

**MEETING**

**LICENSING SUB-COMMITTEE**

**DATE AND TIME**

**WEDNESDAY 9TH NOVEMBER, 2016**

**AT 2.30 PM**

**VENUE**

**HENDON TOWN HALL, THE BURROUGHS, LONDON NW4 4BQ**

**TO: MEMBERS OF LICENSING SUB-COMMITTEE (Quorum 3)**

**Councillor Alison Corenius    Councillor John Hart    Councillor Claire Farrier**

**You are requested to attend the above meeting for which an agenda is attached.**

**Andrew Charlwood – Head of Governance**

Governance Service contact: Governance Service [governance.service@barnet.gov.uk](mailto:governance.service@barnet.gov.uk)

Media Relations contact: Sue Cocker 020 8359 7039

**ASSURANCE GROUP**

## ORDER OF BUSINESS

Item No	Title of Report	Pages
1.	Appointment of Chairman	
2.	Absence of Members (If any)	
3.	Declaration of Members' Disclosable Pecuniary interests and Non Pecuniary interests (If any)	
4.	Licensing Sub-Committee Hearing Procedure	5 - 8
5.	The Wallace - 1023 Finchley Road, London, NW11 7ES	9 - 60
6.	Motion to exclude the Press and Public	
7.	Deliberation by the Sub-Committee in Private Session	
8.	Re-admission of the Press and Public: Announcement of the decision of the Sub-Committee	
9.	Any other Item(s) the Chairman decides are urgent	

### FACILITIES FOR PEOPLE WITH DISABILITIES

Hendon Town Hall has access for wheelchair users including lifts and toilets. If you wish to let us know in advance that you will be attending the meeting, please telephone Governance Service [governance.service@barnet.gov.uk](mailto:governance.service@barnet.gov.uk). People with hearing difficulties who have a text phone, may telephone our minicom number on 020 8203 8942. All of our Committee Rooms also have induction loops.

### FIRE/EMERGENCY EVACUATION PROCEDURE

If the fire alarm sounds continuously, or if you are instructed to do so, you must leave the building by the nearest available exit. You will be directed to the nearest exit by uniformed custodians. It is vital you follow their instructions.

You should proceed calmly; do not run and do not use the lifts.

Do not stop to collect personal belongings

Once you are outside, please do not wait immediately next to the building, but move some distance away and await further instructions.

Do not re-enter the building until told to do so.

This page is intentionally left blank

# LONDON BOROUGH OF BARNET

## LICENSING SUB COMMITTEE

### HEARINGS PROCEDURE

AGENDA ITEM 4

#### *General points*

The following procedure is based on Regulations made by the Secretary of State under the Licensing Act 2003 (“the Hearings Regulations”) which may be viewed or downloaded from the website of the Department for Culture, Media and Sport by following links from [www.culture.gov.uk](http://www.culture.gov.uk)

The procedure is intended as a general framework to ensure natural justice and a fair hearing. The conduct of individual hearings may vary slightly according to circumstances and the discretion of the Chairman. In all cases, however, this general framework will be followed.

The procedure allows each party a maximum period of 5 minutes in which to present their case (Regulations 16 & 24). At the end of the time allowed, the Chairman will terminate the presentation and the hearing will proceed in the form of a discussion led by the authority to explore points of dispute. The discussion will not be timed.

The procedure is subject to periodic review and amendment to reflect best practice and relevant legislative changes. An updated version of this procedure is published as soon as possible following any such amendments.

#### **Governance Officer**

- To seek nominations for Chairman
- Elect Chairman
- Hand over to the Chairman

#### **Chairman**

- Introduces him/herself and Members of the Committee, and outlines their roles.
- Introduces Licensing, Legal and Governance Officer.
- Explains that Legal and Governance Officers will be present during the Committee’s deliberations to advise only, and that the Licensing Officer will be excluded from deliberations.
- Asks parties present to introduce themselves.
- Outlines procedure to be followed.
- Asks all parties to confirm their understanding of the procedure.
- Clarifies any aspect(s) of the procedure where any parties are uncertain or asks Legal or Governance Officer as appropriate to clarify.

#### **Governance Officer**

- Informs Committee of absent parties.
- Details persons whom a party is seeking permission to represent them at hearing.
- Panel confer regarding permission.
- Chairman announces decision regarding permission.

### **Licensing Officer presents the report to the Committee**

- Is a statement of the facts including details of the application and operating schedule, relevant policy details, detail representations made, a chronology of events and highlights the points on which the Authority requires clarification.

### **Applicant**

- Presents opening submissions and clarifies points raised by Authority in notice of hearing. Time allowed 5 mins.

### **Other parties**

- Presents opening submissions either in person or by spokes person Time allowed 5 mins per interested party.

### **Note regarding use of video evidence**

Video evidence must be in DVD format and will form part of the relevant party's five minutes opening submission. Any party wishing to use video evidence must submit a copy to the Authority along with sufficient, identical extra copies to serve on all the opposing parties – i.e. if the applicant is submitting it, there must be enough copies for all parties making representations and if a party making representations is submitting it there must be a copy for the applicant. The recording must be edited down to the highlights, containing only relevant matter which relates to the written representation previously submitted. In addition, a description of how, when and where the video was recorded and what it contains must be submitted. These must be supplied to the Authority at least five working days before the hearing.

### **Members question Licensing Officer on Policy**

### **Discussion**

#### **Chairman leads a discussion concentrating on points of dispute:**

Chairman asks Applicant what he disputes in other parties' submissions, and asks other parties to comment.

Chairman proceeds through all objectors dealing with all matters of contention.

When Chairman feels all matters have been thoroughly discussed and all parties have been given a fair and equal opportunity to comment and make representations, she/he closes discussion.

### **Determination**

There are two procedures depending on whether or not determination is to be made at the end of the Hearing or within five working days of the Hearing. This later announcement of determination is permitted in terms of the Legislation for certain types of applications.

#### **Chairman informs all present that the Committee will deliberate, that Legal and Governance Officer will remain to advise but will not be part of decision-making process, and that all others must leave (under Regulation 14).**

- Parties, apart from Legal and Governance Officer, leave the room.
- The Committee deliberates, with advice as required from Legal and Governance Officer, and reaches a conclusion. The Legal officer may assist, as required, in formulating the wording of the determination.
- Parties return.
- Chairman reads out determination, and advises it will be sent in <sup>6</sup>

writing to all parties.

- Opportunity for determination to be clarified by any interested party who is unclear.
- Chairman gives advice about appealing against the determination.
- Chairman thanks all for attending and closes the meeting.

