



## PREMISES / PERSONAL LICENCES SUB-COMMITTEE

**DATE:** Wednesday, 4 November 2020  
**TIME:** 10.00 am  
**VENUE:** MS Teams and Romm 101

**MEMBERSHIP:**

**Councillor Casey**  
**Councillor V Guglielmi**

**Councillor J Henderson**  
**Councillor Winfield**

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**Meeting papers can be provided, on request, in large print, in Braille, or on disc, tape, or in other languages.**

**For further details and general enquiries about this meeting, contact Keith Durran Email: [democraticservices@tendringdc.gov.uk](mailto:democraticservices@tendringdc.gov.uk) or Telephone on 01255 686585**

DATE OF PUBLICATION: Wednesday, 28 October 2020

## AGENDA

### **1 Chairman for the Meeting**

The Sub-Committee will elect its Chairman for the meeting.

### **2 Apologies for Absences and Substitutions**

The Sub-Committee is asked to note any apologies for absence and substitutions received from Members.

### **3 Minutes of the Last Meeting (Pages 1 - 8)**

To confirm and sign as a correct record, the minutes of the last meeting of the Committee, held on

### **4 Declarations of Interest**

Councillors are invited to declare any Disclosable Pecuniary Interests or Personal Interest, and the nature of it, in relation to any item on the agenda.

### **5 Report of Corporate Director (Operations & Delivery) - A.1 - Application for the Review of a Premises Licence - Kassaba, 7-9 Marine Parade East, Clacton-on-Sea, CO15 1PS (Pages 9 - 162)**

The Sub-Committee will consider an application for the review of the Premises Licence held in respect of the above premises which has been submitted by Essex Police, being a Responsible Authority, under Section 51 of the Licensing Act 2003.

### **6 Adjournment of Meeting**

Following the conclusion of the consideration of item A.1 the Sub-Committee will then adjourn until such time as the Chairman deems appropriate.

### **7 Report of Corporate Director (Operations & Delivery) - A.1 - Application for the Review of a Premises Licence - Kassaba, 7-9 Marine Parade East, Clacton-on-Sea CO15 1PS**

After its deliberations the Sub-Committee and the Council's Solicitor will return to the meeting (and the interested parties and public will be re-admitted) in order for the Chairman to formally announce the Sub-Committee's decision following its review of the Premises Licence held in respect of Kassaba, 7-9 Marine Parade East, Clacton-on-Sea CO15 1PS.

**Date of the Next Scheduled Meeting**

*The next scheduled meeting of the Premises / Personal Licences Sub-Committee is to be held in the at Time Not Specified on Date Not Specified.*

## **Information for Visitors**

**FIRE EVACUATION PROCEDURE**

There is no alarm test scheduled for this meeting. In the event of an alarm sounding, please calmly make your way out of any of the fire exits in the hall and follow the exit signs out of the building.

Please heed the instructions given by any member of staff and they will assist you in leaving the building and direct you to the assembly point.

Please do not re-enter the building until you are advised it is safe to do so by the relevant member of staff.

Your calmness and assistance is greatly appreciated.

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**MINUTES OF THE MEETING OF THE PREMISES / PERSONAL LICENCES SUB-COMMITTEE,  
HELD ON TUESDAY, 20TH OCTOBER, 2020 AT 10.00 AM  
IN THE TELEPHONE HEARING - FOR MEETINGS HELD THROUGH REMOTE  
MEANS OF A TELECONFERENCE, PUBLIC ACCESS DETAILS FOR THE  
TELECONFERENCE CAN BE OBTAINED FROM THE OFFICER WHOSE DETAILS  
ARE BELOW.**

<b>Present:</b>	Councillors V Guglielmi, Casey, Winfield and Coley (Stand-by Member)
<b>Also Present:</b>	William Moody, Licensing Officer, Essex Police, Gary Burke, Essex Police, Robert Howard, Premises Licence Holder and Jenna Howard, Designated Premises Supervisor
<b>In Attendance:</b>	Karen Townshend (Licensing Manager), Linda Trembath (Senior Solicitor (Litigation and Governance) & Deputy Monitoring Officer), Emma King (Licensing Officer), Debbie Bunce (Legal and Governance Administration Officer), Emma Haward (Leadership Support Assistant) and Keith Durran (Democratic Services Officer)

**1. ELECTION OF CHAIRMAN FOR THE MEETING**

It was moved by Councillor Casey, seconded by Councillor Winfield and:-

**RESOLVED** – That Councillor V Guglielmi be elected Chairman for the meeting.

**2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There were no apologies for absence or substitutions.

**3. DECLARATIONS OF INTEREST**

Councillor Winfield declared a personal interest in that his son was employed by Essex Police in CID but that he was based in Chelmsford. He did not consider himself to be pre-determined in this matter.

**4. REPORT OF CORPORATE DIRECTOR (OPERATIONS & DELIVERY) - A.1 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - TRUTH/PULSE (FORMERLY BENTLEYS), 5 MARINE PARADE EAST, CLACTON-ON-SEA**

The Chairman (Councillor V Guglielmi) welcomed everyone to the meeting and made introductory remarks.

The Council's Licensing Manager (Karen Townshend) then gave a verbal summary of the written report and advised that the Sub-Committee had before it, for its consideration, as set out in item A.1 of the Report of the Corporate Director (Operations and Delivery) an application for the review of the Premises Licence currently held by Bentleys of Clacton Ltd submitted by Essex Police, being a Responsible Authority.

Section 2.2 of the written report set out the current opening hours for the premises which were:

**Sale of Alcohol on and off the premises**

Monday to Thursday	08:00 - 00:00
Friday	08:00 - 02:00
Saturday	10:00 - 02:00
Sunday	10:00 - 00:00

**Performance of Live Music**

Fridays and Saturdays	19:00 - 00:00
Sunday	15:00 - 22:00

**Performance of Recorded Music**

Monday to Thursday	12:00 - 00:00
Fridays and Saturdays	12:00 - 02:30
Sunday	12:00 - 22:00

**Late Night Refreshment**

Monday to Sunday	23:00 - 02:00
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**Non Standard Timings**

**Performance of Live Music**

Bank Holiday Sunday	15:00 – 00:00
Bank Holiday Monday	15:00 – 22:00
Christmas Eve / Christmas Day	finish at 03:00
New Year's Eve / New Year's Day	finish at 04:00

**Provision of Recorded Music**

Bank Holiday Sunday	15:00 – 02:30
Bank Holiday Monday	15:00 – 22:00
Christmas Eve / Christmas Day	finish at 03:00
New Year's Eve / New Year's Day	finish at 04:00

**Sale of Alcohol on and off the premises only**

Bank Holiday Sunday	08:00 – 02:30
Bank Holiday Monday	08:00 – 22:00
Christmas Eve / Christmas Day	finish at 03:00
New Year's Eve / New Year's Day	finish at 04:00

The ability to sell or supply alcohol and/or refreshment to residents and their bona fide guests at any time.

It was also reported that Bentleys of Clacton Ltd had been the Premises Licence holder since a variation and transfer of the licence on 8 May 2018, and that Jenna Howard had been the Designated Premises Supervisor (DPS) of the premises since 14 February 2018.

An application for the Review of the Premises Licence for Truth/Pulse [formerly Bentleys] had been submitted by Essex Police. This had been received by the Licensing Authority on 25 August 2020 on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder had been breached; as the Premises Licence holder Bentleys of Clacton Ltd and DPS Jenna Howard had been found by Essex Police to be in breach of The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 in that it had operated as a nightclub or otherwise operated as a venue which was open at night, provided music and had a dance floor or other space for dancing

Notice of the review application had been made and advertised in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompanied it. In particular, a notice detailing the review application had been clearly displayed on the premises concerned and on the Tendring District Council Website for the prescribed 28 day period. Periodic checks had been undertaken by the Licensing Authority to ensure that this was the case. The notice period had expired on 23 September 2020.

The Licensing Authority had therefore accepted the review application and was satisfied that it had been properly served. The Council's Head of Customer and Commercial Services was satisfied that the application and the representations that it made were relevant to the licensing objectives and were not vexatious, repetitious or frivolous in nature.

No representations had been received from any other of the Responsible Authorities. However, an e-mail had been sent to Ms Howard, DPS, from the Council's Environmental Services on 25 August 2020 informing her that the risk assessment that had been submitted was not adequate and had given guidance on what was required.

The Sub-Committee was aware that other persons could also make representations in regards to review applications. Other persons in terms of the Licensing Act 2003 could include any individual, body or business and in accordance with paragraph 8.13 of the Section 182 Guidance issued by the Secretary of State (April 2017 version) which accompanied the Licensing Act 2003, were entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, those persons could themselves seek a review of a premises licence.

Such representations had to be relevant and not considered by the Licensing Authority to be vexatious, repetitious or frivolous. They could be made in opposition to, or support of, an application and could be made by any individual, body or business that had grounds to do so. The S182 Guidance was silent on whether representations could be made against an application for a review, or in support of the respondent to the review. However, given that the Guidance is was silent on this question, but clearly indicated that other persons could make representations in regards to a review and that representations could be made in support of applications, it was reasonable to assume that representations could also be made in support of the Premises Licence Holder (Bentleys of Clacton Ltd) in this matter for due consideration by the Licensing Sub Committee and as part of the Review application hearing process.

It was therefore reported that there was one letter from a resident in support of the premises licence holder (Bentleys of Clacton/Pulse Ltd).

The Sub-Committee also had before it the relevant sections/extracts of the Council's Statement of Licensing Policy in respect of Review applications.

Following Members' consideration of this review application submitted by Essex Police, Section 52 of the Licensing Act 2003 stated that Members of the Licensing Authority must, having regard to the application and any relevant representations, take such of the steps mentioned in subsection (4) (if any) as it considered necessary for the promotion of the Licensing Objectives.

Those steps were:-

- (i) to modify the conditions of the licence
- (ii) to exclude a licensable activity from the scope of the licence
- (iii) to remove the Designated Premises Supervisor
- (iv) to suspend the licence for a period not exceeding three months
- (v) to revoke the licence

For this purpose, the conditions of the licence were modified if any of them were altered or omitted, or any new conditions were added as a result of this Review Hearing.

In addition to the above measures, Members were advised that it was also open to them that they could for example decide to take no action in respect of the review application, or issue an informal/formal warning letter and/or recommend improvement to the premises and its management within a particular period of time if they decided that on consideration of the facts and balance of probabilities, this was a reasonable, proportionate and appropriate approach to take in regards to this Review application.

No specific recommendation was made by Officers to the Licensing Sub-Committee in respect to this Review application other than in accordance with Section 52 of the Licensing Act 2003 (as shown above). Members of the Licensing Sub-Committee were asked to reasonably, proportionately and appropriately determine the application for a Review of a Premises Licence in respect of the premises in its own right and on its own merits taking into account all matters detailed in in the agenda, report and accompanying papers and any other relevant matters that were brought up at the hearing itself by any of the parties that had an interest in this Review hearing.

The Chairman asked if anyone had any questions that they would like to ask the Licensing Manager following her summary. There were no questions asked.

William Moody, Licensing Manager for Essex Police addressed the Sub-Committee and stated that he had not seen the letter of support mentioned in the report. The Chairman then agreed that a short adjournment would now take place in order for the letter to be sent to him and give time for him to read it. The Sub-Committee also took time to read the letter.

The meeting recommenced and William Moody asked the Sub-Committee not to take the letter of support into account. He then addressed the Sub-Committee and gave an overview of Essex Police's case.

Mr Moody explained that the Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020 had come into force on 4 July 2020 which allowed licensed premises to reopen but this did not include premises designated as nightclubs or places designated for dancing.

He alleged that The Truth/Pulse Nightclub had reopened on 14<sup>th</sup> August 2020 for two evenings in breach of those regulations. The Police had attended the premises on 15<sup>th</sup> August following provision to them of a video that they had seen of the premises apparently operating as a nightclub on the previous evening, 14<sup>th</sup> August 2020.

Police Officers had spoken to the Designated Premises Supervisor, Jenna Howard who said that she could not control people dancing whilst they were waiting at the bar.

They spoke to the Designated Premises Supervisor, Jenna Howard who said that she could not control people dancing whilst they were waiting at the bar.

