
Meeting Licensing Sub-Committee
Date 28th November 2013
Subject Funky Brownz, 63-65 The Hyde Colindale NW9 6LE
Report of Trading Standards & Licensing Manager
Summary This report asks the Sub-Committee to consider the Review of a premises licence under section 167 of the Licensing Act 2003.

Officer Contributors Michelle Rudland – Senior Licensing Officer

Status (public or exempt) Public

Wards Affected West Hendon Ward

Enclosures Officers Report
ANNEX 1 - Current Premises Licence
ANNEX 2 - S161 Closure Notice
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ANNEX 7 - Chapter 11 - Guidance under section 182 of the Licensing Act 2003 (June 2013)
ANNEX 8 - Matters for Decision

For decision: Licensing Sub-Committee

Function of: Council

Reason for urgency / exemption from call-in (if appropriate) Not applicable

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1. RECOMMENDATIONS

1.1 That the Sub-Committee considers the review of Funky Brownz (club side only) Premises Licence.

2. RELEVANT PREVIOUS DECISIONS

2.1 None.

3. CORPORATE PRIOTY AND POLICY CONSIDERATIONS

3.1 The Council's Licensing policy.

4. RISK MANAGEMENT ISSUES

4.1 Not applicable.

5. EQUALITIES AND DIVERSITY ISSUES

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 community.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

6.1 None.

7. LEGAL ISSUES

7.1 The Licensing Act 2003 requires that before determining a premises licence review following a closure order the Licensing Authority must hold a hearing to consider it and any relevant representations.

8. CONSTITUTIONAL POWERS

8.1 The Licensing Sub-Committee will discharge the functions under the Licensing Act 2003 and associated Regulations, as delegated to it by the Licensing Committee.

9. BACKGROUND INFORMATION

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

10. LIST OF BACKGROUND PAPERS

10.1 None.

Cleared by Legal (Officer's initials)
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Officers Report

REVIEW OF A PREMISES LICENCE FOLLOWING A CLOSURE ORDER
Section 167 - LICENSING ACT 2003

OFFICERS REPORT

1. REVIEW OF A PREMISES LICENCE FOLLOWING A CLOSURE ORDER PROCESS

A closure notice can be served under s161 of the Licensing Act 2003 by a senior police officer in relation to any relevant premises if he/she reasonably believes that:

- a. There is, or is likely to be, disorder on, or in the vicinity of and related to, the premises and their closure is necessary in the interest of public safety, or
- b. A public nuisance is being caused by noise coming from the premises and the closure of the premises is necessary to prevent that nuisance.

Once a section 161 closure order is served an application can then be made to the Magistrates Court by the Police under section 164(1) of the Act for the court to either consider the order and any extension to it. The magistrates' court has the power as set out in section 165(2) of the Act to:

- a. Revoke the closure order and any extension of it;
- b. Order the premises to remain, or to be, closed until such time as the relevant licensing authority has made a determination in respect of the order for the purposes of section 167;
- c. Order the premises to remain closed until that time subject to such exceptions as may be specified in the order;
- d. Order the premises to remain or to be closed until that time unless such conditions as may be specified in the order are satisfied.

The provisions of s165(4) of the Licensing Act 2003 dictates that in the case of a licensed premises the local Magistrates Court must notify the Licensing Authority of any determination it makes using its powers in relation to a closure order or any extension of a closure notice.

Once the Licensing Authority receives an order from the Magistrates court under this section they must review the premises licence (s167(2) Licensing Act 2003).

The licensing authority must:

- a. Hold a hearing to consider –
 - i. The closure order and any extension to it,
 - ii. Any order under section 165(2)
 - iii. Any relevant representations, and
- b. Take such of the steps mentioned below as it considers necessary for the promotion of the licensing objectives

Those steps are –

- a. To modify the conditions of the premises licence
- b. To exclude a licensable activity from the scope of the licence
- c. To remove the designated premises supervisor from the licence,
- d. To suspend the licence for a period not exceeding three months, or
- e. To revoke the licence.