### **...Within five working days of the hearing**

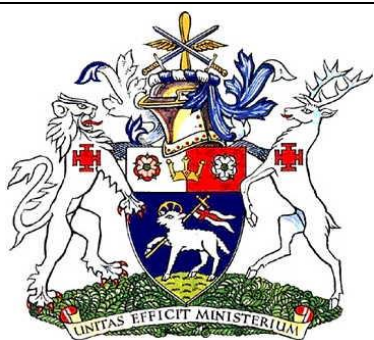
- Chairman explains requirement to determine the Hearing within five working days, and advises that the Committee will proceed to deliberate and announce the determination within that time.
- During deliberations, Legal and Governance Officers remain to advise on law and procedure as required. The Legal Officer may assist, as required, in formulating the wording of the determination. The Licensing Officer plays no part in the determination and withdraws for this part of the proceedings.
- Chairman advises all parties that they will receive written notification of the determination within five working days of the Hearing date, together with general information on how to appeal against the determination.
- Chairman thanks all parties for attending and invites the applicant, objector(s), other party(ies) and the Licensing Officer to leave.

### **Information on Appealing against the decision**

You may at any time before the expiration of a period of 21 days from notification appeal to Willesden Magistrates' Court, 448 High Road London England NW10 2DZ (Telephone 020 8955 0555, DX 110850 Willesden 2) by way of Complaint for an Order. The Court may either dismiss the appeal, substitute for the decision appealed against any other decision which could have been made by the Licensing Authority or remit the case to the Licensing Authority to dispose of it in accordance with the directions of the court, and can make such order as to costs as it thinks fit.

This page is intentionally left blank





**Licensing Sub-Committee**  
**Wednesday 9<sup>th</sup> Novemeber 2016**

<b>Title</b>	<b>Review of Premises Licence – The Wallace, 1023 Finchley Road, London, NW11 7ES</b>
<b>Report of</b>	Trading Standards & Licensing Manager
<b>Wards</b>	Garden Suburb
<b>Status</b>	Public
<b>Enclosures</b>	Report of the Licensing Officer Annex 1 – Review Application Annex 2 – Current Premises Licence Annex 3 – Police Representation Annex 4 – Extract from Guidance under section 182 Licensing Act 2003 Annex 5 – Matters for decision
<b>Officer Contact Details</b>	Mariesa Connolly 0208 359 2125 mariesa.connolly@barnet.gov.uk

**Summary**

This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003.

**Recommendations**

- 1. This report asks the Sub-Committee to consider the application to Review a premises licence under section 51 of the Licensing Act 2003 for The Wallace, 1023 Finchley Road, London, NW11 7ES**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 The licensing authority having received valid review application for an existing premises licence must hold a hearing to consider that application and any valid representations that may have been submitted.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 Where an application is submitted under section 51 of the Licensing Act 2003, the authority must hold a hearing to consider it.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 N/A

## **4. POST DECISION IMPLEMENTATION**

- 4.1 The decision will have immediate effect

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

- 5.1.1 Members are referred to the Council's Licensing Policy for consideration

- 5.1.2 Timely legal and fair decisions support objectives contained within the Corporate Plan. In particular in relation to a "successful London borough" by ensuring that only legal, well regulated licensable activities occur within the borough.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

- 5.2.1 N/A

### **5.3 Legal and Constitutional References**

- 5.3.1 The Licensing Act 2003 sets out how applications for premises licences should be dealt with where valid representations have been submitted.

- 5.3.2 Under the Constitution, Responsibility for Functions (Annex A), the Licensing Act 2003 and associated regulations, as delegated to it by the Licensing Committee, including the determination of review applications.

### **5.4 Risk Management**

- 5.4.1 N/A

## **5.5 Equalities and Diversity**

5.5.1 Licence applications are dealt with according to the provisions of the Licensing Act 2003 and associated Regulations which allow both applications and representations to applications to be made by all sectors of the

## **5.6 Consultation and Engagement**

5.6.1 The statutory consultation process that has been followed in accordance with the Licensing Act 2003

## **6. BACKGROUND PAPERS**

9.1 The review application and report of the Licensing Officer are and necessary appendices are attached to this report.

# Officers Report

**LICENSING ACT 2003**  
**REPORT FOR PUBLIC HEARING**

**Review of the premises licence:**

**The Wallace, 1023 Finchley Road, London, NW11 7ES**

**1. The Applicant**

An application was submitted by Michelle Rudland on behalf of the London Borough of Barnet Licensing.

**2. The Application**

This application has been made under Section 51 of the Licensing Act 2003 to review the Premises Licence held by Mohammed Reza Pouressmaell

Licensing objectives to which the review application relates is:

- The prevention of Crime and Disorder,
- Public safety.

Michelle Rudland has made the following statements within licensing application:

- Licensing are primarily concerned with the number of times complaints have been received by the authority, most of which relate to breaches in the licensing conditions placed on the licence.

A full copy of the Review application is attached to this report in **Annex 1**.

**3. Premises Licence History**

This premises licence was first applied and granted in June 2005. Since then there have been 7 applications to vary the designated premises supervisor, 1 application to transfer the premise licence holder and 1 application to review. The last transfer granted on 17<sup>th</sup> December 2014 placed Mohammed Reza Pouressmaell as the premises licence holder.

#### **4. Current Premises Licence**

The current licence allows the following licensable activities:

##### **Sale or supply of Alcohol**

###### **Standard Days and Timings:**

Friday to Saturday	10:00hrs - 01:00hrs
Monday to Thursday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 23:00hrs

###### **Seasonal Opening Times:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.

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 live music**

###### **Standard Days and Timings:**

Monday to Saturday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 22:30hrs

###### **Seasonal Opening Times:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.

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**

### **Standard Days and Timings:**

Monday to Saturday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 22:30hrs

### **Seasonal Opening Times:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.

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 Days and Timings:**

Friday to Saturday	10:00hrs - 00:30hrs
Monday to Thursday	10:00hrs - 23:30hrs
Sunday	12:00hrs - 23:30hrs

### **Non Standard Opening Hours:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:30 hrs.

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 current premises licence showing the above stated hours and all of the conditions attached to the premises licence can be found in full attached to this report as **Annex 2**

## 5. Representations

### Responsible Authorities

The Licensing Team have received a representation from Charlene Burrows on behalf of the London Borough of Barnet. Noise concerns relate to prevention of Public Nuisance.

### Other representations

The Licensing Team have received 1 representation with 9 resident's signatures on it. The representation relates to Nuisance caused by the premises.

The representation letter can be seen attached to this report in **Annex 3**.

## 6. Guidance

A Section from the Guidance issued under Section 182 Licensing Act 2003 (June 2013) regarding Reviews Is attached to this report in **Annex 4**.

## 7. Determination

The sub-committee shall determine the application in accordance with Section 52 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.