Mr Moody explained that the Police felt that as premises had been allowed to be reopened since 4<sup>th</sup> July 2020 then lessons should have been learnt in that time.. The Police did not accept that the bar or other staff were powerless to stop dancing there were SIA door staff as well as the DPS and bar staff on duty both nights. There was live music, with a DJ streaming music to the venue, all clearly heard outside the premises and as witnessed by the Police. It was clear to the Police that it was a clear and calculated action to reopen the premises with music and dancing in contravention of the Covid-19 Restrictions.

Mr Moody further stated that a meeting had subsequently been held with Jenna Howard where the seriousness of the situation had been relayed. It was explained to Ms Howard that the evidence gathered would be passed to the Council's Environmental Health Team.

The result was that a Prohibition Notice had been issued by the Council's Environmental Health Officers which had demonstrated in Mr Moody's opinion how serious they had considered the breach to be. The Notice had stated that: "you must cease with immediate affect the operation of the business premises as a night club with dancing." – this was the first Prohibition Notice issued by the council's Environmental Health Officers. That Prohibition Notice remained in force until such time as the Secretary of State published directions terminating the "emergency period" which would not be until the restrictions or requirements set out in the Regulations were believed to be no longer necessary.

Mr Moody then explained that although full revocation of the premises licence was an option they considered that there should be a suspension for up to three months and amended conditions applied to the Licence. Mr Moody explained that he felt the Licensing Authority must send a clear message that a breach must not go unchallenged.

The Chairman then asked the Sub-Committee if they had any questions for Mr Moody.

Mr Moody was asked whether he felt that Mr and Mrs Howard were clear about the law in these circumstances and he confirmed that as there had been a five week period

between premises being allowed to reopen and Truth/Pulse reopening on 14<sup>th</sup> August 2020 the regulations should have been clear and understood by them.

Mr Moody was then asked whether there had been previous warnings and he explained that these breaches had occurred on the first weekend that Truth/Pulse had been reopened. He confirmed that after the Prohibition Notice had been served they had chosen not to reopen. He said that if they had reopened then this would have been in breach of the Prohibition Notice and would itself be a criminal offence.

The Chairman then asked Mr and Mrs Howard if they had any questions for Mr Moody. Mr Robert Howard, the Sole Director of Bentley of Clacton Ltd, the Licence Holders asked whether Mr Moody was a Police Officer and Mr Moody confirmed that he was not a Police Constable, but that he was the Licensing Officer for Essex Police.

Mr Howard then stated that there had been a meeting between Michael Cook of the Council's Licensing Team and William Moody after he saw them at a neighbouring venue prior to the venue reopening on 14<sup>th</sup> August 2020. He stated that they were aware that Truth/Pulse were turning the car park at the premises into an outside seating area and that the premises would be fully compliant with the restrictions. They had also discussed the volume levels of the music at the premises and whether a noise limiter should be installed.

Mrs Howard then stated that Mr Cook and Mr Moody had been offered the opportunity to see what the venue was offering but that the offer had not been taken up.

Mr Howard further claimed that as he was one of the people considered to be a vulnerable person at high risk as he suffered with numerous health problems including diabetes and a heart condition he would not have put himself at risk of contracting COVID by reopening the premises without the required health and safety measures in place.

In relation to noise levels at the premises Mr Moody confirmed that this was not the reason that the Police had asked for the Licence to be reviewed. It was pointed out that the restrictions had since 17<sup>th</sup> October been changed further in that patrons were now not allowed to go to the bar for service but that table service was now the only way of being served in a licenced premises and Mrs Howard said that she hoped that the Sub-Committee understood what level of restrictions had been in place on 14/15 August 2020.

The two videos that had been submitted as evidence by Essex Police were then shown to the Sub-Committee. Those videos consisted of a clip of inside Truth/Pulse on the evening of 14<sup>th</sup> August 2020 which appeared to show dancing and also the video taken from the bodycam of one of the Police Officers who had visited the premises on the evening of 15<sup>th</sup> August 2020.

The Sub-committee Chair asked whether everyone had had a chance to view these videos as it was important that they were viewed by everyone, and now would be a good opportunity to view them. Arrangements were made for the two videos to be played, and although there was some difficulty, including initially with the sound, with the assistance of TDC's IT officers those difficulties were overcome and everyone confirmed they were able to view and to hear both videos in their entirety.

Mr Moody stated that dancing could clearly be seen on the first video which showed that the premises had been open as a nightclub. The Council's Environmental Health Officer, Carol Archibald who was present at the meeting, informed the Sub-Committee that social media pages had advertised that a DJ would be at the premises.

In response Mrs Howard said that if people were seen to be dancing then they would have been stopped by the staff. She said that she had never had people queuing outside her premises before as shown on the video of the evening of 15<sup>th</sup> August 2020.

In turn, Mr Moody said that the Police had been contacted on 15<sup>th</sup> August 2020 by members of the public who were concerned that the premises had been operating as a nightclub. The first video had been uploaded onto snapchat a social media platform which deleted the videos after 24 hours. Mr Howard then challenged whether the video was actually of his premises and the timeline on the video was discussed whereby Mr Moody explained that when the video was shown it had clearly stated that it was from 18 hours before which would mean that it was taken on the night of 14<sup>th</sup> August 2020. The Door Security Officer at the premises had conceded when shown the video by the Police on the evening of 15<sup>th</sup> August that it had been taken from inside Truth/Pulse the day before.

It was discussed whether a video could be used as evidence if there was no time stamp on it. Carol Archibald stated that Officers had provided written statements regarding the video. There was also the advertising on social media that a DJ would be at the premises, that together with other information made clear the intention to open as a nightclub which was why the Prohibition Notice had been served.

Mr Howard then said that there was a neighbouring venue who had a DJ outside and Mr Moody had replied that the Police were not aware of this. Mr Howard stated that their DJ was not on the premises but live streamed the music.

Mr Howard then left the meeting at 12.10 p.m.

Mrs Howard then stated that she felt that they had responded to all of the questions asked of them and felt that there was the question of why would they put all the necessary measures in place in terms of signage, hand sanitizers etc. if they were going to breach the law. She also confirmed that they had not opened the premises since that time.

At the invitation of the Chairman, Mrs Howard then put forward the further points they wished to draw to the attention of the Sub-Committee that included the preparation of a huge outside seating area, the training of all staff, the risk assessments they had carried out and how they had worked with the police and TDC. Mrs Howard said that they had put in additional systems on the second night, i.e. the 15 August 2020, including a one-way system. Mrs Howard confirmed that on the basis of the Prohibition Notice they had chosen not to re-open, that things do keep changing, that the Gazette had run a news story about this meeting and there had been quite a lot being shared on social media, some of which she read out to the Sub-Committee.

The meeting being conducted via a Microsoft Teams Meeting programme during which the Howards had, in the earlier part of the meeting, experienced issues with their

connection, issues that had improved once they turned their camera off, Mrs Howard was asked again if there was anything else they wished to draw to the Sub-Committee's attention or whether they felt they had asked all the questions they wanted to, viewed the videos in their entirety and told the Sub-Committee everything they wanted to. Mrs Howard said she did not have any further questions or anything else to add but wanted the Sub-Committee to bear in mind the rules at the dates of these events and the various changes.

The Sub-Committee then retired in order for the Sub-Committee to consider the review application and reach a decision. Members asked the Council's Solicitor and the Legal and Governance Administration Officer to retire with them.

**5. ADJOURNMENT OF MEETING**

The meeting was adjourned whilst the Sub-Committee made its deliberations.

**6. REPORT OF CORPORATE DIRECTOR (OPERATIONS & DELIVERY) A.1 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE - TRUTH/PULSE (FORMERLY BENTLEYS), 5 MARINE PARADE EAST, CLACTON-ON-SEA**

After a period of time the Sub-Committee, the Council's Solicitor and the Legal and Governance Administration Officer returned to the meeting.

The Chairman of the Sub-Committee informed all parties present that, due to the amount of evidence that they needed to consider and the various considerations that needed to be taken into account, especially in view of the various and new restrictions due to the current Coronavirus Pandemic the Sub-Committee was not able to reach a decision at this time.

The Chairman stated that therefore the Sub-Committee would make its determination by Friday 23 October 2020 in accordance with Regulation 26(2) of The Licensing Act 2003 (Hearings) Regulations 2005. All interested parties would then be informed of the decision in writing.

The Chairman then formally closed the meeting.

The meeting was declared closed at 1.10 pm

**Chairman**

## TENDRING DISTRICT COUNCIL

### Procedure for hearings – Premises/Personal Licences Sub-Committee

#### Licensing Act 2003 and Hearing Regulations 2005

#### The Licensing Committee officers and their roles

- The Committee Clerk (Democratic Services Officer) records the proceedings;
- The Legal Advisor provides independent advice to the Committee Members on legal matters; and
- The Licensing Officer introduces the matter, outlines the application or review as set out in the Report, and answers any questions Members may have.

#### Committee Members (Councillors):

Members have a responsibility to declare interests, those who declare **Discloseable Pecuniary Interest (DPI)** as defined by The Relevant Authorities (DPI) Regulations 2012 must not take part in the hearing of the application.

If a Member declares a **Pecuniary or Non-Pecuniary Interests**, as defined by Tendring District Council's Members' Code of Conduct (paragraphs 5 and 6), they must consider the impact of that interest on participation and the public perception;

- Matters for Members to consider would cover, but not exclusively:
  - o they know the applicant or any of the objectors; or
  - o they wish either to support or oppose the granting or continuation of a licence either personally or on behalf of their constituents.
  - o whether they have expressed a view on the application site especially, if situated either in their ward or an adjacent ward;

#### Other Persons or Interested Parties:

This is the term given to an individual, body or business or a representative acting on their behalf-that raises an objection or make a representation to an application for a premises/personal licence. It should be noted that only the Police can make a representation against a Personal Licence application however. These other persons or interested parties are separate to Responsible Authorities, who may also be a party to the hearing.

#### PROCEDURE

**THESE SUB-COMMITTEES MEETINGS & THE HEARING ARE HELD IN PUBLIC, UNLESS THERE IS A LEGAL REASON NOT TO DO SO, HOWEVER THESE ARE IN LIMITED CIRCUMSTANCES.**

**Note:** if the Sub-committee does not have an elected Chairman already, the election of one Member as Chairman will be the first item of business.

**HEARING**

<b>Step</b>	<b>By whom</b>	
1	Chairman	<p>The Chairman will welcome everyone to the meeting then:</p> <ul style="list-style-type: none"> <li>a. introduce themselves and the other 2 members and explain that the 4<sup>th</sup> member (substitute) will not take any part in the hearing or decision making process unless there is a valid objection to one of the other members sitting, if any interest declared debars a member or a member falls ill;</li> <li>b. announce the item to be considered;</li> <li>c. confirm that this procedure will be followed at the hearing, including any maximum periods of time for each side to put their case or objections (*);</li> <li>d. ask all parties, including any "Responsible Authority", to introduce themselves indicating whether or not they are represented, if they are calling any witnesses and if so to identify the witnesses they will be calling. Where there are a number of objectors they will be asked to confirm who their spokesperson is if it is relevant or appropriate for them to do so.</li> <li>e. if a party or Responsible Authority who has made relevant representations is not present, the Sub-Committee will decide whether they consider it in the public interest to (a) continue with the hearing or (b) defer it to enable the party or authority to attend. In reaching a decision on this point, the Sub-Committee will consider any information received from the party either directly or via the Licensing Officer or any other interested person/party where relevant or appropriate;</li> <li>f. remind all present that the Sub-Committee can only make its decision based on the four licensing objectives, namely: <ul style="list-style-type: none"> <li><b>(1) prevention of crime and disorder,</b></li> <li><b>(2) public safety,</b></li> <li><b>(3) prevention of public nuisance and</b></li> <li><b>(4) protection of children from harm.</b></li> </ul> </li> </ul>