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

1. THE PREMISES

Ash Bar Funky Brownz premises licence was granted during the transitional period back in 5th September 2005. The premises comprises of two separate areas of the business. The left-hand side of the building is a restaurant and the right –hand side is a Night Club. The closure order and subsequent review hearing, relate to the Nightclub part of the premises only.

Since the original grant of the premises licence this premises varied the licence back in September 2007 and has undergone both a review application in November 2007 and a summary expedited review application in May 2009.

The premises licence is currently held by Vaishali Patel & Ragini Patel and the Designated Premises Supervisor is shown as Vaishali Patel.

The current premises licence containing all of the amendments and conditions attached during the licence applications mentioned above permits the following:

The times the licence authorises the carrying out of licensable activities

The Sale by retail of alcohol, The Exhibition of films, the Performance of live music, the Playing of recorded music, the Performance of dance and anything similar, the playing of recorded music or performances of dance , the provision of facilities for making music, the provision of facilities for dancing and anything similar,

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Provision of late night refreshment - Indoors only

Standard Days and Timings:

Sunday to Wednesday	23:00hrs - 00:00hrs
Thursday	23:00hrs - 01:00hrs
Friday to Saturday	23:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The hours that the premises are open to the public

Standard Days and Timings

Sunday to Wednesday	10:00hrs - 00:30hrs
Thursday	10:00hrs - 01:30hrs
Friday to Saturday	10:00hrs - 02:30hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

A full copy of the current premises licence showing the conditions attached to the licence and a plan of the premises can be found attached to this report in Annex 1

2. S161 CLOSURE ORDER

Inspector Jaiye Warwick-Saunders of the Metropolitan Police Service served a Closure Order under section 161 of the Licensing Act 2003 on Funky Brownz Nightclub on Sunday 10th November 2013. Inspector Warwick-Saunders highlighted within the closure order that it related only to the Nightclub section of the premises and not the restaurant.

The s161 order was served after a serious incident took place at the premises at approximately 00:55hrs on Sunday 10th November whereby a fight broke out and one male was slashed across his neck.

A full copy of the s161 Closure order can be found attached to this report in Annex 2.

3. POLICE APPLIATION TO THE MAGISTRATES COURT

The Police made an application to the Magistrates Court under section 164 of the Licensing Act 2003 on Tuesday 12th November 2013 after the closure order came into force. The application sought to extend the closure notice that was served on the premises licence holder on the 10th November 2013.

Within the application made to the Magistrates Court the Police state:

- 1) The premises were closed at 12:00hrs on Sunday 10th November 2013 pursuant to Sect 161 Licensing Act 2003. Authorised by Inspector Warwick-Saunders (This Closure Order has now expired)
- 2) A serious incident took place inside the premises at approximately 00:55 hours on Sunday 10th November 2013. whereby a fight broke out and one male was slashed across his neck
- 3) Another male was struck with a plank of wood after leaving the premises
- 4) 4 male suspects have been arrested and enquiries are continuing
- 5) Staff from the premises were unable to operate the CCTV and it appears that the recording unit was unplugged. This has been seized by the Police

A full copy of the Police's application to the Magistrates Court can be found attached to this report in Annex 3.

4. COURT ORDER

Upon receipt of the application made by the Police the court ordered the following:

“that the premise are to be closed until that time (being the determination of the review by the licensing authority) unless the following conditions are satisfied:

1. The digital CCTV system installed meets all requirements under section 32 of the premises licence conditions
2. That a procedure is put in place to check the CCTV in operating and recording this is to be at 2 hourly intervals during opening hours. These checks to be formally logged and that log to be available to the licensing authority on review, these checks to be carried out by a designated member of staff and the review log to be checked by the premises licence holders on a daily basis i.e., no less than once in 24 hrs
3. All drinks from the night club to be dispensed only in plastic or polycarbonate receptacles
4. No less than 5 SOA door supervisors to be present on the premises when the night club is open.

