide monitor was showing to be 71 parts per million (PPM)*).

During the visit, we witnessed one female customer smoking shisha in a small room to the right hand side of the premises as you walk into the premises – the area was completely enclosed. There was also a brazier with smouldering coal kept in the bar area which we asked Mr Karshe Mohamed to extinguish.

At this time, Mr Karshe Mohamed was advised to install a carbon monoxide alarm within his premises and not to burn charcoal within his premises.

Mr Karshe Mohamed informed us that he lives in the flat above. However, as elevated levels of carbon monoxide could potentially be prejudicial to health to neighbouring premises (depending on levels and duration) under the Environmental Protection Act 1990, we wrote to the flat above to notify them about our concerns and to recommend that they install a carbon monoxide alarm.

We also made a referral to Planning enforcement as we felt that the premises should require planning permission for the 'change of use' to a shisha bar.

15th February 2018

I carried out a follow up visit with Emma Milne (Principal Environmental Health Officer) on 15th February 2018 at approximately 16:00.

Mr Ali Ahmad, a staff employee was present during our visit.

We witnessed two females sharing and smoking from one shisha pipe and there was a brazier with smouldering charcoal kept in the bar area. Our Carbon monoxide alarm sounded and the highest level recorded on this occasion was 46 PPM.

Prohibition notice under the Health and safety at work etc. ACT 1974 sections 22, 23 and 24 was serve on Karshe Ahmed Mohamed of Brooklyn Lounge Ltd 2018 by Emma Milne, Principal Environmental Health Officer and the notice was left with Mr Ali Ahmad. Emma also spoke with spoke with Mr Karshe Mohamed over the telephone to advise him of our visit and the prohibition notice that we had served.

We asked Mr Ali Ahmed to put of the charcoal and then we left the site.

The smoking activities which take place present an imminent risk to health. Charcoal always produces Carbon Monoxide, a known toxic gas, when it burns and may pose a risk to staff, customers, members of the public and possibly to those in adjoining premises. Carbon Monoxide is a colourless, odourless, tasteless, poisonous gas produced by incomplete burning of carbon-based fuels, including gas, oil, wood and coal. When Carbon monoxide enters the body, it prevents the blood from bringing oxygen to cells, tissues and organs. As explained to you carbon monoxide can't be seen, tasted or smelt however exposure to carbon monoxide can lead to permanent ill-health effects or death.



Responsible authority for food, Health and Safety.

Roxanne Patoman

Licencing Team
London Borough of Barnet
Barnet House
1255 High Road
Whetstone
London
N20 0EJ

ALSO BY EMAIL: Daniel.pattenden@barnet.gov.uk

Our ref: ZI/MOH14/1
Your ref: FAO Daniel Pattenden

03 May 2018

Dear Sirs,

Application to review a Premises Licence
Number of Premises Licence: LAPRE1/08/10005
Address: Lounge 404, 26-28 Cricklewood Lane, London NW2 1HB

We refer to your application with respect to the above property.

Please find enclosed, by way of service, our clients representations.

Kindly acknowledge safe receipt.

Yours faithfully


LYNDALES
Direct email: zahir@lyndales.co.uk

LONDON BOROUGH OF BARNET
LICENSING SUB COMMITTEE

APPLICATION TO REVIEW A PREMISES LICENCE

**REPRESENTATION ON BEHALF OF THE
PREMISES LICENCE HOLDER –KARSHE MOHAMMED**

Introduction

1. Mr Daniel Pattenden, the Licensing Officer for the London Borough of Barnet has applied for a review of the premises licence relating to Lounge 404, 26-28 Cricklewood Lane, London NW2 1HB ("the Premises"). I am the premises licence holder, and the designated premises supervisor ("DPS") and these are my representations in response to the application that has been made.

Personal History

2. I will set out my employment history and my experience in the alcohol industry.
3. I graduated from the University of Bradford with a Bachelors Degree in Engineering, and a Masters in Operations Management. I then spent five years working as a project manager in Manchester for Lancashire Mortgages. After that, I moved to Los Angeles in the USA, where I ran my own transportation business for two years. A year before I commenced work in the transportation business, I gained experience working in a bar. I worked in the Coco Bar in LA for approximately a year. I appreciate that there is a different licencing regime in the United States, but the principles involved in relation to working in a bar are the same. The time I spent there taught me what skills are needed in order to run a bar. I sold the transportation business after two years and

returned to England. I became a minority shareholder, and the bar manager, at Potterbella. This is a bar based in Ladbroke Grove.