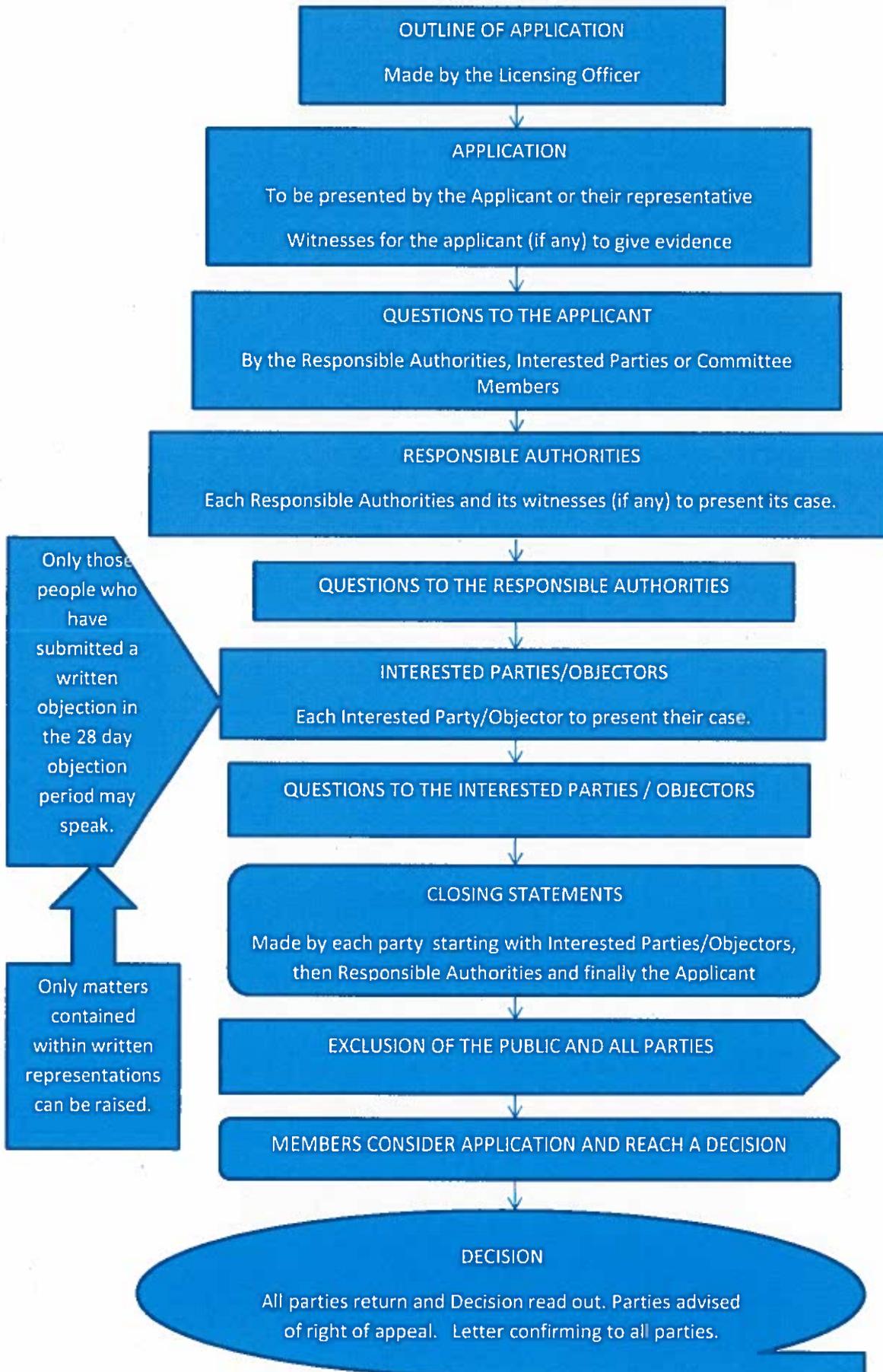
2	<b>Licensing Officer</b>	Will introduce the application or review, highlighting areas of contention or dispute.
3	<b>Committee members</b>	May ask questions of the Licensing Officer.
<p><b>The Applicant's case</b></p> <p>(If a person or party requests a review of an existing licence, they would in effect be the Applicant for the review. In those circumstances they would present their case following the summary given by the Licensing Officer)</p>		
4	<b>Applicant or their representative</b>	Will present their case and call witnesses.
5	<b>Responsible authorities or Interested Parties</b>	Each, in turn, may ask questions of the Applicant by way of clarification.
6	<b>Committee members</b>	In turn, each may ask questions of the Applicant.
7	<b>Applicant</b>	May ask any further questions of any witnesses to clear up any points raised in the earlier questioning.
<p><b>The Responsible Authorities and/or Interested Parties</b></p>		
8	<b>Responsible Authorities</b>	Will make their representations to the Sub-Committee.
9	<b>Applicant or their representative</b>	May ask questions of the Responsible Authorities by way of clarification.
10	<b>Other persons</b>	May ask questions of the Responsible Authorities or Licensing Officer by way of clarification. Note: this is not the time for other persons to put their objections.
11	<b>Committee Members</b>	May ask questions of the Responsible Authorities by way of clarification. Committee can also ask questions of the objectors by way of clarification.
12	<b>Interested Parties</b>	At this point those who have objected to the application will be asked to present their objections and make observations on the application if appropriate.

13	<b>Applicant or their representative</b>	May ask questions of the Interested Parties /objectors by way of clarification.
14	<b>Committee members</b>	May ask questions of the Interested Parties /objectors.
<b>Closing statements or summary</b>		
15	<b>Chairman</b>	<p>Will ask:</p> <ul style="list-style-type: none"> <li>a. both the Responsible Authorities and Interested Parties /objectors to comment, briefly, on the application or review and summarise their position. No new issues can be raised at this point.</li> <li>b. the applicant or their representative to summarise the application or review and briefly comment on the representations or objections made.</li> <li>c. if everyone is satisfied that they have said what they wanted to say, but making clear that no new issues can be raised at this point.</li> </ul>
<b>DECISION MAKING</b>		
16	<b>Sub-Committee</b>	Will retire to consider the application or review and may request the Legal Advisor and/or Committee Clerk to retire with them.
<b>RESUMING THE MEETING AND CONCLUSION</b>		
17	<b>Legal Advisor</b>	If legal advice has been given to the Members whilst in retirement, this advice will be summarised and repeated in the presence of all parties.
18	<b>Chairman</b>	<p>Will:</p> <ul style="list-style-type: none"> <li>a. announce the decision made by the sub-committee and the reasons for that decision;</li> <li>b. advise that the decision, and reasons, will be confirmed in writing to all the parties who made representations; and</li> <li>c. advise all parties of their rights of appeal to the Magistrates' Court.</li> </ul>

**(\*) after receiving copies of this procedure, all parties are requested to give the Council's Licensing Department an indication of the time estimated to present their case. This will be taken into consideration when deciding whether maximum periods of time will be necessary.**

TENDRING DISTRICT COUNCIL

THE LICENSING SUB-COMMITTEE HEARINGS PROCEDURE



## **PREMISES/PERSONAL LICENCES SUB-COMMITTEE**

**4 NOVEMBER 2020**

### **REPORT OF CORPORATE DIRECTOR [OPERATIONAL AND DELIVERY]**

#### **LICENSING ACT 2003**

Members are respectfully reminded that, in determining the matters listed under item **A.1**, they are exercising an administrative function but should determine each matter adopting the civil burden of proof, i.e. 'on the balance of probabilities'. The matters will be determined on the facts before the Sub-Committee and the rules of natural justice will apply. Each application must be considered in its own right and on its own merits.

The Licensing Act 2003 established a single integrated scheme for licensing premises that are used for the supply of alcohol, regulated entertainment or provision of late night refreshment. This system of licensing incorporates the sale of alcohol both on and off licensed premises; public entertainment such as music, dancing, indoor sporting events, boxing or wrestling, theatres, cinemas; and late night refreshment houses and take-aways.

The purpose of the licensing system is to positively promote the four 'licensing objectives'.

These are:

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance
- Public Safety
- The Protection of Children from Harm.

#### **Human Rights Implications**

A Licence is to be regarded as the property of the applicant; however their right to the use of the property must be balanced against all other public interests or representations in this matter that the Premises/Personal Licences Sub-Committee may wish to consider as appropriate, reasonable and proportionate in relation to the Premises Licence Review application that has been submitted and also the representations that have been received in support of that application.

In making their decision in respect to this application to review a premises licence, Members of the Premises/Personal Licences Sub-Committee should also take into consideration Article 1 of the First Protocol of the Human Rights Act 1998, that individuals are entitled to the peaceful enjoyment of their property, and also Article 8 that everyone has the right to respect for his private and family life and his correspondence.

#### **Crime and Disorder Implications**

Section 17 of the Crime and Disorder Act 1998 imposes a duty on local authorities when exercising any of their functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all it possibly can to prevent, crime and disorder in its area.

Members are requested to consider the information shown below where the Licensing Authority has received an application to review a premises licence and also representations supporting that review relevant to one or more of the four Licensing Objectives, and which suggests that the premises may currently be having a negative impact on one or more of the Licensing Objectives.

**A.1 LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF PREMISES LICENCE  
- KASSABA TURKISH GRILL AND MEZE, 7-9 MARINE PARADE EAST,  
CLACTON ON SEA, ESSEX  
[Report prepared by Emma King]**

**1.0 REASON FOR APPLICATION**

Under Section 51 of the Licensing Act 2003 Essex Police, being a Responsible Authority, has applied for a Review of the above Premises Licence currently held by Giesha Limited.

**2.0 DETAILS OF CURRENT LICENCE WHICH IS SUBJECT TO REVIEW**

**2.1 Premises**

Kassaba Turkish Grill and Meze, 7-9 Marine Parade East, Clacton on Sea, Essex

**2.2 Licence No**

19/00071/PREMTR

**2.3 Premises Licence Holder**

Giesha Limited

**2.4 Designated Premises Supervisor**

Mr Neeraj Kumar Arora

**2.5 Current Licensable Activities**

The current licensable activities permitted by the Premises Licence are:-

**Sale of Alcohol only on the premises**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Performance of Dance**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Provision of facilities for dancing**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Performance of Live Music**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Provision of facilities for making music**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Performance of Recorded Music**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

**Provision of facilities Similar Entertainment**

Monday to Wednesday 11:00 - 01:00

Thursday to Saturday 11:00 - 02:00

Sunday 11:00 - 01:00

### **Other Entertainment falling within Act**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

### **Late Night Refreshment**

Monday to Wednesday	23:00 - 01:00
Thursday to Saturday	23:00 - 02:00
Sunday	23:00 - 01:00

### **Non Standard Timings**

**Sale of Alcohol only on the premises, Performance of Dance, Provision of facilities for dancing, Performance of Live Music, Provision of facilities for making music, Performance of Recorded Music, Provision of facilities Similar Entertainment, Other Entertainment falling within Act, Late Night Refreshment**

Christmas and New Year's Eve and Bank Holidays until 3 a.m

### **The opening hours of the premises**

Monday to Sunday 00:01 - 00:00

Christmas and New Year's Eve and Bank Holidays until 3 a.m.

A copy of the full Premises Licence is attached to this report as **APPENDIX 1**.

## **2.6 General Information**

Giesha Ltd have been the Premises Licence holder since a transfer of the licence on 21 January 2019. The licence was varied on 20 July 2020 to remove the Caribbean Restaurant are off the licence. Mr Neeraj Kumar Arora has been the Designated Premises Supervisor (DPS) of the premises since 21 January 2019.

## **3.0 DETAILS OF APPLICATION FOR REVIEW**

### **3.1 Application Details**

An application for the Review of the Premises Licence for Kassaba Turkish Grill and Meze has been submitted by Essex Police. This was received by the Licensing Authority on 3 September 2020 on the grounds that the Licensing Objective in respect of the Prevention of Crime and Disorder and Prevention of Public Nuisance has been breached.

Since the relaxation of lockdown rules for licensed premises, the Crime and Disorder and Public Nuisance objectives have been engaged on a number of occasions at this premises, resulting in consistent calls to police and significant disruption to neighbouring businesses.

As part of the evidence, "Exhibit 5" shows an underage person who was identified to be drunk at the time by a Police Officer. Essex Police have asked that the public be excluded during the showing of this video as it is in the public interest to protect the person's privacy due to their legal status as a child. Their name has been fully redacted from the submissions made by Essex Police which are available to the public.

A copy of the Premises Licence Review application and all of the documents referred to in the bullet points above are attached to this report in full as a bundle and are attached as **APPENDIX 2**.