The Court order can be found attached to this report in Annex 4

5. REVIEW

The Licensing Authority received the Court closure order on 14th November 2013. Upon receipt of the order from the court the licensing authority started the procedure to have the premises licence for Funky Brownz reviewed by a licensing subcommittee.

6. ADDITIONAL INFORMATION PROVIDED BY THE POLICE

During the review process Sgt Altman stated that the Police have received confirmation that a replacement CCTV recording unit has been installed and that plastic drinking receptacle are now in place within the club.

They also ask that the following be considered by the licensing subcommittee as possible conditions to be attached to the licence at the review hearing.

The following applies only to the section of the premises designated as "the Club" as shown on the plan submitted for the review

- All drinks to be dispensed in plastic, polycarbonate or similar non glass receptacles. If drinks are consumed directly from bottles they must also be plastic or a similar non glass material.
- The CCTV system shall be checked on at least one occasion every 24 hours to ensure that the system is working properly and images are being recorded

In suggesting these conditions Sgt Altman states:

“I don't know if this second point is required as its somewhat "belt & braces" as the premises already have a CCTV condition in Annex 3, condition 32 bullet point 10 (shown as condition 32 j on the premises licence):

32. A digital CCTV system is installed to the requirements of the Crime Prevention Officer and include:

- **"This system will be fully maintained at all times to ensure correct operation"**

In making these requests the Police reserve the right to submit additional information in support of the Closure Order Sect 161 and the application to the magistrates' court sect 164. For determination under Sect(s) 167(5) & 167(6)

The email containing this additional information provided by the police can be found attached to this report in Annex 5

7. REPRESENTATIONS

Due to the strict time scales set by the Licensing Act 2003 for reviews of this nature the paperwork for this hearing had to be circulated to all parties before the last date for representations had passed. As a result any valid representations received within the representation period but after this report was first published will still be deemed valid and will be circulated to all relevant parties before the hearing takes place.

8. OFFICER COMMENTS

– Guidance

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).

– Determination

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.

ATTACHMENTS:

- ANNEX 1 - Current Premises Licence
- ANNEX 2 - S161 Closure Order
- ANNEX 3 - Police Application to Magistrates Court
- ANNEX 4 - Order from the Magistrates Court
- ANNEX 5 - Additional Information provided by the Police
- ANNEX 6 - Representations
- ANNEX 7 - Chapter 11 - Guidance under section 182 of the Licensing Act 2003
(June 2013)
- ANNEX 8 - Matters for Decision

Report By: Michelle Rudland
Date: Monday, 18 November 2013

Current Premises Licence

<p>Licensing Act 2003</p> <p>Part A:</p> <p>Premises Licence</p> <p>Premises Licence Number: LN/199906627</p>	<p>Licensing Authority: London Borough of Barnet, Building 4, North London Business Park Oakleigh Road South New Southgate, London, N11 1NP</p> <p style="text-align: right;">LPRL/07/15320 (30/03/2012)</p>
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Part 1 – Premises details

Postal address of premises, or if none, ordnance survey map reference or description
Funky Brownz, 63 The Hyde

Post Town London	Post code NW9 6LE
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Telephone number
020 8205 6266

Where the licence is time limited the dates
This premises licence is not time limited

Licensable activities authorised by the licence
The Sale by Retail of Alcohol,
The Provision of Regulated Entertainment, and
The Provision of Late Night Refreshment

The times the licence authorises the carrying out of licensable activities

Sale by retail of alcohol

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:
On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Exhibition of film's - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Sunday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Performance of live music - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Playing of recorded music - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 10:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Performance of dance - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The performance of entertainment of a similar description to performance of live music, the playing of recorded music or performances of dance - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The provision of facilities for making music - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The provision of facilities for dancing - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The provision of facilities of a similar description to that of the provision of facilities for making music or the provision of facilities for dancing - Indoors only