4. It was my time at Potterbella that made me decide that I wanted to be in control of the business of running a bar. I decided that I wanted to run the business in accordance with my own business plan and ideas. That is what prompted my decision to purchase Lounge 404.

The Premises

5. I purchased Lounge 404 in approximately May 2017. I believed it represented a great opportunity to invest in a bar. The area had a lot of pubs, but I believed and continue to believe, that I could open and run a bar and restaurant which was different from the rest. I was confident that I could run it in the right way. My intention is to completely change the image of this old pub and turn it into a vibrant bar and tapas restaurant.
6. This plan to alter the venue into a bar and restaurant remains my immediate goal. I will commence by expanding the kitchen. The works in relation to this have already commenced. I will then alter the furniture and seating in the premises and remove the tinted windows. Once that work is done I will relaunch the business as a Bar and Italian Tapas Restaurant. It will target families and local residents. Most of the major renovation works have been undertaken, it is simply a matter of finishing the works to the kitchen and the furniture/seating arrangements.
7. In order to achieve this, the original plan was to close on 3rd June and then relaunch the business by the end of June. This timetable is no longer practical because this application to review the licence has set the plan back, because of the legal fees that I am incurring. I am conscious that there is a risk that the premises licence will be revoked which will prevent me from being able to afford to have the work done. My present intention is that in the event of a successful decision, I will then need a month to have the works done. If the licence is revoked, then I will have to reconsider my plans for the business. This is because

I will not be able to generate sufficient turnover if I cannot sell use the premises as a bar as well.

8. This is a comprehensive refit costing approximately £30,000. I will provide pictures of the work that has been done. I do not have any invoices as the contractor is employed on a full time basis by me.

The Licence

9. The current premises licence was transferred to me on 25 August 2017.
10. I obtained a personal licence on 11 January 2018 and became the designated premises supervisor of the premises on 21 February 2018. When I purchased the property, I immediately had to undertake a lot of works to the property to bring it in line with my vision for the bar. I had hoped that it would take 3 months but in the end, it took 6 months. During that period my mother was taken ill and had to be taken to Dubai. My father has a business in Dubai and my mother prefers the health service there. I had to travel with my mother. It is while I was away that the problems started with the business. These are the problems complained of by Mr Patteden. At the heart of this is the fact that in my absence my employees were not doing what they should have been.
11. It was my absence that from the England that prevented me from applying for a licence. I spoke to Vicky Johnson from the Metropolitan Police who agreed to give me an extension to apply for the licence.
12. The premises licence permits, the sale or supply of alcohol, provision of late night refreshment, entertainment facilities (making music) and performance of dance between these hours:
 - a. Friday to Saturday 10:00 – 01:00.
 - b. Sunday to Thursday 10:00 – 00:00.

13. The premises licence permits the playing of recorded music between these hours:
 - a. Friday to Saturday 10:00 – 01:30.
 - b. Sunday to Thursday 10:00 – 00:00.

The Complaints

14. In summary the complaints made by Mr Pattenden are threefold:
 - a. There is excessive noise emanating from the Premises.
 - b. Shisha Smoking is being permitted inside the Premises.
 - c. The Premises operates past its permitted hours..
15. Mr Pattenden has particularised the complaint in relation to a number of dates:
 - a. On 22 December 2017, shisha smoking was being permitted inside the premises. The premises could not provide a copy of the licence.
 - b. 30 December 2017, music was audible outside the premises at 02:25. Shisha smoking was being permitted inside the premises. The premises was operating outside its permitted hours.
 - c. 31 December 2017, shisha smoking was being permitted inside the premises. There were large number of people both inside and outside. A complaint was made about noise nuisance.
 - d. 13 January 2018 noise could be heard emanating from the premises beyond its permitted hours.
 - e. 21, 26 January and 27 January 2018 the premises was operating beyond its permitted hours.