### **3.2 Notice of Display and Advertisement**

Notice of the review application has been made and advertised in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompany it. In particular, a notice detailing the review application was clearly displayed on the premises concerned and on the Tendring District Council Website for the prescribed 28 day period. Periodic checks were undertaken by the Licensing Authority to ensure that this was the case. The end of the notice period was 01 October 2020.

### **3.3 Validity of Application for Review**

The Licensing Authority has accepted the review application and is satisfied that it has been properly served in accordance with Section 51 of the Licensing Act 2003 and the regulations that accompany it. The Head of Customer and Commercial Services is satisfied that the application and the representations that it makes are relevant to the licensing objectives and are not vexatious, repetitious or frivolous in nature.

### **3.4 Other Responsible Authorities**

A letter from Tendring District Council Licensing Department has been submitted supporting the review application submitted by Essex Police.

A letter from Tendring District Council Environmental Health Officer has been submitted supporting the review application submitted by Essex Police following a visit to the premises showed poor control regarding prevention of risk of transmission of COVID-19 which is considered to be a public safety issue relevant to the licensing condition.

### **3.5 Other Persons**

Other persons can also make representations in regards to review applications. Other persons in terms of the Licensing Act 2003 can include any individual, body or business and in accordance with paragraph 8.13 of the Section 182 Guidance issued by the Secretary of State (April 2018 version) which accompanies the Licensing Act 2003, are entitled to make representations to licensing authorities in relation to applications for the grant, variation, minor variation or review of premises licences and club premises certificates, regardless of their geographic proximity to the premises. In addition, these persons may themselves seek a review of a premises licence.

**3.6** Such representations should be relevant and not be considered by the Licensing Authority as vexatious, repetitious or frivolous and can be made in opposition to, or support of, an application and can be made by any individual, body or business that has grounds to do so. The S182 Guidance is silent on whether representations can be made against an application for a review, or in support of the respondent to the review (which in this case is the Premises Licence holder Giesha Ltd). However, given that the Guidance is silent on this question, but clearly indicates that other persons can make representations in regards to a review and that representations can be made in support of applications, it is therefore reasonable to assume that representations can also be made in support of the Premises Licence Holder Giesha Ltd in this matter for due consideration by the Licensing Sub Committee and as part of the Review application hearing process.

Two letters of representations from other persons have been submitted.

### **4.0 LA 2003 SECTION 182 GUIDANCE WITH REGARD TO REVIEW HEARINGS (Version April 2017)**

Sections 11.1 to 11.28 of the Guidance [issued by the Secretary of State under Section 182 of the Licensing Act 2003] assists all parties in respect to advice on review applications and hearings, including those arising in connection with crime and the relevant extracts of this guidance are attached to this report as **APPENDIX 3**.

### **5.0 TENDRING DISTRICT COUNCILS STATEMENT OF LICENSING POLICY**

The relevant sections/extracts of the Council's Statement of Licensing Policy in respect to Review applications are as follows:

#### **Reviews**

1.41 Where possible and appropriate the Licensing Authority and all other Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises which may be harming, or are undermining, one or more of the licensing objectives and to initiate a dialogue that can lead to a resolution of these problems to the satisfaction of all parties. The review process represents a valuable protection

mechanism for residents and the wider community to be able address problems with a specific premises where for instance there is alcohol related crime and disorder or public nuisance and where for example dialogue between the licence holder, responsible authorities or other parties concerned such as residents to prevent or mitigate such problems has not worked.

- 1.42 Responsible authorities or other persons (which could include a resident, business or Ward Councillor for example) can make an application to trigger a review of a premises licence but evidence of the problems being experienced would be required to be presented to the Licensing Authority and an applicant or applicants for a review would ordinarily be expected to be able to substantiate their complaints at a Licensing Sub Committee hearing. Representations must be relevant to one or more of the four licensing objectives and will not be accepted if they are determined by the Licensing Authority to be frivolous, vexatious or repetitious.
- 1.43 No more than one review application from interested parties other than a Responsible Authority will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## **6.0 APPEALS**

An appeal against the decision of the Licensing Authority can be made by the following:

- (a) the Applicants
- (b) the holders of the Premises Licence
- (c) any person who made relevant representations in relation to the application

The appeal has to be made to the Magistrates' Court within a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of its decision.

## **7.0 ASSOCIATED PAPERS**

- (i) Copies of the following documents have been supplied to the Premises Licence holder:
  - (a) Review application from Essex Police and accompanying papers.
- (ii) In addition to the documents already attached as Appendices to this report, the following papers are also enclosed:-
  - (a) Location Plan of the premises
  - (b) Details of the Hearing Procedure
  - (c) Letter of support from Tendring District Council Licensing Department – Included in Essex Police Papers
  - (d) Letter of support from Tendring District Council Environmental Health Officer
  - (e) Letter of Representation from other person – name redacted under GDPR
  - (f) Letter of Representation from other person – Pink Palace Hotel

Copies of all documentation concerning this Application for Review are available from Licensing Team upon request.

## **8.0 OPTIONS UNDER SECTION 52 LICENSING ACT 2003**

- 8.1 Following Members' consideration of this review application submitted by Essex Police, Section 52 of the Licensing Act 2003 states that Members of the Licensing 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 necessary for the promotion of the Licensing Objectives.

These steps are:-

- (i) to modify the conditions of the licence
- (ii) to exclude a licensable activity from the scope of the licence
- (iii) to remove the Designated Premises Supervisor
- (iv) to suspend the licence for a period not exceeding three months
- (v) to revoke the licence

For this purpose, the conditions of the licence are modified if any of them are altered or omitted, or any new conditions are added as a result of this Review Hearing.

In addition to the above measures, Members are advised that it is also open to them that they may for example decide to take no action in respect of the review application, or issue an informal/formal warning letter and/or recommend improvement to the premises and its management within a particular period of time if they think that on consideration of the facts and balance of probabilities, this is a reasonable, proportionate and appropriate approach to take in regards to this Review application.

## **9.0 RECOMMENDATION/S**

- 9.1 **No specific recommendation is made to the Licensing Sub Committee in respect to this Review application other than in accordance with Section 52 of the Licensing Act 2003 (as shown above). Members of the Licensing Sub Committee are asked to reasonably, proportionately and appropriately determine this application for a Review of a Premises Licence in respect of the premises and person named as the licence holder in its own right and on its own merits taking into account all matters detailed in in the agenda, report and accompanying papers and any other relevant matters that may be brought up at the hearing itself by any of the parties that have an interest in this Review hearing.**

**DAMIAN WILLIAMS  
CORPORATE DIRECTOR (OPERATIONS AND DELIVERY)**

## Schedule 12 Part A

Regulation 33,34

### Tendring District Council Premises Licence

Premises Licence Number

20/00329/PREMVA

**Part 1 – Premises Details**

**Postal address of premises, or if none, ordnance survey map reference or description, including Post Town, Post Code**

Kassaba Restaurant  
7 - 9 Marine Parade East  
Clacton-on-Sea  
Essex  
CO15 1PS

Telephone number

01255 421206

Where the licence is time limited the dates

Not applicable

Licensable activities authorised by the licence

Sale of Alcohol only on the premises  
Performance of Dance  
Provision of facilities for dancing  
Performance of Live Music  
Provision of facilities for making music  
Performance of Recorded Music  
Provision of facilities Similar Entertainment  
Other Entertainment falling within Act  
Late Night Refreshment

Times the licence authorises the carrying out of licensable activities

**Sale of Alcohol only on the premises**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Performance of Dance**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Provision of facilities for dancing**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Performance of Live Music**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Provision of facilities for making music**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Performance of Recorded Music**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Provision of facilities Similar Entertainment**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Other Entertainment falling within Act**

Monday to Wednesday	11:00 - 01:00
Thursday to Saturday	11:00 - 02:00
Sunday	11:00 - 01:00

**Late Night Refreshment**

Monday to Wednesday	23:00 - 01:00
Thursday to Saturday	23:00 - 02:00
Sunday	23:00 - 01:00

**Non Standard Timings**

**Sale of Alcohol only on the premises, Performance of Dance, Provision of facilities for dancing, Performance of Live Music, Provision of facilities for making music, Performance of Recorded Music, Provision of facilities Similar Entertainment, Other Entertainment falling within Act, Late Night Refreshment**

Christmas and New Year's Eve and Bank Holidays until 3 a.m.

**The opening hours of the premises**

Monday to Sunday 00:01 - 00:00

Christmas and New Year's Eve and Bank Holidays until 3 a.m.

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

Supply of Alcohol only on the premises

**Part 2****Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Giesha Ltd  
7 - 9 Marine Parade East  
Clacton-on-Sea  
Essex CO15 1PS

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

11691388

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

Mr Neeraj Kumar Arora  
Flat 4  
1 Corfe Close  
Whitton  
HOUNSLOW  
TW4 5PX

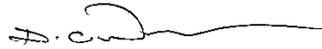
**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol****Personal Licence Number**

055637

**Licensing Authority**

London Borough of Richmond Upon Thames

for and on behalf of the Licensing Authority


**Damian Williams**

ACTING CORPORATE DIRECTOR FOR OPERATIONS AND DELIVERY

**Dated: 20 July 2020**

**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 Door Staff
  1. Where people are used as door/security staff, they must be currently licensed by the Security Industry Authority or exempt under Section 4 of the Private Security Industry Act 2001.
- 4 (1) Schedule 1(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) Schedule 1(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.
- 5 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).
- 6 The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 7 (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.

- 8 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.
- 9 1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1 -
- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D.V)$$

where -

- (i) P is the permitted price,
  - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
  - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "valued added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

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

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

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

### **Annex 2 – Conditions consistent with the Operating Schedule**

- 1 The permitted hours of sale or supply of alcohol do not prohibit
  - (a) Consumption of the alcohol on the premises or the taking of or sale or supply of alcohol to any person residing in the licensed premises
  - (b) The ordering of alcohol to be consumed off the premises or the despatch by the vendor of the alcohol so ordered.
  - (c) The sale of alcohol to a trader or Club for the purposes of the trade or Club.
  - (d) The sale or supply 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.
  - (e) The taking of alcohol from the premises by a person residing there.
  - (f) 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
  - (g) 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 for 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.
- 2 All external windows and doors to the bar and restaurant areas to be kept closed, other than for access and egress during the performance of live music, recorded music and dancing after 23.00 hours.
- 3 The provision of live music, recorded music, dancing and anything of a similar description as regulated entertainment shall not be audible, so as to cause nuisance at the boundaries of surrounding premises.
- 4 Any conditions consistent with the Operating Schedule not specified above.

### **Annex 3 – Conditions attached after a hearing by the licensing authority**

None

### **Annex 4 – Plans**

Plans are attached to this Licence - Plans Ref: July2020/kassaba/Var

**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 William Moody 79383 - District Licensing Officer of Essex Police

*(Insert name of applicant)*

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

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

<b>Postal address of premises or, if none, ordnance survey map reference or description</b> Kassaba Turkish Grill and Meze, 7-11 Marine Parade East	
<b>Post town</b> Clacton On Sea	<b>Post code (if known)</b> CO15 1PS

<b>Name of premises licence holder or club holding club premises certificate (if known)</b> Giesha LTD Company number: 11691388
---

<b>Number of premises licence or club premises certificate (if known)</b> 19/00071/PREMTR
--

**Part 2 - Applicant details**

I am

**Please tick yes**

- 1) an interested party (please complete (A) or (B) below)
- a) a person living in the vicinity of the premises
- b) a body representing persons living in the vicinity of the premises
- c) a person involved in business in the vicinity of the premises
- d) a body representing persons involved in business in the vicinity of the premises
- 2) a responsible authority (please complete (C) below)

3) a member of the club to which this application relates (please complete (A)  below)

**(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)**

Please tick

Mr  Mrs  Miss  Ms  Other title (for example, Rev)

**Surname**

**First names**

I am 18 years old or over

Please tick yes

**Current postal address if different from premises address**

**Post town**

**Post Code**

**Daytime contact telephone number**

**E-mail address (optional)**

**(B) DETAILS OF OTHER APPLICANT**

Name and address
Telephone number (if any)
E-mail address (optional)

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

<p>Name and address</p> <p>William Moody on behalf of the Chief Officer of Police          Essex Police          Licensing Department          Braintree Police Station          Blyths Meadow          Braintree          CM7 3DJ</p>
<p>Telephone number (if any)</p> <p>01245 452035</p>
<p>E-mail address (optional)</p> <p>Licensing.applications@essex.police.uk</p>

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

Please tick one or more boxes

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

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

The grounds for review are that, since the relaxation of lockdown rules for licensed premises, the Crime and Disorder and Public Nuisance objectives have been engaged on a number of occasions at this premises, resulting in consistent calls to police and significant disruption to neighbouring businesses.