Full Copies of the Councils Statement of Licensing Policy and the Statutory Guidance to the Act will be available at the Licensing Sub Committee hearing or in advance if required.

A matters for decision sheet is attached at **Annex 5**



Marissa Connolly  
Licensing Officer  
Monday, 24 October 2016

Annex 1 – Review Application  
Annex 2 – Current Premises Licence  
Annex 3 - Representation  
Annex 4 – Guidance issued under Section 182 Licensing Act 2003 (June 2013)  
Annex 5 – Matters for Decision

# Review Application

**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 Michelle Rudland on behalf of the Licensing Authority (as responsible authority)

*(Insert name of applicant)*

**apply for the review of a premises licence under section 51 / apply for the review of a club premises certificate under section 87 of the Licensing Act 2003 for the premises described in Part 1 below (delete as applicable)**

**Part 1 – Premises or club premises details**

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> The Wallace 1023 Finchley Road	
<b>Post town</b> London	<b>Post code (if known)</b> NW11 7ES

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Mr Mohammed Reza Pouressmaell
--

<b>Number of premises licence or club premises certificate (if known)</b> LAPRE1/08/01128 (formally LN/199905576)
--

**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)



**(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT**

Name and address Michelle Rudland Team Leader, Community Protection (Regulation) Department Acting as responsible Authority for the Licensing Authority 2 <sup>nd</sup> Floor Annex, Barnet House 1255 High Road Whetstone London N20
Telephone number (if any) 020 8359 7443
E-mail address (optional) michelle.rudland@barnet.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 | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input checked="" type="checkbox"/> |
| 4) the protection of children from harm | <input type="checkbox"/>            |

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

Complaints have been received by the London Borough of Barnet Licensing team from members of the public.

These complaints alleged that condition 13 of the licence is being breached and that this business is operating past the hours permitted by the licence.

The Licensing Team have on more than one occasion either spoken to directly, or sent letters to the premises licence holder and the Designated Premises Supervisor in order to address these complaints.

On 11th June 2016 evidence was obtained by Licensing Officer Daniel Pattenden and PC Wilcock of the Police Licensing Team which witnessed a breach of condition 13 of the premises licence.

Further requests were made to the premises to meet to discuss the breach of the licence these have proved unfruitful. The Licensing Authority feels that we have exhausted all other avenues of resolution and must seek to revoke the licence by way of a review application.

It is our belief that review of the licence is the only action left open to us that would prevent further breaches of the licence and prevent the negative impact that this licence is having on the local residents which until now have been openly disregarded

Evidence was obtained by Licensing Officer Daniel Pattenden and PC Wilcock of the Police Licensing Team on 11th June 2016 of the breach of condition 13 of the premises licence.

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

The premises of 1023 Finchley Road has held a licence since August 2005 when the application was placed before a licensing subcommittee following representation made to the grant of the licence. Conditions relating to the closing of windows and doors and the displaying of a notice on the premises were added to the licence at this stage. The premises has since then changed its name from The Grove to The Wallace and the person who holds the licence has also changed during this time.

This premises has since its initial grant back in 2005 resulted in multiple complaints being received by both the noise nuisance and the licensing department. The complaints relate to allegations of noise nuisance issues and alleged breaches of the premises licence and its conditions.

As a result of these issues the previous licence holder was brought before a licensing subcommittee by way of an Expedited Summary Review Application submitted by the Police on **23rd April 2013**.

At this review various conditions were attached to the licence with the aim of ensuring that all of the licensing objectives were being adhered to. A copy of the review decisions have been included within this application as exhibit **LIC1**

On **17th December 2014** a transfer application was made and the licence granted to Mr Pouressemaeli at which point the name of the premises also changes to 'The Wallace'

A complaint was received by the Licensing Team on the **11th July 2015** which alleged breaches of the premises licence were taking place. In particular condition 13 of the premises licence which states:

“13. Doors and windows to remain closed except for ingress and egress.”

Following this complaint a visit was made to the premises on **16th July 2015** by Licensing Officer, Daniel Pattenden in order to discuss the licence and its conditions with the new owner of the premises Mr Pouressemaeli. The aim of this meeting was to ensure they were fully aware of their responsibilities in complying with their licence. At this meeting a letter was also handed to the licence holder outlining the allegations made and discussed at the meeting. A copy of this letter is attached as exhibit **LIC2** attached to this application.

On **12th May 2016** the Licensing Department received a further complaint from a member of the public alleging that condition 13 on the licence was being breached. A further complaint was received from the same resident on the **14th May 2016** in relation to the premises operating past its permitted hours and again a further breach of their conditions.

A letter was sent by the Licensing Team on the **20th May 2016** to the licence holder Mr Pouressemaell outlining the allegation received and stating the offence that would be committed should there be evidence of the alleged breach. This letter is referenced as exhibit **LIC3** attached to this application. Despite a request in the letter for the licence holder to respond to the allegations made with 14 days of its receipt no response was received.

A further email was sent by Daniel Pattenden on **23rd May 2016** to the licence holder, inviting him to arrange a meeting to discuss the complaints being received. This email is attached as exhibit **LIC4** attached to this application. No response

from the licence holder was received.

On **11th June 2016** Daniel Pattenden and PC Wilcock attended the premises. At the time of the visit it was noted that the premises were in breach of condition 13 of the licence.

The officers discussed the complaints received and the DPS, who identified himself as the Manager, stated that the event on the **14th May 2016** was a private party. The officers advised him that the event would not have been deemed a 'Private Party' and that they had been operating in breach of their licence.

At the end of the visit the police issued a notice in relation to the breaches witnessed at that time. (Condition 9, 13 and 14.)

A further visit was made on **Friday 29th July**. At approximately 20:00 Daniel Pattenden and PC Wilcock witnessed the bifold doors open at the premises and music emanating from the premises was clearly audible.

A letter was sent to Mr Pouressemaell on **12th August 2016** outlining the breaches witnessed and the complaints received. This letter is attached to this application as exhibit **LIC5**. Again this letter requested that the licence holder contact the licensing team to arrange a meeting with them to set up an action plan to address the issues raised.

No response from the licence holder has been received.

**Additional Documents:**

- LIC6** Witness statement from Daniel Pattenden, Local Authority Licensing Officer
- LIC7** Witness statement from PC Wilcock, Police Licensing Team

**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

--	--	--	--	--	--	--	--	--

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



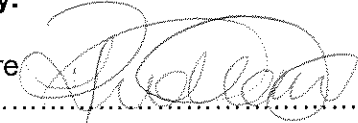
Please tick yes

- 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  .....

Date 14<sup>th</sup> September 2016 .....

Capacity Team Leader, Community Protection (Regulation) Authority for the Licensing Authority *Acting as Responsible* .....