Standard Days and Timings:

Sunday to Wednesday	10:00hrs - 00:00hrs
Thursday	10:00hrs - 01:00hrs
Friday to Saturday	10:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The Provision of late night refreshment - Indoors only

Standard Days and Timings:

Sunday to Wednesday	23:00hrs - 00:00hrs
Thursday	23:00hrs - 01:00hrs
Friday to Saturday	23:00hrs - 02:00hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

The hours that the premises are open to the public

Standard Days and Timings

Sunday to Wednesday	10:00hrs - 00:30hrs
Thursday	10:00hrs - 01:30hrs
Friday to Saturday	10:00hrs - 02:30hrs

Non Standard Timings and Seasonal Variations:

On the commencement of British Summer Time one hour to be added to the finish time above.

From the end of the sale of alcohol on 31st December until the start of the sale of alcohol on the following day.

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

On and Off supplies

Part 2

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

Vaishali Patel & Ragini Patel
51 Heber Road
Cricklewood
NW2 6AB

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

N/A

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

Mr Vaishali Patel

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

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 Each individual employed in the role of guarding the premises against unauthorised access or occupation, against outbreaks of disorder or against damage must be licensed by the Security Industry Authority.
- 4 The admission of a child or young persons under the age of 18 to the exhibition of any film shall be restricted in accordance with any recommendations made by any film classification body and or persons designated as such by the Secretary of State under section 4 of the Video Recordings Act 1984.
- 5
 - (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.
- 6
 - i. (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—
 - (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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);
 - (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;
 - (d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
 - (ii) the likelihood of anything occurring or not occurring;
- (e) 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.
- ii. The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
 - iii. The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.
 - iv. (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.
 - v. The responsible person shall 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; and
 - (b) customers are made aware of the availability of these measures.

Annex 2 – Conditions consistent with the operating schedule

- 7 This licence is granted in accordance with the published terms and conditions set out in the London Borough of Barnet's Entertainment Licensing Rules of Management for Places of Public Entertainment dated the 15th May 1989
- 8 The Premise Licence Holder and Premises Supervisor shall ensure that music provided at the premises shall not create any disturbance or annoyance to residents in the area. The Premise Licence Holder and Premises Supervisor shall monitor the music noise levels outside the premises, whenever the premises is in use under this licence, and take immediate action to reduce music levels so that music is inaudible in any residential premises.
- 9 The total number of persons present at any one time in the Function Room shall not exceed 150.
- 10 The total number of persons present at any one time in the Main Bar shall not exceed 100.
- 11 The premises shall be provided with adequate facilities to monitor and control the number of people present.

- 12 Staff are trained as appropriate in respect of relevant licensing law, the implementation of licence conditions, health safety, first aid, alcohol and drug awareness and conflict management.
- 13 Customers will not be permitted to take open glass containers outside the premises, as defined in the plan submitted with the operating schedule and approved by the Licensing Authority.
- 14 The consumption of alcohol will be restricted to those parts of the premises identified on the plan submitted with the operating schedule and approved by the Licensing Authority.
- 15 A summary of the Premises Licence will be displayed at each public entrance to the premises.
- 16 In line with our Alcohol and Social Responsibility Policy there will be no promotions that encourage illegal, irresponsible or immoderate consumption.
- 17 Bag searches are conducted at random
- 18 No adult entertainment (paid for by the company of a nude physical nature) is permitted at these premises. Any children under 16 remain the responsibility of the accompanying adult when using the premises (and/or exterior area). Staff are not allowed to be in sole supervision of children which remains the responsibility of the accompanying adult at all times.
- 19 The Designated Premises Supervisor/ Personal Licence Holder and staff will at all times remain aware of their responsibilities under this objective, including that alcohol shall not be sold to anyone under the age of 18. Staff on duty have been trained and made aware of these requirements and the need to demand an acceptable form of age I.D. (i.e. an accredited 'Proof of Age' card or 'new type' driving licence with a photograph or passport with (photograph) where considered appropriate.
- 20 Children under the age of 18 will only be allowed on the premises as long as they are accompanied by their parents or other adults as part of a 'family' taking a table meal.
- 21 Challenge 21 Scheme will be adopted. Customers who appear to be 21 years or less are to be challenged when attempting to purchase alcohol.