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

Since the 4th of July 2020, licensed premises have been allowed to reopen as lockdown rules have eased in the UK. Since reopening, the Kassaba restaurant has repeatedly come to the attention of Essex Police and Tendring District Council.

Since reopening, the police have been called to this premises seven times. a list of the incidents are as follows:

30th August - 01:51 - Police respond to reports of a fight between females that has spilled on to the street. Police arrive and find many people in the street, some of whom are extremely intoxicated. One female alleges she has been assaulted by a member of staff and has provided a statement to police regarding this.

22nd August - 01:10 - Police respond to reports of 7-8 males fighting. Police attend and are told that an altercation occurred after refusing to pay an entry fee to the premises.

2nd August 01:05AM – Police respond to concerns that a male is armed after being ejected from the premises and gesturing to his waistband.

1st August 23:45PM – Police respond to reports of a fight spilling out of the premises on to the street. Multiple victims are taken home for their safety.

25th July 00:37AM – Police respond to reports of a fight in the outside area of the premises. Before police arrive some of those involved flee in to the crazy golf course opposite.

22nd July 00:04 – Police respond to reports of multiple people fighting in a large group. Caller reports bottles being used as weapons and furniture being thrown. On police arrival staff inform officers that those involved in the fight have left and police remain until the area was clear of people.

19th July – 00:50 – Police respond to reports of a group of people fighting in front of the premises. Caller reports those involved flee when they are told that police have been called. Attending officers report serious social distancing issues.

Following each of these incidents, visits have been made by Essex Police and TDC Licensing officers to engage with the management and offer advice on how to reduce the number of incidents. At time of writing, there have been seven such meetings, with numerous voluntary conditions suggested and advice given. On the 6th of August, Essex Police Licensing issued a final warning and advised on the possibility of an application for a review of the premises licence if the situation did not show signs of improvement. There have been two further calls to police and numerous complaints since this warning.

This behaviour by customers not only puts strain on police resources, but also has a significant impact on local businesses, such as neighbouring hotels who are currently losing business due to the nuisance generated by this premises. These complaints are made to police and Tendring District Council Licensing Team, who have agreed to share these complaints as part of the review proceedings.

Further, Tendring District Councils Environmental Health Team support this application, as there have been, and continue to be, significant concerns around social distancing at the venue.

Essex Police will produce further documentary or other information in support of this application ahead of the hearing and would ask the authority to take this into account as it may do under Regulation 18 of the Licensing Act 2003 (Hearings) Regulations 2005.

In accordance with paragraph 11.9 of the Statutory Guidance Essex Police may amplify its representation at the subsequent hearing.

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**

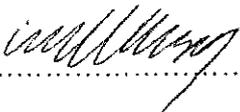
Please tick yes

- 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 03/09/2020 .....

Capacity District Licensing Officer .....

<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.



Baktash Roohrawan  
Kassaba Turkish Grill and Meze  
7-9 Marine Parade East  
Clacton on Sea  
CO15 1PS



Essex Police Licensing  
Braintree Police Station  
Blyth's Meadow  
Braintree  
CM7 3DJ  
22/09/2020

Dear Mr Roohrawan,

Please find enclosed Essex Police's submission for the review of the premises licence for:

**Kassaba Turkish Grill and Meze, 7-9 Marine Parade East, Clacton CO15 1PS**

Please note that there are five video exhibits that will be played at the hearing. Due to data protection, Essex Police and Tendring District Council control these exhibits.

If you wish to view any of these before the hearing, you will need to organise a meeting between yourself and either Tendring District Council or Essex Police and you will be able to view these videos.

You can contact Essex Police at [licensing.tendring@essex.police.uk](mailto:licensing.tendring@essex.police.uk)

You can contact TDC Licensing at [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)

Please note that I am away from the office from the 23<sup>rd</sup> to the 30<sup>th</sup> of September.

Yours faithfully,  
William Moody – District Licensing Officer

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Tendring District Council Licensing Team  
88-90 Pier Avenue  
Clacton On Sea  
CO15 1TN

William Moody  
Licensing Team  
Braintree Police Station  
Blyth's Meadow, Braintree  
CM7 3DJ  
22/09/2020

### **Section 14(2) The Licensing Act 2003 (Hearings) Regulations 2005**

Dear Sirs,

I contact you with regards to the upcoming licence review hearing for the Kassaba Turkish Grill and Meze, located on Marine Parade East, Clacton.

Under the above section, I would like to request the exclusion of the public for part of this hearing.

As part of video evidence submitted by Essex Police 'Exhibit 5' shows an underage male who was identified to be drunk at the time by a Police Officer. I would request that the public are excluded during the showing of this video as it is in the public interest to protect the young man's privacy due to his legal status as a child. His full name has been redacted from the submissions made by Essex Police.

Should you require any further information, please contact:

[Licensing.tendring@essex.police.uk](mailto:Licensing.tendring@essex.police.uk)

Yours faithfully,

William Moody – Police Licensing Officer

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Licensing Team  
Tendring District Council  
90 Pier Avenue  
Clacton On Sea  
CO15 1NJ

William Moody  
Braintree Police Station  
Blyth's Meadow  
Braintree  
CM7 3DJ  
13/10/2020

Dear Sirs,

I am writing to make a correction to the supplementary bundle submitted by Essex Police in relation to the premises licence review hearing for the Kassaba Turkish Grill and Meze.

Under section 2.0 'Circumstances leading to review', a list of incidents is shown with their corresponding video exhibit. It has been identified that some of these exhibit number have been replicated.

Therefore, for the benefit of the respondent and sub-committee, I would like to associate the following incident dates with the correct exhibit numbers.

15<sup>th</sup> September - Exhibit 5.

30<sup>th</sup> August – Exhibit 1, 2 and 3;

22<sup>nd</sup> July – Exhibit 4.

It is believed this was a result of a clerical mistake due to miscommunication, please accept our apologies for the confusion. Please could all parties be made aware of these changes as soon as possible.

For clarity, the page as it should be amended is attached to this letter.

Yours faithfully  
William Moody – District Licensing Officer

## **1.0 Background**

1.1 The Kassaba Turkish Grill and Meze is a licensed premises located at 7-9 Marine Parade East in Clacton on Sea.

1.2 The premises is licensed to sell alcohol from 11:00 – 01:00 Sunday to Wednesday and 11:00 – 02:00 Thursday to Saturday.

## **2.0 Circumstances leading to review**

2.1 Since the easing of lockdown on the 4<sup>th</sup> of July, the Kassaba Restaurant has become an epicentre for violence and nuisance in the night-time economy in Clacton. At time of writing, the police have been called 9 times mainly due to fighting that has been spilling on to the street from inside the premises. An overview of every call to police since this time can be seen below:

- 15<sup>th</sup> September – 20:12 – Caller reports an underage male drunk at the premises and threatening the informant. In a visit to the complainant, Licensing Officer William Moody is shown CCTV of this incident showing [REDACTED] who is underage and is shown in Exhibit 5 from a different incident.
- 6<sup>th</sup> September – 01:41 – Caller reports a fight between 7 males in the street. Group disperse before police arrival. In a follow up meeting, officers are unable to view the premises CCTV.
- 30<sup>th</sup> August - 01 :51 - Police respond to reports of a fight between females that has spilled on to the street. Police arrive and find many people in the street, some of whom are extremely intoxicated. One female alleges she has been assaulted by a member of staff Appendix J a post from Facebook is shown which also alleges an assault by staff. This is shown in Exhibit 1, 2 and 3 In a follow up meeting, officers are unable to view the premises CCTV
- 22<sup>nd</sup> August - 01: 10 - Police respond to reports of 7-8 males fighting. Police attend and are told that an altercation occurred after refusing to pay an entry fee to the premises.
- 2<sup>nd</sup> August 01 :05AM - Police respond to concerns that a male is armed after being ejected from the premises and gesturing to his waistband while arguing with staff.
- 1<sup>st</sup> August 23:45PM - Police respond to reports of a fight spilling out of the premises on to the street. Multiple victims are taken home for their safety.
- 25<sup>th</sup> July 00:37 AM - Police respond to reports of a fight in the outside area of the premises. Before police arrive some of those involved flee into the crazy golf course opposite.
- 22<sup>nd</sup> July 00:04 - Police respond to reports of multiple people fighting in a large group. Caller reports bottles being used as weapons and furniture being thrown. On police arrival staff inform officers that those involved in the fight have left and police remain until the area was clear of people. This is shown in Exhibit 4



## **Premises Licence Review**

**Kassaba Turkish Grill and Meze**  
**7-9 Marine Parade E, Clacton-on-Sea CO15 1PS**

**Premises Licence Holder:**  
**Giesha Ltd**  
**Company Number: 11691388**

Supplementary documentary information in support of summary review.

## **Contents**

- 1.0 Background
- 2.0 Circumstances leading to the review
- 3.0 Reasons for the review
- 4.0 Outcome sought
- 5.0 Case Law

## **Appendices**

- Appendix A – Statement from Acting Chief Inspector Martin Richards
- Appendix B – Letter of support from Tendring District Council’s Licensing Manager
- Appendix C – Letter of complaints from residents of Clearwater Reach, supplied by Tendring District Council Licensing
- Appendix D – Complaints received from customers of local hotel 1
- Appendix – Statement of the owner of local hotel 2 detailing complaints received
- Appendix – Statement of PC LAURIE regarding underage drinking
- Appendix - Statement of former security officer 1 from the Kassaba
- Appendix – Statement of former security officer 2 from the Kassaba
- Appendix I – New conditions proposed by Essex Police if the licence is not revoked
- Appendix – Post taken from Facebook alleging an assault by staff at the Kassaba
- Appendix – Record of visits from Michael Cook, Licensing Enforcement Officer for Tendring District Council
  
- Appendix L Complaint from hotel customer alleging drug use on the premises
- Appendix – Timeline for video exhibits

## **Video Evidence**

- Exhibit 1 – Fight on 30<sup>th</sup> August
- Exhibit 2 – fight on 30<sup>th</sup> August
- Exhibit 3 – fight on 25<sup>th</sup> July
- Exhibit 4 – Fight on 22<sup>nd</sup> July
- Exhibit 5 – CCTV footage showing an underage male leaving the Kassaba whilst drunk

## 1.0 Background

1.1 The Kassaba Turkish Grill and Meze is a licensed premises located at 7-9 Marine Parade East in Clacton on Sea.

1.2 The premises is licensed to sell alcohol from 11:00 – 01:00 Sunday to Wednesday and 11:00 – 02:00 Thursday to Saturday.

## 2.0 Circumstances leading to review

2.1 Since the easing of lockdown on the 4<sup>th</sup> of July, the Kassaba Restaurant has become an epicentre for violence and nuisance in the night-time economy in Clacton. At time of writing, the police have been called 9 times mainly due to fighting that has been spilling on to the street from inside the premises. An overview of every call to police since this time can be seen below:

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- 22<sup>nd</sup> August - 01: 10 - Police respond to reports of 7-8 males fighting. Police attend and are told that an altercation occurred after refusing to pay an entry fee to the premises. Shown in Exhibit 1.
- 2<sup>nd</sup> August 01 :05AM - Police respond to concerns that a male is armed after being ejected from the premises and gesturing to his waistband while arguing with staff.
- 1<sup>st</sup> August 23:45PM - Police respond to reports of a fight spilling out of the premises on to the street. Multiple victims are taken home for their safety. Shown in Exhibit 2.
- 25<sup>th</sup> July 00:37 AM - Police respond to reports of a fight in the outside area of the premises. Before police arrive some of those involved flee into the crazy golf course opposite.
- 22<sup>nd</sup> July 00:04 - Police respond to reports of multiple people fighting in a large group. Caller reports bottles being used as weapons and furniture being thrown. On police arrival staff inform officers that those involved in the fight have left and police remain until the area was clear of people. Shown in Exhibit 4

- 19th July - 00:50 - Police respond to reports of a group of people fighting in front of the premises. Caller reports those involved flee when they are told that police have been called.