<b>Contact name (where not previously given) and postal address for correspondence associated with this application (please read guidance note 5)</b>	
<b>Post town</b>	<b>Post Code</b>
<b>Telephone number (if any)</b>	
<b>If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)</b>	

**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.

## Decisions of the Licensing Sub-Committee

22 May 2013

### Sub-Committee:

- \*Councillor Andreas Tambourides (Chairman)
- \*Councillor Alison Cornelius
- \*Councillor Ansuya Sodha

\*denotes Member present

### Officers to Panel

Bob Huffam – Legal Services  
Chidilim Agada – Governance Service

### Licensing Officer

Fabien Simms

### Applicant – Responsible Authority

Sarah Le Fevre – Counsel for Metropolitan Police  
Sergeant Mark Altman – Metropolitan Police

### Representations from Licensee

Paul Nolan – PPN Tavern  
Ian Griffiths – Designated Premises Supervisor

#### 1. APPOINTMENT OF CHAIRMAN (Agenda Item 1):

Councillor Andreas Tambourides was appointed Chairman.

#### 2. ABSENCE OF MEMBERS (IF ANY) (I

All Members were present.

#### Licensing Team

Exhibit description: *Expedited Summary Review  
Hearing Decision.*  
Exhibit Reference: *LIC1*

#### 3. DECLARATION OF MEMBERS' DISC NON PECUNIARY INTERESTS (IF AN

I identify this exhibit as that referred to in my signed statement  
Signature(s): *[Signature]*

No interests were declared.

#### 4. PROCEDURE AT MEETING (Agenda Item 4):

The Chairman, members of the Sub-Committee and officers present introduced themselves. The Police, the Licencees, the Group Manager, Noise, Nuisance and Public Health also introduced themselves. The Chairman explained the procedure that would be followed at the meeting. An application was made by the Licensee to submit additional letters they had received in support of their application. The Sub-committee, with the Police's agreement, received the additional information. The meeting adjourned for five minutes in order for the Sub-committee to consider the additional information.

#### 5. REVIEW - THE GROVE PUB, 1023 FINCHLEY ROAD, LONDON NW11 7ES (Agenda Item 5):

The Sub-Committee considered an application for a Summary Review of a Premises Licence under the Licensing Act 2003.

The Sub-Committee heard oral representations from the Licensing Officer, the Police, the Licensee, the Group Manager, Noise, Nuisance and Public Health and the following residents, Mr Paul Alter and Ms Celia Persad.

**6. MOTION TO EXCLUDE THE PRESS AND PUBLIC (Agenda Item 6):**

That under Regulation 14.2 of the Licensing Act 2003 (Hearings) Regulations 2005, the public be excluded from the meeting.

**7. DELIBERATION BY THE SUB-COMMITTEE IN PRIVATE SESSION (Agenda Item 7):**

The Sub-Committee deliberated in private session.

**8. RE-ADMISSION OF THE PRESS AND PUBLIC: ANNOUNCEMENT OF THE DECISION OF THE SUB-COMMITTEE (Agenda Item 8):**

**RESOLVED** – That the press and public be re-admitted.

The Sub-Committee, having considered the application and all verbal and written representations received, unanimously **RESOLVED** –

This is the full review hearing relating to The Grove, 1023 Finchley Road, London NW11 7ES. The application was brought by the Police following an incident on 19 April 2013 when there was not only serious crime and disorder but also the sale of alcohol to minors. Interim steps were considered necessary to promote the licensing objectives until a full review hearing could take place. We have today heard from the Police again concerning that incident. The Police have confirmed that they require as a minimum the interim steps to be made final, and that a condition be made that the premises adopt a Challenge 25 policy. The premises licence holder has agreed to this and we feel that this is appropriate to support the licensing objective of the prevention of crime and disorder. These conditions are therefore to be made final. We should add that the representations concerning the criminal record of the Designated Premises Supervisor (DPS) have, as requested by the Police, been given little weight by us.

Since the expedited review there have been twenty nine representations from members of the public who live near the premises. It is noted that the majority of these representations are in identical form but signed by different residents. They talk of fights in the street outside the premises especially on Friday nights, and of intimidating crowds. They also talk of the breach of licensing conditions in that doors and windows have been left open causing disturbing noise to the residents. This reached the stage where the Environmental health Department of the Council served an Abatement Notice on the premises in respect of the noise nuisance.

The representations describe the premises as being in a residential area and causing particular nuisance. A very useful schedule of complaints was put before us setting out the difficulties faced by residents. The residents have helpfully listed some conditions as being appropriate should we decide not to revoke the premises licence. We have also today been served with a number of letters in the same terms supporting the licence holder. The Police consented to these being included. Some of the letters contained no

detail of the person signing, and few contained any detail of the reasons behind the support. We have placed very little weight on these letters.

We do not believe that it is necessary to revoke the licence but we do believe that it is appropriate to make further conditions to prevent public nuisance being caused by the noise coming from customers leaving the premises and not dispersing quickly or quietly. This has particularly been the situation on Friday nights when a themed event called "Funky Friday" was taking place. We note that this event has stopped.

In order to prevent noise at too late an hour we are making the hours for the sale of alcohol as follows:-

Monday to Thursday	10.00 to 23.00 hours
Friday & Saturday	10.00 to 00.00 hours
Sunday	12.00 to 23.00 hours

The premises will close 30 minutes after the above times.

In order to make sure that "Funky Friday" does not reappear in another name we make a condition that there will be no themed events on Friday or Saturday. A notice asking customers to leave quietly must be placed near the exits to the premises in a prominent site.

Finally we have to say that we gave serious consideration to revoking the licence. The Licence holder should be in no doubt that a serious view is likely to be taken if these added conditions do not improve the situation at the premises.

#### Informative

All parties were advised of their right of appeal to Willesden Magistrates' Court before the expiration of a period of 21 days.

#### **9. ANY OTHER ITEM(S) THE CHAIRMAN DECIDES ARE URGENT (Agenda Item 9):**

There were no such items.

The meeting started at 1.15pm and finished at 2.50pm

Development & Regulatory Services  
The London Borough of Barnet  
Trading Standards and Licensing  
Building 4  
North London Business Park  
Oakleigh Road South  
London N11 1NP

Mr Mojtaba Khamenehi  
1 Rutland Gate.  
South Kensington,  
London,  
SW7 1BL

contact: The Licensing Team  
tel: 020 8359 7443  
e-mail: [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)  
date: July 16th, 2015  
our reference: LAPRE2/15/50452  
your reference:

Dear Mr Mojtaba Khamenehi

**Licensing Act 2003**

I am writing to inform you that we have received the following allegation in respect of the premises licence issued for The Grove 1023 Finchley Road London NW11 7ES.

It is alleged that you have been breaching the hours and conditions set out by your premises licence.