Annex 3 – Conditions attached after hearing by the licensing authority

- 22 No patrons allowed in the northern access area of the premises next to 69 The Hyde NW9 at any time.
- 23 No patrons to be admitted or readmitted to rear smoking area after 11pm on Sunday, Monday, Tuesday, and Wednesday or after midnight on Thursday, Friday and Saturday.
- 24 Security staff to regularly monitor rear smoking area after 9pm each night to ensure no noise from patrons is clearly audible at nearest residential premises situated at Malvern Court and 69 The Hyde NW9. The partition of the smoking area connected to the premises structure is to be extended (by the 9th October 2007) so there are no gaps from the doors, roof or partition where it connects to the site perimeter fence to minimise noise break out from patrons in the smoking area.
- 26 The License holder is to attend all pub watch meetings and arrange meetings with the Area residents Association on a quarterly (3-monthly) basis.
- 25 No empty bottles to be disposed of until after 10am the following morning.
- 27 SIA door supervisors will be employed on Thursday, Friday and Saturday from 8:30pm (20:30hrs) until 30 minutes after the premises have closed

- 28 The SIA door supervisors will wear a clearly identifiable jacket with high visibility (light reflective) panels.
- 29 5 SIA door supervisors will be employed at any time when the club is open.
- 30 If the club is closed then the requirement for SIA door supervisors may be reduced to 2. This reduction in doors supervisors is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
- 31 If the club is closed and the bar/restaurant also closes no later than 12:30am (00:30hrs) there shall be no requirement for door supervisors. This decision is at the discretion and risk assessment of the premises licence holders and the Designated Premises Supervisor (DPS).
- 32 A digital CCTV system is installed to the requirements of the Crime Prevention Officer and include:
 - 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 copies of the images.
 - d. If the head unit (recorder) is kept at the premises it must be located in a secure cabinet or other secure area, preferably out of 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 headshots 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 on reasonable 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.
- 33 There shall be no entry to the premises one hour before the end of the licensable activities.
- 34 When the premises are open, staff will carry out security checks to the premises including the toilet areas. A log will be kept of those checks.
- 35 Regular checks of the toilets to be made and recorded, with intervals being no greater than one hour.
- 36 Police and London Borough of Barnet approved signs to be clearly displayed. The signs will be worded to advise clients that CCTV covers the premises and that there is zero tolerance to drugs and other criminal activity.
- 37 Besides any prosecution for offences, anyone barred from these premises will also be barred from all of the other premises in the pubwatch scheme.
- 38 When the "Club" section of the premises is open there shall be at least one Personal Licence Holder on duty during the hours, as shown on the licence, where the premises are open to the public.
- 39 Public transport information and taxi cab numbers will be available to all customers.
- 40 Acceptable forms of ID are (but not limited to) valid passport, photocard driving licence, PASS

approved proof of age card.