2.2 Regular engagement was made with the management of the Kassaba and at time of writing, there have been 9 meetings, including evening visits. The meetings attended by TDC Licensing are detailed in Appendix . These meetings were to discuss incidents and complaints, as well as to offer advice as on how to operate in a safer manner moving forward.

2.3 In addition to these incidents there have been numerous complaints to police and Tendring District Council around nuisance from the premises. The statutory guidance states:

*2.16 Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.*

2.4 Tendring District Councils Licensing Team have supported this application by way of a supporting letter shown in Appendix B. This letter also references the complaints received by them in respect of the Kassaba.

2.5 The complaints received relate from business and residents in the proximity of the Kassaba, including a residential block of flats located two buildings away from the restaurant.

- Appendix C shows complaints from this residential building and the adverse effect the premises' poor operation is having on the quality of life for those that live there.
- Appendix D shows complaints from a neighbouring hotel, which is suffering from the loss of business due to repeated nuisance issues.
- Appendix shows a statement from the proprietor of another hotel detailing the loss of business from the nuisance caused by Kassaba.

2.6 As shown by these documents, the issues caused as a direct result of poor management of the Kassaba are having a deep and wide-reaching impact on the local community. Such instances have direct effects on the local economy and the reputation of Clacton as a destination, as well as a direct, personal effect on those living and working nearby.

2.7 Since the application was made for review, Essex Police have received concerns around underage drinking at the premises. This is particularly serious given the amount of fighting that has been taking place as a result of mismanagement at the premises.

2.8 On one incident on the 30<sup>th</sup> of August, a young male had been drinking in the Kassaba and went to a neighbouring business as part of an ongoing dispute. Exhibit 5 shows this male clearly drunk and struggling to walk upright. The police were called, and the male was taken home.

2.9 APPENDIX is a witness statement from PC Laurie who attended the Kassaba on the 30<sup>th</sup> of August and took the young male home due to concern around his level of intoxication.

2.10 PC Laurie confirms the identity of the male in Exhibit 5 and confirms that he was underage at the time of the video. (note: at the time the video was sent to PC Laurie, the file name was [REDACTED] and was later changed to Exhibit 5 for the purposes of this hearing). PC Laurie also states that the

young man was part of a larger group who all looked of a similar age and were all drinking in the Kassaba.

2.11 This young male was also reported to police for causing similar issues on the 15<sup>th</sup> of September, would indicate this male is a regular drinker at the premises.

2.12 This evidence should be particularly troubling for the sub-committee. Not only has the management team allowed the venue to spiral into a state of anti-social behaviour, but they have also allowed underage persons to drink to the point of drunkenness and aggression.

2.13 As part of the meetings and engagement between Essex Police, TDC and Kassaba, a number of voluntary measures were advised in repeated attempts to support the venue to improve. Some of these measures were taken on, such as the introduction of SIA registered security guards.

2.14 While initially encouraging, two former security guards have come forward to Essex Police to give a statement about misconduct in the premises, with issues raised around drug use, violence and management undermining security guards' decisions around refusal of entry. These statements are shown in Appendix and Appendix and show the difficulties guards faced when attempting to keep the premises safe and secure.

2.15 For fear of repercussions against them personally and professionally, these two security officers have both requested that any identifying feature on their statements be redacted to protect their identities. They are identified in this submission as 'former security officer (FSO) 1' and 'former security officer 2'.

2.16 In giving these statements, the security officers allege that there is a serious problem with both the use, and supply, of drugs at the venue. FSO1 states that the management refused to purchase a drugs disposal cabinet for the premises, despite being advised that this was the most appropriate way to deal with seized drugs.

2.17 One of the managers asked that all seized drugs be passed to him for disposal, however the suspicion of sanctioned drug dealing was so high, that the security officers decided to dispose of the drugs directly into the toilet.

2.18 FSO2 states that another of the managers deals drugs from a room above the restaurant and would occasionally bring the drugs downstairs into the bar area.

2.19 Both of these security officers state as a matter of fact that there is a serious drug problem at the venue, and the serious allegations of sanctioned supply by the venue's management team should be taken especially seriously due to the fact those reporting are licensed security professionals with a history of working at the venue.

2.20 In addition to these statements, Appendix L shows a complaint received by TDC on the 21st of September which further alleges widespread drug use and underage drinking on the premises, inferring that these issues have been going on for some time.

We would ask the sub-committee review Paragraph 11.27 of the guidance with regards to the issues outlined in this submission, viz:

*11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:*

- *For the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;*
- *(...)for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people.*

## **3.0 Reasons for review**

3.1 This premises has seen a very high number of incidents, concentrated into a short space of time. It is Essex Police's view that these are the direct consequence of poor management and an unwillingness to enact genuine change in order to improve the situation. This submission references guidance and case law which support and embolden licensing authorities to offer a strong response to this.

3.2 Appendix A is a statement from Acting Chief Inspector Martin Richards, who is the District Commander for Tendring. This document sets out the financial toll these incidents take on local policing resources and illustrates to the sub-committee the seriousness of the situation.

3.3 The impact on the quality of life for residents and business owners cannot be ignored. The review process exists to ensure accountability for operators who fail to uphold the licensing objectives and this submission has shown the wide range of shortcomings by the venue in this regard.

3.4 Deterrence is an established part of the review process and case law supports strong action from the sub-committee to deter both the Kassaba and other venues from undermining the licensing objectives. The case of *R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D)350* confirms this and states that the sub-committee must consider what action is necessary to promote the licensing objectives and the needs of the wider community and that deterrence is an appropriate objective to consider.

3.5 It is for these reasons Essex Police have applied for a review.

## **4.0 Outcome sought**

4.1 Essex Police asks that the premises licence is revoked. Merely remedying the existing situation (for instance by the imposition of additional conditions or a suspension) is insufficient to act as a deterrent to the licence holder and other premises' licence holders from engaging in crime and disorder and blatantly ignoring current regulations.

4.2 If the premises is allowed to continue to operate with a licence it is Essex police's belief that further incidents will occur. To prevent further public nuisance and crime and disorder Essex police are requesting revocation of the licence.

4.3 This submission and appended documents provide the licensing sub-committee with background arguments and information pertinent to that contention. These provide the subcommittee with a sound and defensible rationale as to why it should revoke the licence.

4.4 The argument may also be made that the operators took the advice given at these meetings, for example, by employing security and as such there is nothing more they could do to improve the situation, however, although the premises took some of Essex Polices advice onboard, in the form of SIA door staff , the issues documented clearly go deeper than the deployment of door staff. A complete ethos change is required in the management of this premises.

4.6 The Guidance issued under section 182 of the Act provides useful guidance in this respect, viz:

a) Paragraph 11.26

*It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any*

*appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.*

b) Paragraph 11.23

*(...) However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.*

4.7 Should the sub-committee be unconvinced that the premises licence should be revoked, Essex Police have supplied a new set of conditions and hours of operation that may go some way to ensuring the premises upholds the licensing objectives. These new conditions can be found in Appendix I.

4.8 It should be noted that Essex Police's position is that it is appropriate to revoke the premises licence, and Appendix I is submitted merely to assist the sub-committee should it decide not to revoke the premises licence.

## **5.0 Case Law**

5.1 Regarding revocation, case law provides additional guidance on balancing financial considerations and the need to promote the licensing objectives, viz:

a) In the case of R (on application of Hope and Glory Public House Ltd) v City of Westminster Magistrates' Court and Others (2011) EWCA Civ 312, Lord Justice Toulson said:

*"Licensing decisions often involve weighing a variety of competing considerations: the demand for licensed establishments, the economic benefit to the proprietor and to the locality by drawing in visitors and stimulating the demand, the effect on law and order, the impact on the lives of those who live and work in the vicinity, and so on. Sometimes a licensing decision may involve narrower questions, such as whether noise, noxious smells or litter coming from premises amount to a public nuisance. Although such questions are in a sense questions of fact, they are not questions of the 'heads or tails' variety. They involve an evaluation of what is to be regarded as reasonably acceptable in the particular location. In any case, deciding what (if any) conditions should be attached to a licence as necessary and proportionate to the promotion of the statutory licensing objectives is essentially a matter of judgment rather than a matter of pure fact."*

5.2 The decision is important because it illustrates that licensed premises, and the activities that take place in those premises, exist in a dynamic environment and should not be looked at entirely in isolation. The effect on a range of factors such as crime and the quality of life for residents and visitors must be considered and not just the narrow consideration of the premises itself.

b) In the case of East Lindsey District Council v Abu Hanif (t/a Zara's Restaurant) (2016) Mr Justice Jay said:

*The prevention of crime and disorder requires a prospective consideration of what is warranted in the public interest, having regard to the twin considerations of prevention and deterrence.*

(c) In the case of *R (Bassetlaw District Council) v Worksop Magistrates' Court*; [2008] WLR (D)350, Mr Justice Slade said:

*"On the determination under s 52 Licensing Act 2003 of an application for review of a premises licence in circumstances involving criminal conduct connected with the licensed premises, consideration must be given to what was necessary to promote the objective of crime prevention, and to the needs of the wider community, and not be limited to guidance and remedial action and to the needs of the licence-holders"* (para 32.1).

*"(...) wider considerations come into play and the furtherance of the licensing objective engaged includes the prevention of crime. In those circumstances, deterrence, in my judgment, is an appropriate objective and one contemplated by the guidance issued by the Secretary of State"* (para 32.1)

*"However, in my judgment deterrence is an appropriate consideration when the paragraphs specifically directed to dealing with reviews where there has been activity in connection with crime are applicable"* (para 33.1).

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [ ] [ ] [ ] [ ]

Statement of: Acting Chief Inspector [REDACTED] Richards 70750

Age if under 18: (if over 18 insert 'over 18') Occupation: Police Officer

This 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 wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] (witness) Date: 18/09/2020

I am the above named person and acting District Commander for the Tendring local policing area.

My role is to provide command of the policing for the area and effectively manage the resources available to me. I work in partnership with key groups including Tendring District Council, Community groups and the general public to keep Tendring a safe place to live, work and socialise.

I am aware of persistent issues at the Kassaba Turkish Grill and Meze, located on Marine Parade East in Clacton. I understand this to be a restaurant by day which also doubles up as a drinking establishment during the evening. At time of writing this statement I am aware of no less than nine incidents attributed to the Kassaba since the 4th of July 2020, most of these requiring an emergency police response.

My team have received a multitude of complaints relating to the premises which allege violence, underage drinking, anti-social behaviour, excessive drunkenness, nuisance and concerns around the lack of social distancing. I understand my colleagues in Tendring District Council have also received similar complaints.

The issues caused by this premises, and the resulting police attendance has significant financial and resourcing implications, taking officers away from other deployments and potentially restricting the amount of officers available to respond quickly to other emergencies in the area.

I understand these issues have been amplified since the easing of lockdown, and have persisted despite regular engagement from my team and Essex Police's Licensing team.

Clacton is a safe town to live and work in and this type of behaviour in the city centre causes an immediate and impactful effect on the public perception of their safety and wellbeing. The large number of drinkers being intoxicated, causing anti-social behaviour and breaching Covid-19 rules are causing the community huge concern and affecting their lives detrimentally.

Signature: [REDACTED] Signature witnessed by: [Signature]

In my opinion this establishment and its management cause this detrimental effect on the community and are responsible for the redirection of significant police resources and time to deal with the aftermath.



Signature: ..... Signature witnessed by: .....



William Moody, Essex Police  
Licensing Department  
Braintree Police Station  
Blyths Meadow, Braintree  
Essex CM7 3DJ

Licensing Section  
Council Offices  
88-90 Pier Avenue  
Clacton on Sea  
Essex CO15 1TN

Tel: (01255) 686565  
e-mail: [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)  
[ktownshend@tendringdc.gov.uk](mailto:ktownshend@tendringdc.gov.uk)  
Our Ref: 20/00471/PREREV

17 September 2020

Dear William,

**THE LICENSING ACT 2003 - APPLICATION FOR THE REVIEW OF A PREMISES LICENCE**  
**PREMISES: KASSABA RESTAURANT, 7-9 MARINE PARADE EAST, CLACTON ON SEA**  
**APPLICATION No: 20/00471/PREREV**

I am writing in support of the request submitted by Essex Police to this Authority for a Review of the above mentioned Premises Licence on the grounds that a breach of the Licensing Objectives in respect of

- The Prevention of Crime and Disorder
- The Prevention of Public Nuisance

has occurred.