It is alleged that you were playing music until 12:00am and later however on no day can you go past 11pm and that you have been leaving doors and windows open.

Please note that section 136 (1) of the Licensing Act 2003 states "a person commits an offence if he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or he knowingly allows a licensable activity to be so carried on." Therefore I would be grateful if you would respond to this allegation in writing within 14 days of this letter.

Yours sincerely

Daniel Pattenden  
Licensing Officer

**Licensing Team**

Exhibit description: *Letter sent to DPSON  
16th July 2016*  
Exhibit Reference: *LIC2*

I identify this exhibit as that referred to in my signed statement

Signature(s): *[Signature]*

Development & Regulatory Services  
The London Borough of Barnet  
Trading Standards and Licensing  
Building 4  
North London Business Park  
Oakleigh Road South  
London N11 1NP

Mr Mojtaba Khamenehi  
1 Rutland Gate.  
South Kensington,  
London,  
SW7 1BL

contact: The Licensing Team  
tel: 020 8359 7443  
e-mail: [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)  
date: May 20th, 2016  
our reference: LAPRE2/15/50452  
your reference:

Dear Mr Mojtaba Khamenehi

**Licensing Act 2003**

I am writing to inform you that we have received the following allegation in respect of the premises licence issued for The Wallace 1023 Finchley Road London NW11 7ES.

It is alleged that on Thursday 12<sup>th</sup> May that noise from the Wallace had increased to a level as to cause a nuisance and the music had been particularly loud and was still going at 11:27pm.

I would like to remind you of the conditions on your licence:

- All music to be switched off by 11pm, without exception.
- All windows and doors to remain closed at all times (except for ingress and egress to keep the noise to a minimum at any time).

Please note that section 136 (1) of the Licensing Act 2003 states "a person commits an offence if he carries on or attempts to carry on a licensable activity on or from any premises otherwise than under and in accordance with an authorisation, or he knowingly allows a licensable activity to be so carried on."

I would be grateful if you would respond to this allegation in writing within 14 days of this letter.

Yours sincerely

Daniel Pattenden  
Licensing Officer

Licensing Team

Exhibit description: *Letter sent to DRS on*

*20 May 2016*  
Exhibit Reference: *LIC3*

I identify this exhibit as that referred to in my signed statement

Signature(s): *[Handwritten Signature]*

## Pattenden, Daniel

---

**From:** Pattenden, Daniel  
**Sent:** 23 May 2016 11:10  
**To:** 'sir\_mohammed3000@yahoo.co.uk'  
**Subject:** The Wallace Pub  
**Attachments:** image001.png


Dear Mr Mohammed Reza Pouressmaell,

We have received Multiple complaints about your premises the Wallace, I would like to formally invite you in for a meeting to discuss these incidents.

Please could you give me your availability for the coming week so that we can arrange this.

Kind regards

**Daniel Pattenden**  
**Licensing Officer, Trading Standards & Licensing Department**  
**Community Protection (Regulation)**  
London Borough of Barnet, Barnet House, 1255 High Road, Whetstone, London, N20 0EJ  
Tel: 020 8359 7443  
Barnet Online: [www.barnet.gov.uk](http://www.barnet.gov.uk)

 please consider the environment - do you really need to print this email?

**RE**

London Borough of Barnet is working with RE (Regional Enterprise) Ltd, a new joint venture between the Council and Capita plc

**Licensing Team**

Exhibit description: *Email sent to licence holder*  
*23rd May 2016*

Exhibit Reference: *LIC 4*

I identify this exhibit as that referred to in my signed statement

Signature(s): *[Handwritten Signature]*

Development & Regulatory Services  
The London Borough of Barnet  
Trading Standards and Licensing  
Building 4  
North London Business Park  
Oakleigh Road South  
London N11 1NP

Mr Mohammed Reza Pouressmaell  
The Wallace 1023  
Finchley Road  
London  
NW11 7ES

contact: The Licensing Team  
tel: 020 8359 7443  
e-mail: [licensingadmin@barnet.gov.uk](mailto:licensingadmin@barnet.gov.uk)  
date: August 12th, 2016  
our reference: LAPRE2/15/50452  
your reference:

Dear Mr Mohammed Reza Pouressmaell

**Licensing Act 2003**

I am writing to inform you that we have witnessed a breach in the premises licence held for The Wallace 1023 Finchley Road London NW11 7ES.

On Friday 29<sup>th</sup> July 2016 at 9pm myself and police colleague drove past the above named premises, as we did so we noted the front of the property wide open (bi folds open) and music emanating from the property.

I wrote to you on the 20<sup>th</sup> May informing you of an allegation that noise had been escaping from the premises and that the front of the property was left open despite your conditions on your licence saying that they should be closed at all times and that music was to be stopped by 11pm. You failed to respond in the required 14 days.

After this myself and police colleague visited your premises and spoke to your manager again the front of the property was open and we explained it couldn't be and that the annual fee was outstanding. I requested that the manager get you to call me to arrange a meeting. He called the following week saying you would call and he was paying the annual fee. Since then I have had no further contact.

It appears to me that you cannot abide by the conditions set out on your premises licence and as such I must now take formal action.

I would like you to attend a meeting at Barnet house so that we can set up an action plan for your property. You must contact me within 14 days to arrange this, failure to do so could leave to further more serious enforcement action against you.

Yours sincerely

Daniel Pattenden  
Licensing Officer

Licensing Team

Exhibit description: *Letter sent to Premises Licence holder 12<sup>th</sup> August 2016*  
Exhibit Reference: *LIC 5*

I identify this exhibit as that referred to in my signed statement

Signature(s): *[Signature]*



**STATEMENT OF WITNESS**


(CJ Act 1967, s9; MC Act 1980, ss 5A (3) (a) & 5B; MC Rules 1981, r70)

STATEMENT OF: Daniel Pattenden

Age of Witness (if over 18, enter "over 18"): Over 18

Occupation of Witness : Licensing officer.

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

Dated the 5th September 2016 (signed) 

On the 11<sup>th</sup> July 2015 I got a complaint from a local resident with regards to an alleged breach in the licence conditions and licensable activity times for the premises licence held at the Wallace (previously The Grove). The conditions and times allegedly in breach was condition 13 (doors and windows to remain closed at all times except ingress and egress) and the hours were that of live and recorded music which should cease at 23:00hrs both of which were put in place after a licensing hearing following a previous review. I decided to visit the premises and speak to the new owner to inform him of the conditions and hours. On the 16<sup>th</sup> July 2015 I took a letter of allegation to the new licence holder, when I got to the premises I spoke with a gentlemen who identified himself as the manager. I handed over the allegation letter and explained that the premises had a difficult past, and that he should remain within the licensed times and read the conditions carefully. I explained that doors and windows should remained closed at all times and at the time the bi fold doors at the front of the premises were open. The manager said he would review the conditions and make sure he stayed to within them.