- 41 The applicant must ensure that the amplified music system in use at the premises includes a noise limiting device which:
- Measures the sound level in the premises by use of a tamper proof device permanently sited at the premises. Such sound pressure levels are to be measured in octave band frequencies of 16, 32, 63, 125,250 and 500 Hz
 - Immediately withdraws power to the amplifier in the event that preset sound levels of any or all of the individual octave bands which have previously been agreed by the Group Manager, Public Health and Nuisance at the London Borough of Barnet are exceeded. Such levels will be based upon inaudibility in residential properties between the hours of 2300 and 0700 hours. Outside of these times noise must not be at a level which causes a nuisance.
 - Is permanently fixed in the premises and cannot be altered, bypassed or tampered with in any way.
 - Is correctly installed by a competent person, being an electrician who is enrolled with NICEIC.
 - Includes electrical contact point switches fitted on all open able windows to the property; such switches to be fitted in series in a single electrical circuit loop such that in the event of the electrical contact switches becoming separated (by a window being opened) then the power to the amplifier is withdrawn immediately.
 - Includes electrical contact point switches fitted on all openable doors which are fire doors used other than to enter or leave the premises under normal circumstances; such switches to be fitted in series in a single electrical circuit loop together with the electrical contact switches fitted to the windows, such that in the event of the electrical contact switches becoming separated (by a fire door being opened) then the power to the amplifier is withdrawn immediately.
- 42 There shall be no external promotions at the venue. All functions at the premises shall be controlled by the premises licence holders and the Designated Premises Supervisor (DPS). This includes the advertising and promotion of events.
- 43 There shall be no direct access for the public via the intercommunicating doors between the bar/restaurant area and the club
- 44 The terminal hour for all licensable activities shall be no later than 1am (01:00hrs) on any Friday with the premises being closed and cleared by 1:30am (01:30hrs) of all persons with the exception of staff employed at the premises.
- 45 There shall be a 'calm down' period of 20 minutes in the night club prior to closing at 2.00am (02:00hrs)
- 46 All licensable activity in the restaurant/bar area of the premises will end 30 minutes prior to any current terminal hour of the club. The restaurant/bar area will also close 30 minutes earlier than any terminal hour for the club.

s161

Closure Order



**METROPOLITAN
POLICE**

**CLOSURE ORDER MADE
UNDER SECTION 161 OF THE
LICENSING ACT 2003**

Working together for a safer London

Date and Time: 10.11.2013 12:50

Police Force: METROPOLITAN POLICE

Name and rank of Senior Police Officer making the order: Inspector Jaiye Warwick-Saunders

Premises to be closed: Funky Browns Nightclub, 63-65 The Hyde, NW9 6LE

Length of closure (until — time and date): 10.11.2013 - ¹³~~12~~.11.2013 12:00 hrs.

Reasons (grounds) for closure: Male stabbed in the neck after a fight at the venue. Serious but non-life threatening injuries were sustained. Around 90 people were contained in the nightclub upon police arrival. Although initially cooperative, staff have subsequently been hesitant in cooperating with investigating officers. Although police were assured by staff on duty at the time of the incident that CCTV footage would be made available first thing this morning, this is not what transpired: CID officers attending found staff to be hesitant and reluctant to provide assistance regarding downloading any footage and a mains lead was found to have been unplugged from the rear of the hard drive device - no CCTV technician was on site as promised. Barnet Borough police are seeking assurance that the management and the licensee have taken all steps to prevent a reoccurrence: Adequate security staff; effective search regime and consideration of serving only plastic containers over the bar on "high risk" nights. *Why closure*

There have been five incidents of Violence, disorder or anti-social behaviour directly connected to the venue since April 2013.

Police are seeking closure of the NIGHTCLUB section of the venue ONLY, NOT the restaurant. Jaiye Warwick Insp. 192303

Attention is drawn to the attached Notes which form part of this order.

Name of person to whom notice of the order has been given and his or her capacity in relation to the premises: Ms Vaishali PATEL - Licensee and owner.

Signature of person to whom notice of the order has been given:

V Patel

07 939 192487

Police Application to Magistrates Court

Application under Sect 164 Licensing Act 2003

Considation of Closure Order Sect 161 Licensing Act 2003

I, Sergeant Mark ALTMAN of Colindale Police Station.