Since 19 Jul 2020, after licensed premises had been allowed by Government to once again operate having been subject to non-trading restrictions due to the Covid 19 pandemic; a number of incidences have occurred at and in the immediate vicinity of the above mentioned premises which have resulted in anti-social behaviour, public nuisance and the breach of prevention of crime and disorder. A number of complaints have been received by this Authority along with police presence required at the premises on a number of occasions, causing a clear breach of the above Licensing Objectives.

Multiple visits to the premises have also been conducted by the Essex Police Licensing Officer and Tendring District Council Licensing Enforcement Officer, with an aim of engaging with the premises to reach a resolution to issues raised. However, the premises has not responded nor acted in a way to rectify these incidences and concerns, instead continuing to operate in a manner which undermines the aforementioned Licensing Objectives.

I enclose the complaints received by this Authority to further support this request.

Yours faithfully

**K N TOWNSHEND**

KAREN TOWNSHEND

Chief Executive  
Ian Davidson

[www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)  
Minicom: 01255 475566





**LICENSING MANAGER**

These comments were received by TDC Licensing Via Email on 17/09/2020

Gentlemen, I fear that I have not got any good news regarding the debacle that is Kassaba Restaurant/Clacton Hotel.

Here is a rough synopsis of this last weekends' happenings. It was noisy all week but obviously worse at the weekend.

Friday 28th August, it was very busy with a lot of people drinking outside with no social distancing. At approximately 02.15am a fight occurred outside the Kassaba which then led into the road, then moved to outside Truth, this carried on until 02.45am when an ambulance arrived, I cannot believe there was no police in attendance. People were still lingering around until gone 03.00am who were previously drinking in the Kassaba premises.

Saturday 29th August there was a lot of noise, with people dancing both outside the premises and inside, which I thought was one of the Covid-19 rules "no dancing". There was an altercation outside my apartment at 01.06am where a very drunk young lad was being very abusive to a member of the public, the young lad went and got a group of his friends from the Kassaba so there was then 8 of them involved against the one member of the public. The police turned up at 01.16am but did not end up taking the lad away until 01.30am. Then when you think it is going to be nice and peaceful there was a lot of girls screaming on the corner of Orwell Road, this was at 02.00am where two police cars did attend and did not leave the scene until 02.30am. (I'm assuming there was another fight) but I believe the police should have a record of this.

Sunday 30th August there was a fair bit of noise from 00.30am which sounded like an argument from outside the premises but I cannot be 100% sure. Just before 01.00am somebody who appeared to be very drunk got into a car and drove out of Orwell Road straight across the main road Marine Parade East onto the pathway in between the crazy golf course to the seafront promenade, which caused a big bang then the car reversed out and drove off at high speed.

I am of the opinion that the various departments of Tendring Council and the Police seem to be out of their depth in controlling this renegade establishment. I am astonished how other ventures many of them rather large businesses in Clacton are allowing this establishment to capitalise and allow unruly behaviour, to carry on whilst they are adhering to the rules and suffering a financial burden, perhaps they are also protesting and like me their pleas are falling on "stoney ground".

I have been conferring with other people who are also suffering because of the actions of this establishment. I am at the desperate stage now that I feel that you gentlemen as my local Councillor, my local Member of Parliament and Chief Executive of my local Council, are my only option of help in this matter.

May I suggest that you view the email chain that I started on the 27th July 2020 and copied you into. To be honest I am getting tired of repeating myself about the same disturbances, actions, blatant uncaring and unlawful attitude of this hotel.

I would be obliged if you gentlemen could confer with one another and by using the power of your respective offices, find a way forward to solve this serious matter once and for all.

I am on business in London from Tuesday to Friday but obviously obtainable by email.

I await your comments.

These comments were received by TDC Licensing Via Email on 17/09/2020

May I thank you for your reply of 31st of July.

I note your comments, unfortunately despite your efforts there is no change in the attitude of this establishment.

In fact over the course of the last week, fights have been occurring on a regular basis, Police have been called on numerous occasions to these disturbances and anti social behavior on the premises.

Can I assume these occurrences are being logged by your department.

If you are compiling a "file" on the happenings at these premises, I would be obliged if you brought the fellow recipients of these e-mails into your confidence regarding the progress of your actions.

Maybe you are unable or do not wish to divulge any details to me.

I am sure the other recipients as public figures are as anxious as I am to resolve this matter and would be willing to discuss things discreetly with me if necessary.

I feel that you speaking in great detail to the owners of this property has fell on "DEAF EARS" and "STONY GROUND" !!

Now that other departments are involved, surely we are approaching a "Major Incident" in this matter.

How much longer is this establishment to be allowed to carry on as it likes.



[REDACTED]

---

**(no subject)**

1 message

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10 September 2020 at 17:34

To: [REDACTED]

Dear [REDACTED] hotel

I'm writing this email regarding my stay at your hotel, your hotel was lovely to stay in friendly staff and clean and tidy the only down fall was the club next door Kassaba bar & grill from the 18th july until 7th September the was music every night weekends was alot worse and everytime the club come to closing time there where fights and police arriving, the noise would wake my 3children up and it got to the stage I had my baby screaming on many nights because it was so loud you'd have people screaming and shouting people attacking each over.

Your sincerely

[REDACTED]



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**Complaint/refund request**

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20 July 2020 at 19:45

[Redacted]

To: [Redacted]

Attn: Management of the [Redacted]

My family and I chose to stay the night at your establishment on Saturday 18th of July after a lovely day at Clacton-on-Sea.

The overall service we was given was really good from staff and we can't fault the accommodation.

Unfortunately we left exhausted from lack of sleep due to the level of noise and disturbances that occurred, we had planned to stay again but chose against this.

We did not realise we was staying next to such a loud and inconsiderate place as the kassaba 'hotel' next door.

We had a great evening in the bar ...

Then once started the disturbance was into the early hours! Clearly under age drinkers were Present, aggressive and paying not one bit of notice to social distancing which was very disturbing.

Sadly my children heard lots of what was going on as there was also a heavy police presence inside and outside the hotel.

We have visited before some time back and had a brilliant experience, unfortunately this time we left feeling like standards had dropped through no fault to yourselves but your neighbours.

I would appreciate some feedback to our experience, I feel we are owed some sort of explanation and reassurance that if we was in fact to visit again the level of disturbance would not effect our stay.

Unfortunately we would refrain from booking again in the near future for risk of having to suffer the same or similar ordeal, it was frightening for our 2 year old and 7 year old who were kept awake by the noise, this is something you need to resolve with next door for the sake of your reputation as a family hotel!!

As compensation for all of the above problems encountered I do feel like we should be refunded for our visit, and re assured when it is safe to visit again.

We do genuinely wish you well but you need to address these problems, we came home in disbelief and disappointed. I look forward to your reply in the shortest time,

Regards

Mr. [Redacted]



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**NOISE LEVELS**

1 message

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[Redacted]otmail.com>

5 September 2020 at 17:53

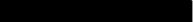
To: '[Redacted]'

To Whom it may concern,

I would like go let you know, that we loved staying at your hotel, we started off having a lovely evening, we were made to feel super welcome. It really is a very friendly and clean environment. However, it saddens me to have to complain of the noise levels just outside your lovely hotel. Revellers from next door were unruly, loud, crass, swearing and brawling in the street. Glasses being smashed and screeching from the female parties in the crowd.... this caused us no end of unrest, my toddler was woken and distraught, quickly followed by my other two children. It went on for a good couple of hours if not more, and needless to say, we were extremely exhausted the following day, putting a real dampener on our holiday experience, which, after 6 months of staying in, was a huge disappointment. Worsened by the fact that we were tight on money as my husband has been the only income due to restrictions, meaning we saved up hard for our time away. We were so looking forward to our break, but feel we won't be returning because of the noise.

Kindest regards,

Mrs C [Redacted]



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[REDACTED]

(no subject)

[REDACTED]hotmail.com>  
To: [REDACTED]

20 July 2020 at 20:04

To the manager of [REDACTED]

Thank you for your email and again for your hospitality we received on our recent stay at your hotel on 15th to 19th July. We loved the newly refurbished ground floor room and the service your offered especially in light of COVID 19, it is a shame that the Noise & Disruptive behaviour from the establishment next door completely ruined our time there.

I have listed below the issue that we had regarding this:

1. Wednesday 15th, there was three very young men who didn't look old enough to be drinking, Screaming & Fighting outside our room window.
2. On Saturday night, again there where people fighting & screaming into the early hours of the morning.
3. Every night there was far to many people for the size of the place playing loud music making loads of noise keeping us awake and unable to relax.

I appreciate we did stressed this to you at the time of our stay, and that you was unfortunately unable to enforce any changes to the above issues due to their aggressive behaviour.

Although we would love to stay again & recommend your hotel to our family and friends unfortunately we would not be confident in doing so.

Please keep in touch and let us know if there are any changes.

Kind Regards

[REDACTED]

Sent from my iPad



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**Complaint**

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[Redacted]@icloud.com>  
To: [Redacted] >

21 July 2020 at 10:22

Dear [Redacted]

First I would like to thank you for the wonderful service you always bring to our stay at [Redacted], but unfortunately our recent stay was interrupted by several disturbances of noise and upset.

There was loud music playing and fights/arguments from outside along with broken glass. I was really disappointed as it also woke up my children up and they were so scared they didn't want to go back to sleep.

I hope you will be investigating this as it's happened on more than one occasion. I would hate to have to find another hotel for our next stay.

Regards  
[Redacted]

FROM - MR & MRS [REDACTED]  
[REDACTED]  
[REDACTED]  
WEST YORKSHIRE  
[REDACTED] TEL [REDACTED]

RE - [REDACTED] HOTEL - CLACTON

HAVING STAYED AT THIS LOVELY  
FRIENDLY HOTEL FROM THE 20-8-20  
TO 24-8-20 WE WERE QUITE SHOCKED  
BY THE NOISE & DISTURBANCE FROM  
THE NEXT DOOR "CLUB-RESTORANT"  
FROM LATE AT NIGHT TO THE EARLY  
HOURS WITH CROWDS OF DRUNKEN  
PEOPLE SINGING AND SHOUTING!  
ON OUR FIRST NIGHT AS I SAT ON  
THE OUTSIDE BALCONY JUST BEFORE  
10pm A LARGE BLACK CAR PULLED UP  
ACROSS FROM THE CLUB WITH ASIAN  
MEN, A YOUNG BLONDE GIRL WENT  
OVER TO THERE CAR AND QUITE

PTO →

OPENLY HANDED OVER MONEY AND  
RECEIVED SOMETHING IN HER OTHER  
HAND, THEY THEN SPOKE FOR A  
FEW MORE SECONDS "COULDN'T HEAR"  
BUT AS SHE CAME BACK OVER THE MAN  
IN PASSENGER SEAT SHOUTED TO  
BRING HER FRIEND, A FEW MINUTES  
LATER ANOTHER YOUNG GIRL BUT  
WITH BLACK HAIR RECEIVED SOME-  
THING FROM THE PASSENGER SEAT  
MAN THEN WENT ROUND TO TALK  
TO THE DRIVER WITH THE BLONDE  
GIRL HAVING JOINED HER, THEY  
THEN RAN UP TO ANOTHER CAR  
HIGHER UP.  
THIS WAS ALL DONE QUITE  
OPENLY ON THE MAIN ROAD  
OUTSIDE THE CLUB IN VIEW  
OF THE [REDACTED] HOTEL.

Mrs M. [REDACTED]  
ROOM 8A

MR. MRS. [REDACTED]

[REDACTED]  
NEWPORT PAGNELL

[REDACTED]  
TEL. [REDACTED]

Following our stay at the [REDACTED]  
on 26<sup>th</sup> .27<sup>th</sup> July we experienced until 2AM  
noise of merry making from the Turkish  
premasis next door no consideration of  
residence or holiday makers, We don't wish  
to spoil peoples pleasure, they only go there as  
other pubs are closed at a reasonable time,  
it will put people of coming and staying  
at the hotel and dacken.