On 12<sup>th</sup> May 2016 I received a new allegation of breach in times and condition 13. On the 14<sup>th</sup> of May it was further alleged by a local resident that the premises remained open until 3:00am blasting music with the doors open and people singing happy birthday. I emailed Mr Pouressmaell to arrange a formal meeting to which I got no reply.

**Licensing Team**

Exhibit description: Daniel Pattenden witness statement

Exhibit Reference: LICG

I identify this exhibit as that referred to in my signed statement

Signature(s): 

(Signed) 

(Witnessed by) 

MG11

(Name in Capitals) ELISABETH HAMMOND

CONTINUATION OF STATEMENT OF

---

On the 11<sup>th</sup> June myself and PC Wilcock visited the premises in the evening whilst we were on out of hours. As we entered the premises the main front bi fold doors were wide open (making the whole front of the premises open) which was a breach of condition 13 and low level music was playing, we spoke to the DPS who identified himself as the manager. I explained that they had not paid their annual fee and that their licence would be suspended without it. We also told him to close the front as this was a breach of condition 13. I then spoke to him about the incident on the 14<sup>th</sup> May, he said it was a private party, I asked if they were selling drinks and they were I explained the guide lines on a private party and that it in fact would not be a private party and would be a serious breach. I said I had tried to contact Mr Pouressemaell the licence holder as I wanted him to attend a formal meeting. He said he would get him to contact me. On Monday 14<sup>th</sup> June the DPS called to pay the outstanding when asked about the licence holder he said the owner would contact me, he never did.

On Friday 29<sup>th</sup> July 2016 at about 8pm - 8:30pm myself and PC Wilcock drove past the premises on our way to another premises. As we did so the front of the premises was again wide open and music was emanation from the premises. On my return to the Office on August the 12<sup>th</sup> I sent another letter to Mr Pouressmaell stating that what had been seen on the 29<sup>th</sup> July and that we had previously wrote to them and about my requests for a formal meeting. In this letter I made it clear that they needed to attend a formal meeting with myself to set up an action plan for the premises, it was stated in the letter that they had 14 days to arrange this and that if they did not it would result in more serious enforcement action being taken. As of writing this statement on the 5<sup>th</sup> September 2016 there was still no response.

---

(Signed) *D Platt*

(Witnessed by) \_\_\_\_\_

MG11

(Name in Capitals) \_\_\_\_\_

### 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	PC Vicky Wilcock .....	URN:	01	SC		16
Age if under 18	Over 18.....	(if over 18 insert 'over 18')	Occupation:		Police Officer 231347 .....	

This statement (consisting of: **2** 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: 8<sup>th</sup> September 2016.....

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

I am the above named officer attached to the Licensing Team at Barnet Police Station. I am making this statement in relation a Wallace, 1023 Finchley Road, NW11 7ES.

On Saturday 11<sup>th</sup> June 2016 I was on duty from 1600 hours due to the commencement of the Euro 2016 Football Tournament. I was on duty with PC Hodnet and Local Authority Licensing Officer Daniel Pattenden.

At 1727 hours we attended Wallace 1023 Finchley Road, NW11. A male I now know to be Mojtaba KHAMENEHI was working behind the bar at the time of the visit. We informed KHAMENEHI that we were carrying out a licensing inspection.

The premises was in breach of conditions on the licence;

**Condition 9) An accident and incident logbook shall be provided and maintained at the premises.**

**Condition 13) Doors and windows to remain closed except for ingress and egress.**

**Condition 14) A public notice shall be displayed requesting patrons to respect their neighbours and leave quietly.**

I issued a notice pointing out these breaches and we were promised that front windows and doors would be closed by 6pm as it was a very warm day. We then left and carried on with our inspections in other premises on the borough.

On Friday 29<sup>th</sup> July I was on duty from 1600 hours working in conjunction with our Central Licensing Team, SIA and Local Authority Licensing Officer Daniel Pattenden. At about 2000 hours to 2030 hours, while on our way to a premises in Cricklewood, we drive past Wallace and saw that the windows and doors were open again. Unfortunately we could not go in to advise them of the breach of the condition as we had a number of other premises we needed to get to.

Licensing Team

Exhibit description: PC Wilcock witness statement

Exhibit Reference: LIC 7

I identify this exhibit as that referred to in my signed statement

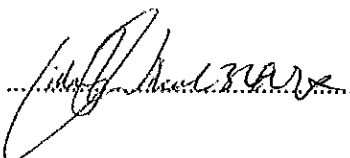
Signature: ..... Signatur ..... Signature(s): ..... 35

Continuation of Statement of **Vicky Johnson** .....

On 12<sup>th</sup> August 2016 police received intelligence stating the following;  
"A bar called 'Wallace' on FINCHLEY ROAD was staying open until early morning sometimes until 0230 hours. The informant stated that he believes their license only allows them to stay open until 2300 hours. They have seen people smoking weed in the back garden of the venue and they can smell it. They stated the people (doesn't know who they are, but doesn't think they are the owners of the bar) are very noisy and are drinking alcohol and smoking drugs until the early hours of the morning almost every day. They also stated he has previously seen a BMW which has possibly been dealing drugs from the car outside"



Signature: .....



Signature witnessed by: .....

# Current Premises Licence

<p><b>Licensing Act 2003</b></p> <p><b>Part A</b></p> <p><b>Premises Licence</b></p> <p><b>Premises Licence Number :</b> <b>LAPRE1/08/01128</b></p>	<p><b>Licensing Authority:</b> London Borough of Barnet, Building 4, North London Business Park, Oakleigh Road South, New Southgate, London, N11 1NP</p>
---	--

**Part 1 – Premises details**

<b>Postal address of premises, or if none, ordnance survey reference or description</b>	
The Grove 1023 Finchley Road	
<b>Post Town</b>	<b>Post code</b>
London	NW11 7ES
<b>Telephone number</b>	
None given	

<b>Where the licence is time limited the dates</b>
This premises licence is not time limited.