Being an officer of the Metropolitan Police Force, on oath say as follows:

Premises Closed : Funky Brownz, 63 The Hyde Colindale NW9 6LE

Premises Licence No: LN/199906627 (Issued by London Borough Barnet)

Information for Sect 161 Closure

- 1) The premises were closed at 12:00hrs on Sunday 10th November 2013 pursuant to Sect 161 Licening Act 2003. Authorised by Inspector Warwick-Saunders (This Closure Order has now expired)
- 2) A serious incident took place inside the premises at approximately 00:55 hours on Sunday 10th November 2013. whereby a fight broke out and one male was slashed across his neck
- 3) Another male was struck with a plank of wood after leaving the premises
- 4) 4 male suspects have been arrested and enquiries are continuing
- 5) Staff from the premises were unable to operate the CCTV and it appears that the recording unit was unplugged. This has been seized by the Police

History

The premises have previously come to the attention of Police and there ae a number of reports this year. In 2007 and 2009 a Standard Review and a summary review of their licence took place. Various conditions and hours relating to licensable activity were applied following these reviews.

Of particular note was the use of SIA door supervisors and a fully operating CCTV system. There are

Request

The Police respectfully request that the Magistraes consider the following and issue an order under their powers, Section 165(2) Licensing Act 2003:

- The section of the premises used as the nightclub remain closed pending the full review hearing
- Until the CCTV system is operating correctly that the entire premises remains closed

Signature of Applicant:.....

Taken and sworn before me

Date: 11/11/20013 Justice of the Peace:

Documents Attached

1. Copy of the Closure Order Issued by Inspector Warwick-Saunders
2. Copy of the premises licence

Order from the Magistrates Court



Willesden Magistrates' Court

Code 2571

Correspondence Address: 448 High Road, London NW10 2DZ

Opening Hours: Monday to Friday 9.00am to 4.30pm

Telephone: 020 8955 0555 Fax:0870 324 0240

Premises:

The Night Club at Funky Brownz
64 The Hyde
Colindale
London
NW9 6LE

Case number: **011303014682**

Respondents: FUNKY BROWNZ

Vaishali Patel &
Ragini Patel - premises
Licence Holders.

Order that premises are to be closed

The court has considered a closure order issued by a senior officer of the Metropolitan Police on the 10 November 2013 made on the ground that there is likely to be disorder on, or in the vicinity of and related to, the premises and the closure of the premises is necessary in the interests of public safety.

Order

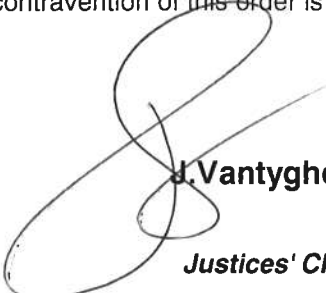
The premises are to **be closed** until the matter is determined by the licensing authority.

The court further orders

- that the premises are to be closed until that time unless the following conditions are satisfied:
- 1. The digital CCTV system installed meets all the requirements under section 32 of the premise licence conditions.**
 - 2. That a procedure is put in place to check the CCTV is operating and recording, this to be at 1 hourly intervals during opening hours. These checks to be formally logged and that log to be available to the licensing authority on review, these checks to be carried out by a designated member of staff and the review log to be checked by the premises licence holders on a daily basis. ie no less than once in 24 hours.**
 - 3. All drinks from the night club to be dispensed only in a plastic or polycarbonate receptacles.**
 - 4. No less than 5 SIA door supervisors to be present on the premises when the night club is open**

Warning

A person who, without reasonable cause, permits the premises to be open in contravention of this order is liable to a fine of up to £20,000 or three months imprisonment or both.


J. Vantingham
Justices' Clerk

Date: 12 November 2013

REGISTER for 12/11/2013 (PM) Court Willesden Magistrates' Court

FUNKY BROWNZ

63-65 The Hyde
Colindale
Hendon
NW9 6LE

Case Number: **1303014682**
Defendant Present: No
Informant: LBBA LB of Barnet
Post-Hearing Custody Status:

- 1 **LG03503**
Application to consider a closure order.
In accordance with section 164 of the Licensing Act 2003.