Response to the Complaints

16. I was initially unaware that I was not allowed to permit shisha smoking inside the premises. It was my understanding that the windows had sufficient ventilation. The bars I was involved with in LA and Ladbroke Grove were not involved in shisha smoking and so the problem did not arise.
17. I learnt that I was not allowed to permit shisha smoking unless there were sufficient wall openings. I have now removed five large windows from the patio area where people smoked shisha. This is now an outside patio which is not part of the main bar area and not a part of the main building. This means that more than half the wall area is open and accordingly shisha smoking is permitted. Shisha is still occurring in the patio area, however once the restaurant is opened, the shisha smoking will be stopped.
18. It follows from this that I accept that shisha smoking was being permitted inside the premises when it should not have been. I have now taken measures to ensure that this is being done in accordance with the law
19. The premises licence was attached to the wall and the attention of the licensing officers was drawn to it. I exhibit as part of this representation a copy of the premises licence which is attached to the wall.
20. On 30 December 2017, Emal Pardes attended the area with Gavin Woodley-Allan and sought entry to the Premises. At this time, clients were in the process of leaving the bar and that is the sole reason why the officers were not originally permitted to enter the Premises. The doorman was busy removing people from the premises, who had just finished the last drink. In relation to the music it was not being played loudly but I accept that it was playing.
21. On 31 December 2017 there was a complaint from a member of the public but no visit from the licensing officers. The bar was closed at

01:30. Many of the clients were not happy about this as their New Year's Eve party was cut short. My employees and I tried to get them to move along and to stop them from remaining outside the area.

22. 13 January 2018 was a Saturday. Paul Edmund-Charles originally attended at 12:30 in relation to a complaint. I note that they did not consider that there was a nuisance and left. Mr Edmund-Charles returned at 1:40. The Premises is permitted to play music until 01:30 on Fridays and Saturdays. The officer called me. I was not at the premises on that day. The office told me that he was going to another unrelated complaint. I called my wife, who was in charge of the premises on that day and she told me that the music was not playing.
23. On 21 January 2018 at 00:05 the Premises was not operating beyond its permitted hours. The licence records that the Premises opening hours are until 00:30 Monday to Thursday. The officers did not enter the Premises and do not say that any alcohol was being served.
24. On Friday 26 January into Saturday morning Mr Edmund Charles attended the Premises at 01:21 and he stayed until 01:50. There was no nuisance and there was no music playing. It is unclear from his witness statement whether he entered the Premises. He does not say that any alcohol was being supplied. The complaint appears to be that the Premises were open and that the doormen were outside. The fact that the Premises was open does not mean that it was engaging in licensable activities. The Licensing Act 2003 does not regulate how long the Premises is permitted to stay open.
25. The precise same points apply in relation to 27 January 2018.

Resident's Association

26. I have taken over premises with a history of long standing problems. These problems from the resident's perspective are set out in an email dated 30 April 2018. The fact that I am in contact with the resident's association and that they were prepared to respond to my request for a

statement in relation to their experience with me, is plainly a positive factor. It demonstrates that I have engaged with them and that I am trying to work with them to improve the way the premises operates in the area.

27. It can be seen that my association with the premises has been a positive experience for the area, although I concede it is not perfect. The measures that I have taken, which include employing door staff who man the outside area and placing lights to shine down on Elm Grove have reduced the crime and disorder that was experienced at closing time.
28. It can be seen that there are still issues namely:
 - a. Shisha smoking indoors
 - b. Groups lurking around after closing
 - c. Premises being open after permitted hours.
29. As I have set out above shisha is being smoked in the patio area and in a way that is now compliant with the relevant legislation and it will cease altogether once the premises is re-opened as a bar and restaurant.
30. I have given my security staff specific instructions to move people along. Furthermore, the bar has a specific policy of moving people if they leave after 12pm. I am personally ensuring that the bar is not operating after permitted hours. My mother has now recovered, and I am able to concentrate all of my time and efforts on the business. I no longer have the concern hanging over my head concerning my mother's health.

Proposal and Conclusion

31. I concede that there have been issues with the Premises since I have taken over. These issues however need to be seen within the context of a location that was a disgrace to the neighbourhood. It takes time to eliminate that reputation and turn the premises around.