<b>Licensable activities authorised by the licence</b>
The Sale by Retail of Alcohol The Provision of Regulated Entertainment

<b>The times the licence authorises the carrying out of licensable activities</b>	
<b><u>Sale or supply of Alcohol</u></b>	
<b><u>Standard Days and Timings:</u></b>	
Friday to Saturday	10:00hrs - 01:00hrs
Monday to Thursday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 23:00hrs
<b><u>Seasonal Opening Times:</u></b>	
An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:	
Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.	
On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.	
On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day	

**Performance of live music**

**Standard Days and Timings:**

Monday to Saturday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 22:30hrs

**Seasonal Opening Times:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

**Playing of recorded music**

**Standard Days and Timings:**

Monday to Saturday	10:00hrs - 23:00hrs
Sunday	12:00hrs - 22:30hrs

**Seasonal Opening Times:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:00 hrs.

On New Years Eve from the end of permitted hours on New Years Eve to the start of permitted hours on the following day

**The hours that the premises are open to the public**

**Standard Days and Timings:**

Friday to Saturday	10:00hrs - 00:30hrs
Monday to Thursday	10:00hrs - 23:30hrs
Sunday	12:00hrs - 23:30hrs

**Non Standard Opening Hours:**

An additional hour to the terminal hour listed in the Standard Days and Timings above on the following days:

Sunday before first May Bank Holiday, first May Bank Holiday Monday, Sunday before second May Bank Holiday, second May Bank Holiday Monday, Sunday before August Bank Holiday, August Bank Holiday Monday, Thursday before Easter Bank Holiday, Sunday before Easter Bank Holiday, Easter Bank Holiday Monday.

On Christmas Eve and Boxing Day to a maximum of 01:30 hrs.

On New Years Eve from the end of permitted hours on New Years 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

**Part 2**

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

Mr Mohammed Reza Pouressmaell  
8 Cheddar Close,  
London,  
N11 3GR

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

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

Mojtaba Khamenehi  
1 Rutland Gate  
South Kensington  
London  
SW7 1BL

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

13/04966/LIPERS – London Borough of Lambeth



## 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 the sale or supply of alcohol.  
(2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.  
(3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either—
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

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) 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.

5. 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.

For the purposes of this condition —

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

(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

## **Annex 2 – Conditions consistent with the operating schedule**

6. Alcohol shall not be sold or supplied except during permitted hours

7. The above restrictions do not prohibit:

during the first twenty minutes after the above hours the consumption of the alcohol on the premises;

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 purposes 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 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.

8. Toughened glassware shall be used on the premises
9. An accident and an incident logbook shall be provided and maintained on the premises
10. Children accompanied by an adult are permitted onto the premises until 1900 hrs
11. All parts of the premises shall be provided with adequate illumination. All routes of escape and all parts of the premises to which the public has access shall be provided with adequate and assured illumination from two independent supplies and system
12. Adequate ventilation shall be provided to all parts of the premises so as to maintain healthy conditions.

### **Annex 3 – Conditions attached after hearing by the licensing authority (where/if appropriate)**

13. Doors and windows to remain closed except for ingress and egress.
14. A public notice shall be displayed requesting patrons to respect their neighbours and leave quietly.
15. The premises licence holder will ensure that no themed nights of any kind take place on a Friday or Saturday.
16. The premises licence holder will adopt and abide by the challenge 25 policy.
17. A CCTV system will be installed that complies with the following specifications:
  - a. Digital recording colour CCTV comprising a multi camera system.
  - b. The head unit (recorder) for storing the images will store such data on a hard drive or a similar quality medium.

- c. A CD or DVD burner will also form part of the system to facilitate making copies of the images.
- d. If the head unit (recorder) is kept on the premises it must be located in a secure cabinet or other secure area, preferably out of the sight and reach of the public. The unit must be further secured by physical means to prevent anyone from merely picking up and removing the unit, e.g. a secure metal boot, or metal case strap, bolted to an immovable object like a wall or floor.
- e. The quality of the images must be of a sufficiently high standard to allow identification of the subject matter.
- f. Cameras will cover key areas identified by the operator and Police. These will include external cameras covering any outside area used by patrons of the premises, the external entrance and exit doors, clear head shots of persons entering the premises, approach route to the toilets, the bar and till areas and other areas not in full view from the bar.
- g. Images must be retained for a period of 31 days before overwriting.
- h. The images will be made available in reasonable time on demand by the Police and authorised officers of the London Borough of Barnet.
- i. At all times when the premises are open there shall be at least one person who is capable of operating the CCTV system if required to do so by the Police or authorised officers of the London Borough of Barnet.
- j. This system will be fully maintained at all times to ensure correct operation.

#### **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 LAPRE2/15/50452

# Representations

Development & Regulatory Services  
The London Borough of Barnet  
Environmental Health  
Building 4  
North London Business Park  
Oakleigh Road South  
London N11 1NP

Tel: 020 8359 7995  
Date: 14/10/2016

**Noise Nuisance Representation to the following a review of Premises License**

**Sect 53 of the Licensing Act 2003 – A Review of Premises Licence**

<b>Application Given To Noise Nuisance:</b>	
<b>Premises Name:</b>	<b>Wallace Bar</b>
<b>Premises Address:</b>	<b>1023 Finchley Road, NW11</b>

The Noise Team are satisfied that allowing this premises to continue being used in accordance with the current permissions of their premises licence could have further negative impact on the licensing objective of the Prevention of Public Nuisance.

Although historically there have been issues with the above premises, since the change of ownership on 17th December 2014 our records show that this service has only received two alleged noise complaints from residents this year.

The alleged complaints have been made due to loud amplified music. The most recent complaint was received on the 19<sup>th</sup> June 2016. Officers from this service did not attend on this occasion as the complainant could not be contacted to enable them to witness the nuisance.

The complaint received on the 23<sup>rd</sup> May was sent to the service after the occurrence of noise where the complainant stated that there had been previous weekends where they were disturbed.

Yours Sincerely,

Charlene Burrows  
Technical Officer

**From:** Residents of Alyth Gardens  
No. 3 Bergit Arends,  
No. 4 Stanley Friedlein,  
No. 5 Rachel Golding,  
No. 6 Celia Persad,  
No. 8 Paul Alter,  
No. 10 Tiziana Mecocci,  
No. 11 Dr Yasser Noeman,  
No. 18 Carmen Fernandez,  
No. 20 Mary Rahmal  
London,  
NW11 7EN

**To:** The Licensing Officer  
Trading Standards &  
Licensing Department  
London Borough of Barnet  
Barnet House  
1255 High Road  
Whetstone  
London  
N20 0EJ

**Date: 13 October 2016**

**Ref: Licensing Review – Wallace 1023 Finchley Road.**

We have become aware that the License for the Wallace is due to be reviewed following numerous complaints about breaches of conditions. **We fully support this review under the Prevention of Public Nuisance.**

The Council records will show that there have been various incidents and complaints regarding these premises (which sits in the middle of a residential area), over a period of more than 10 years. Most recently a License review was undertaken on the 22nd of May 2013 following a police complaint. At this time the venue was under different ownership and called 'The Grove'.

When the venue changed hands in 2015 we had assumed that the new owners would take note of the strict License conditions and also the publicly available findings of the Licensing Committee but unfortunately this has proved not to be the case. On numerous occasions we have had to complain to the Licensing Team about 'public nuisance', with late night music (beyond the licensed hours), noisy customers on the street and doors and windows remaining open.