Register Notes

14/11/2013 John.Summers 14:10
THE ADDRESS OF THE NIGHTCLUB AT FUNKY BROWNZ SHOULD READ
63 THE HYDE, COLINDALE, NW9 6LE ON THE ORDER DATED THE
12/11/2013 AND NOT 64 THE HYDE

LCLOL

Order that The Night Club at Funky Brownz be closed until the matter is determined by the licensing authority. Conditions to be satisfied: 1. The digital CCTV system installed meets all the requirements under section 32 of the premise licence conditions.
2. That a procedure is put in place to check the CCTV is operating and recording, this to be at 1 hourly intervals during opening hours. These checks to be formally logged and that log to be available to the licensing authority on review, these checks to be carried out by a designated member of staff and the review log to be checked by the premises licence holders on a daily basis. ie no less than once in 24 hours.
3. All drinks from the night club to be dispensed only in a plastic or polycarbonate receptacles.
4. No less than 5 SIA door supervisors to be present on the premises when the night club is open

I certify the above extract to be a true copy

Date Printed: 14/11/2013

of the said Magistrates' Court.



Additional Information provided by the Police

Rudland, Michelle

To: Mark.Altman@met.pnn.police.uk
Subject: RE: Report for review hearing - Funky Brownz

From: Mark.Altman@met.pnn.police.uk [<mailto:Mark.Altman@met.pnn.police.uk>]

Sent: 18 November 2013 09:38

To: Rudland, Michelle; Andy.Mariner@met.pnn.police.uk

Cc: [SX-Licensing@met.police.uk](mailto: SX-Licensing@met.police.uk)

Subject: Report for review hearing - Funky Brownz

Michelle,

Please add the following Police request to the review hearing. I am hopeful that this will be agreed with the premises licence holder prior to the full review hearing. I have received confirmation from them that a replacement CCTV recording unit has been installed and that they have also gone over to plastic drinking receptacles in the club.

The Police reserve the right to submit additional information in support of the Closure Order Sect 161 and the application to the magistrates court sect 164. For determination under Sect(s) 167(5) & 167(6)

[The following applies only to the section of the premises designated as "the Club" as shown on the plan submitted for the review](#)

- All drinks to be dispensed in plastic, polycarbonate or similar non glass receptacles. If drinks are consumed directly from bottles they must also be plastic or a similar non glass material.
- The CCTV system shall be checked on at least one occasion every 24 hours to ensure that the system is working properly and images are being recorded

I don't know if this second point is required as it's somewhat "belt & braces" as the premises already have a CCTV condition in Annex 3, condition 32 bullet point 10:

32. A digital CCTV system is installed to the requirements of the Crime Prevention Officer and include:

"This system will be fully maintained at all times to ensure correct operation"

Sergeant Mark Altman
Licensing Officer Finchley Church End NPT

 Phone: 020 8733 5261

 E-mail: mark.altman@met.police.uk

Representations

**Chapter 11 - Guidance
under section 182 of the
Licensing Act 2003
(June 2013)**

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). 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

Section 167 - LICENSING ACT 2003 APPLICATION FOR REVIEW FOLLOWING A CLOSURE ORDER

Funky Brownz, 63 The Hyde Colindale NW9 6LE

In accordance with Section 167(5) and (6) of the Licensing Act 2003.

(5) The relevant licensing authority must—

a. hold a hearing to consider—

- i. the closure order and any extension of it,
- ii. any order under section 165(2), and
- iii. any relevant representations, and

b. take such of the steps mentioned in subsection (6) (if any) as it considers necessary for the promotion of the licensing objectives.

(6) Those steps are—

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

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

Steps taken (if any)	Reason(s)

Steps taken (if any)	Reason(s)