32. I concede my mistake about the shisha smoking and I have taken steps to ensure that it does not happen again. I have engaged with the local residents and taken measures to reduce crime, disorder and noise nuisance. I continue to work with them to identify areas where I can improve. I recognise that there is still some work to do in relation to noise.
33. It can also be seen that the main issues complained over occurred in December 2017. The actions that I have taken have improved things since then. I believe that as time progresses things will continue to improve.
34. My long-term plan to convert the premises into a restaurant will plainly benefit the local area. It is hoped that this will complete the transformation for a run down premises to somewhere that will not cause any noise nuisance and will make a positive contribution to the local area.
35. In the long term my intention is to extend the indoor area of the Premises to incorporate the patio area into the restaurant. This would reduce the noise level. Applications made to the planning department in relation to this have not succeeded.
36. I understand and respect the concerns of the local residents. I want to continue to work with them to ensure that the Premises prospers as a local venue. I am confident that once the premises is re-opened as a Tapas Bar and Restaurant their transformation of this venue will be complete. This will, in my view, eliminate the problems with noise that has been experienced.
37. I understand that this is a serious matter. I do not however believe that revoking my licence is necessary in order to promote the license objectives. In order to fund the conversion, I will need to maintain the premises as a bar. I also submit that there are a number of conditions in my licence that can be altered so as to make them more onerous and a number of conditions that can be added.

Replacement Conditions

38. I believe the conditions can be added to the licence which will remedy the problem in the short term.

39. The premises licence currently permits the playing of recorded music between these hours:
 - a. Friday to Saturday 10:00 – 01:30.
 - b. Sunday to Thursday 10:00 – 00:00.

40. I propose that it be altered to:
 - a. Friday to Saturday 10:00 – 12:00.
 - b. Sunday to Thursday 10:00 – 00:00.

41. A further condition that none of the customers be permitted to remain in the outside bar area in the patio area /after 12am.

STATEMENT OF TRUTH

I believe that the facts stated in these Representations are true.

Signed K.M.M.

Full Name KARME MOHAMED

Date 03/05/2018

Section 182 Guidance – Reviews (April 2018)

11. Reviews

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 14 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 A repetitious ground is one that is identical or substantially similar to:
- a ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
 - representations considered by the licensing authority when the premises licence or certificate was granted; or
 - representations which would have been made when the application for the premises

licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and, in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website (www.legislation.gov.uk). 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 promoting 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. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 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 or preventing illegal working. 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 and for the prevention of illegal working in licensed premises. 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.

¹⁰ See chapter 15 in relation to the licensing of live and recorded music.

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 and the prevention of illegal working 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 the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
 - for prostitution or the sale of unlawful pornography;
 - by organised groups of paedophiles to groom children;
 - as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for employing a person who is disqualified from that work by reason of their immigration status in the UK;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

11.28 It is envisaged that licensing authorities, the police, the Home Office (Immigration Enforcement) 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 or illegal working compliance 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 under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. 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

11.29 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.

Matters for Decision

MATTERS FOR DECISION

An application made under Section 51 of the Licensing Act 2003

Lounge 404, 26-28 Cricklewood Lane, London, NW2 1HB

Determination in accordance with Section 52(3) of the Licensing Act 2003.

S 52 (3);

“The authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considers appropriate for the promotion of the licensing objectives.

4. The steps are-

- (a) to modify the conditions of the licence;
- (b) to exclude a licensable activity from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence for a period not exceeding three months;
- (e) to revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

5. Subsection (3) is subject to sections 19, 20 and 21 (requirement to include certain conditions in premises licences).

6. Where the authority takes a step mentioned in subsection (4) (a) or (b), it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify”.

Notification in accordance with Section 52 (10) of the Licensing Act 2003.

10. Where a licensing authority determines an application for review under this section it must notify the determination and its reasons for making it to-

- (a) the holder of the licence,
- (b) the applicant,
- (c) any person who made relevant representations, and
- (d) the chief officer of police for the police area (or each police area) in which the premises are situated.

11. A determination under this section does not have effect-

- (a) until the end of the period given for appealing against the decision, or
- (b) if the decision is appealed against, until the appeal is disposed of.

Steps taken (if any)	Reason(s)