**Music is currently the biggest source and at the core of the majority of nuisance**, even when the doors and windows are eventually closed; as the music is so loud (from early evening), further exacerbated by a very heavy bass line. Additionally, (with doors and windows closed) doors opening for ingress and egress lead to very regular, additional waves of noise. Often this goes on beyond the Licensed all music off by 11:00pm. Also, as it gets later the bar gets busier, people get louder and smokers hanging around outside, or customers leaving, can be very noisy.

On balance, we should point out that the nuisances are less regular than with the previous owners and customers are generally better behaved. Mostly, when the music is turned off, doors and windows closed and the venue closes within Licensed hours, things are OK. However, on those occasions where there is music, parties, events, (mostly Friday and Saturday nights) it becomes extremely unpleasant for nearby residents.

**Our first complaint re the new venue was in early July 2015**, as the noise (particularly music) was getting louder and louder, and later and later (beyond Licensed hours), on a weekly basis. The Licensing Team very helpfully spoke with the Licensee and things did settle down for a couple of weeks. Then in early August 2015 the noise and music blared out way beyond closing time and we raised a further complaint.

There have also been a number of parties into the early hours with disco music blaring out. Most recently on the night of the 21st & 22nd of May 2016, there was a party that went on until 3:00am. We did try to call the noise nuisance team but there was a problem with the phone system, so we registered the complaint on-line. When people did eventually leave they were very loud and disrespectful, including urinating in some of our front gardens.

Over the rest of this last summer there were many loud nights (mostly on Friday and Saturday nights but not exclusively), with doors and windows open till closing and extremely loud music. At around the end of July we again asked the Licensing Team to have a word and remind them of their License conditions. Particularly all music off by 11:00pm and all windows and doors closed at all times and additionally to keep the level of the music down at all times

With the music and noise continuing to be a nuisance we **sent a video to Daniel Pattenden in the Licensing Team**; taken at 21:30 on the Saturday 17<sup>th</sup> September 2016 to demonstrate the excessive volume of music, despite the windows being closed. The same nuisance was repeated on Sunday the 18<sup>th</sup>. Interestingly this was just after the License Review notice was published.

On Saturday the 8<sup>th</sup> of October 2016 the music was again excessively loud.

This is a residential area housing many families with young children as well as elderly residents. The pub is less than 20 metres away from residential roads and has a block of flats above it. Since the change of license in 2005 it has been demonstrated time and time again that allowing music and late night opening is not suitable in a residential area.

Following the May 2013 review it was noted in the minutes that:

***“.....we gave serious consideration to revoking the licence. The Licence holder should be in no doubt that a serious view is likely to be taken if these added conditions do not improve the situation at the premises”.***

Although this referred to the venue when it was under previous ownership, it is not unreasonable to assume that the new owners would have undertaken their due diligence and known full well of the findings of the 2013 review. It would therefore also not have been unreasonable to have expected them to take note of the points raised, as well as their strict license conditions.

From our perspective there is no doubt that the Wallace is creating a public nuisance and that they have continued to ignore the conditions of their strict license or requests to adhere. Subsequently, we are concerned that even if new license conditions are imposed they too will be ignored. However, in the event that the Licensing Committee decide not to remove the license in full and **in order to prevent on-going public nuisance, we request at a minimum:**

- **Reduced Licensing Hours** - that the licensing hours are reduced to closing of no later 23:00 at any time We should point out that the majority of nuisances have been on Friday and Saturday nights and only occasionally on other nights. We therefore believe that bringing the licensing hours in line with the rest of the week, would contribute to some improvement and also reduce the impact of late night people noise such as smokers and when customers (often slowly) leave the premises.
- **No Music at any Time** – The current licence conditions allow for music up to 11:00pm. As music appears to be the source of the majority of nuisances and the fact that this is where the terms of the License are regularly flouted, we would ask for a ban on all music, at any time. If for any reason this is not possible, at very least further ‘strict’ restrictions on the playing of amplified music – volumes, bass, sound proofing and finishing times. TV based sports events can still be allowed – if volume is reasonable and doors and windows are closed.
- **Doors & Windows Closed** - Currently the License states than doors and windows must remain closed at all times. If there is no music, it would be acceptable for doors and windows to remain open until 7:30pm. After this time, they must remain closed, without any exception other for ingress and egress; with a switch (if music is not banned), to ensure music is turned off whenever the doors or windows are opened.
- **No TENs** – No late night private parties or ‘temporary event notices’ at any time.
- **Leave Quietly Notice** - That the notice asking customers to leave quietly, is put in place.
- **Outside Drinkers / Smokers Notice** - That a notice is put up asking smokers and customers sitting on outside seating, to be considerate to neighbours.



It is not the intention to impede a local business but when buying the premises, the new owners would have been fully aware of the impact of its location, the interests of local residents and records of previous complaints & concerns and they would have subsequently based their business case on that information. We also feel that it is not right that despite regular reminders of their licences conditions that it doesn't take long before they are ignored again.

We therefore see our demands as fair and reasonable and look forward to a satisfactory outcome.

Yours faithfully

PAUL ALTER  
8 ALYTH GARDENS

TIZIANA MECOCCHI  
10, Alyth Gardens

Mary Rahmal

20 Alyth Gardens

STANLEY FRIEDLEIN  
4 ALYTH GARDENS  
LONDON NW11 7EN

Dr Yasser Noeman

11 Alyth Gardens

CERHA PERDAD  
6 ALYTH GARDENS  
LONDON NW11 7EN

RACHEL GOLDING

5 ALYTH GARDENS

~~CARMEN FERNANDEZ~~  
18 Alyth Gardens

BERGIT ARENDS  
3 ALYTH GARDENS  
NW11 7EN

# Guidance issued by Home Office on Reviews

# 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 the licensing authority agrees and the applicant submits a subsequent written application. The licensing authority may also agree in advance that the application need not be given in writing. 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. 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 written representation. The licensing authority may also agree in advance that the representation need not be given in writing.
- 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](http://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);
  - 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.
- 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, or the sale of firearms. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. 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 Class A drugs and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the 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 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 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;
- 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 Where persistent sales of alcohol to children have occurred at premises, responsible authorities should consider applying for a review of the licence, whether 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 outcome is appropriate. Responsible authorities should consider taking steps to ensure that a review of the licence is routine in these circumstances.



# Matters for Decision

# MATTERS FOR DECISION

## An application made under Section 51 of the Licensing Act 2003

The Wallace, 1023 Finchley Road, London, NW11 7ES

### 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.

<b>Steps taken (if any)</b>	<b>Reason(s)</b>

This page is intentionally left blank