OFFICIAL

MG11 (Interactive)

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [ ] [ ] [ ] [ ]

Statement of: [REDACTED]

Age if under 18: (if over 18 insert 'over 18') Occupation: Hotel Owner

This statement (consisting of 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 wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] (witness) Date: 18/09/2020

My name is [REDACTED] and I am the owner of the [REDACTED] Hotel. I am writing this statement to outline the effect that the fighting and nuisance coming from the Kassaba has had on me, my family and the business.

The effect on my health has been severe. Since the lockdown relaxed I have had constant sleeping issues due to the activity at the Kassaba. This has become so serious that I have been forced to seek medical help and I have been prescribed anti-depressants.

My family life has also been seriously affected as my daughter and 6 year old grandson have been forced to leave the property and stay elsewhere. This is because it was becoming too distressing for them to stay at the hotel. This means I now have limited contact with my grandson which causes me a lot of upset and anxiety.

The effect on my business has put significant financial pressure on me. I am forced to regularly refund customers who complain about the fighting and noise outside on the street. Recently I had a woman book for a two week stay, and leave after two nights and demand a refund for the rest of the stay after she arrived on Friday because she was so shocked by the fighting and noise. I recently had to refund a gentleman for two nights of his stay as he was disturbed by the fighting and noise.

I do not rent out the rooms at the front of the property now due to this and this has put even more pressure on my business. I have customers regularly tell me that they will not return to Clacton as they feel unsafe. I regularly witness crowds of young people leaving the Kassaba and damaging cars and this upsets customers and makes it unlikely that they will come back. I have also been told by customers that there is an underage drinking problem. On one occasion a customer told me that his underage daughter had come home very drunk after spending a night at the Kassaba.

I am writing this statement at the [REDACTED] Hotel and I confirm that these are my own words.

[Handwritten signature]

Signature: [REDACTED] Signature witnessed by: [REDACTED]

Page 63 OFFICIAL

16/08/17

OFFICIAL

OFFICIAL

MG11 (Interactive)

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [ ] [ ] [ ] [ ]

Statement of: [ ] LAURIE

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Constable 78141

This 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 wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [ ] 78141 (witness) Date: 16th SEPTEMBER 2020

On SUNDAY 30TH AUGUST 2020 I was on duty at HARWICH POLICE STATION in company with PC 76204 DRIVER in full uniform.

At the approximate time of 01:10 hours in the morning we were tasked by the FORCE CONTROL ROOM to attend the area of MARINE PARADE EAST specifically close to the PINK PALACE HOTEL following reports of a disturbance. It had effectively been reported that a number of males were fighting at the location.

We arrived at the approximate time of 01:17 hours and I specifically went to the area of the PINK PALACE HOTEL. I spoke to a male who I do not know but he was involved in the altercation, it was unclear what had happened. However, he did specifically point out a male I now know to be [ ] as one of the males responsible. He also further stated to me that this young male being [ ] had been drinking in the KASSABA. After this the male quickly became uncooperative and wouldn't engage with me.

My colleague PC DRIVER had been speaking with [ ] about what had happened. When I went over, I made a very quick and strong assessment that [ ] was heavily intoxicated because his speech was slurred, he appeared unsteady on his feet and show an apparent lack of general understanding.

Due to what had happened [ ] was taken away from the area by POLICE to prevent a breach of the peace. When [ ] was informed of this, he made a few references to his friends who were in the KASSABA bar. This further suggested to me that he had been drinking with them inside KASSABA. Further to this he was loitering outside the front of KASSABA and

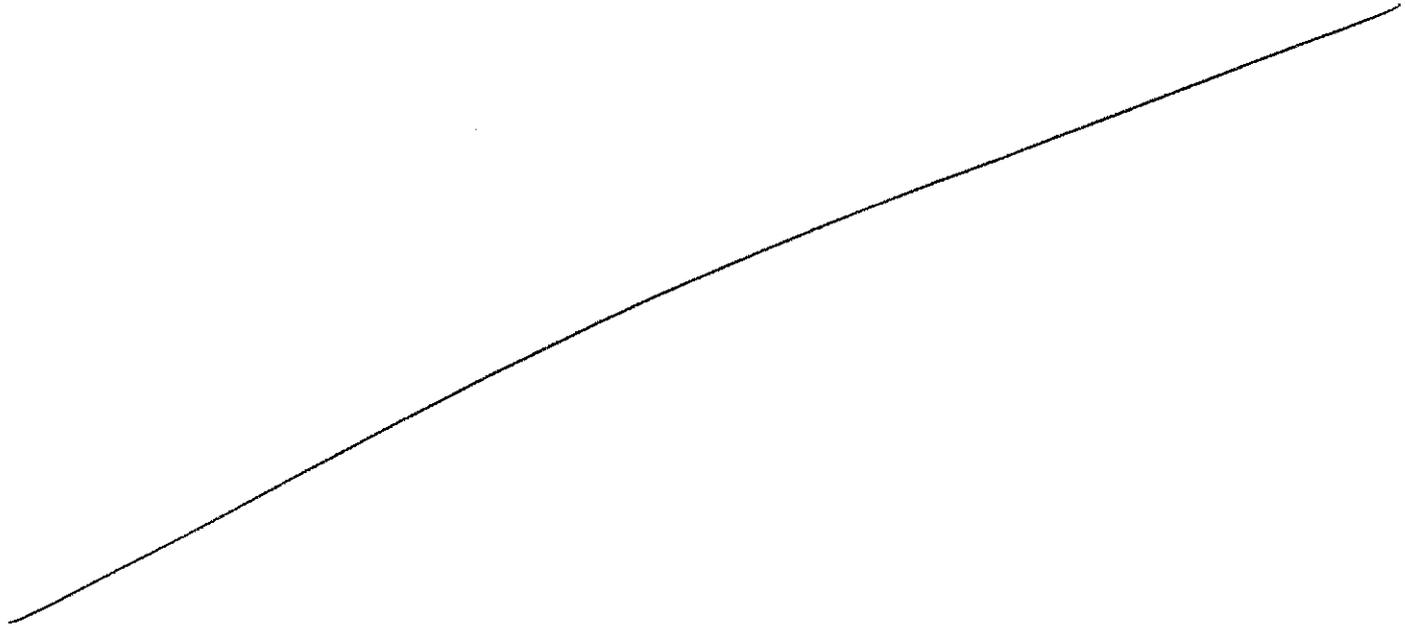
Signature: [ ] 78141 Signature witnessed by: .....

was refusing to move on. When [REDACTED] got into the POLICE VEHICLE, he strongly smelt of INTOXICATING LIQUOR.

I have reviewed a CCTV clip named "[REDACTED] MOV" at the request of Licensing officer WILLIAM MOODY. from viewing this I can confirm that I am extremely confident that the white male with grey joggers and white trainers in the clip who has short dark hair and is approximately 6 feet in height, is [REDACTED] who I know to be 17 years of age. I have viewed this CCTV clip on my own and I have had no indications from anyone else about [REDACTED]'s identity.

My personally opinion is that [REDACTED] had been drinking in the KASSABA because upon our attendance on the early hours of 30<sup>th</sup> AUGUST 2020 he was outside the KASSABA itself. He was heavily intoxicated and was also with a few other friends when we first arrived. He specifically stated that he had friends inside the KASSABA which I find it incredibly difficult to believe he had been out drinking elsewhere and was then waiting outside for his friends. Further to this, as already mentioned the unknown male for a separate incident specifically informed me that [REDACTED] had been drinking in the KASSABA. I know [REDACTED] to be 17 years of age as his date of birth is in [REDACTED] in the year of 2003 and I suspect he has been drinking alcohol whilst under the age of 18 in KASSABA.

These are my first and original notes made at HARWICH POLICE STATION at 23:16 hours [REDACTED] 78141



Signature: [REDACTED] 78141

Signature witnessed by: .....

WITNESS STATEMENT

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN [ ] [ ] [ ] [ ]

Statement of: [REDACTED]

Age if under 18: (if over 18 insert 'over 18') Occupation: Security Officer

This statement (consisting of 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 wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [REDACTED] (witness) Date: 18/09/2020

My name is [REDACTED] and I am a security officer previously employed at the Kassaba. I am writing this statement to give my concerns around the management of the venue and the reasons why I stopped working there.

Drugs

There was no drugs disposal box at the venue and the management would not purchase one despite our advice and despite there being a major drug problem at the venue. I have a strong belief that drugs are being sold from the attached hotel, managed by the same people that manage the restaurant and bar. I believe the managers are aware of this but do not care. I also suspect that the management are involved in the supply of drugs, as well as its use.

[REDACTED] asked security to pass all drugs seized from entry searches to him for disposal, despite the fact there was no drug disposal box. Due to our suspicions, myself and the other security guards decided to dispose of the drugs ourselves by flushing them down the toilet.

Capacity

Capacity was managed by a clicker. Once the venue was at max capacity, customers would be refused entry until customers inside the bar left, however, the managers would attempt to undermine security and let them in because they "owned the venue". When security would not allow this, the customers would be taken in behind our backs through the side entrance. This was done by [REDACTED], [REDACTED] and [REDACTED], who are all managers at the venue. I was also told that if customers sat on the steps leading up to the hotel and drank alcohol there, that this would not count the to venues capacity. Myself and the other security guards did not accept this as legitimate.

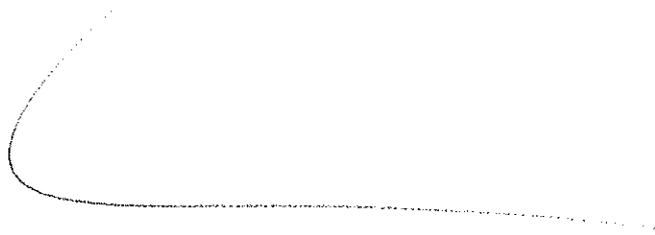
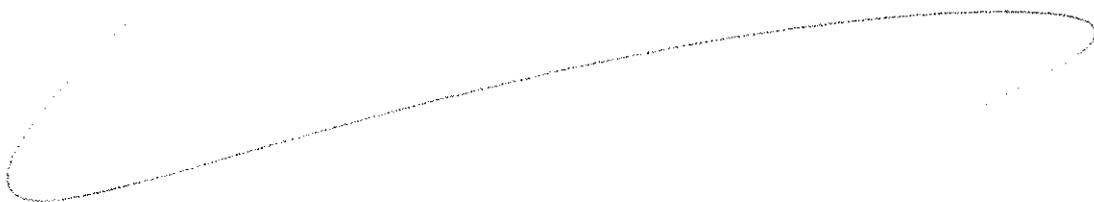
Signature: [REDACTED] Signature witnessed by: .....

Social Distancing

Social distancing was badly managed by the owners and they seemed only to be worried about how much money they could make. No one made sure track and trace was being adhered to and poor management meant that customers had to squeeze through large crowds to enter the venue. The toilets were also very small, however no attempt was made to stop up to 4 people crowding in to the small space.

I left this venue due to the poor management by the owners and their lack of understanding. They seemed to be more interested in getting drunk than running the venue.

I write this statement at [REDACTED] and confirm that these words are my own. [REDACTED]



Signature: [REDACTED] Signature witnessed by: .....

**WITNESS STATEMENT**

Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

[Redacted URN boxes]

Statement of:



Age if under 18:

(if over 18 insert 'over 18')

Occupation: Security Officer

This statement (consisting of [Redacted] 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 wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: [Redacted] ..... (witness) Date: 19/09/2020

My name is [Redacted] and I am a former security officer at the Kassaba. I am writing this statement to outline issues as to why I encountered at the venue.

One issue was that the managers would sneak in people once we were at capacity, despite the fact I was very strict with capacity and would make sure the venue had a safe amount of people.

I believe the venue has a big issues with drugs, a lot of the customers use drugs and I believe that one of the managers, [Redacted] who is also the head chef, uses drugs at the venue and deals drugs from his room above the restaurant and brings it downstairs occasionally.

The management at the Kassaba would constantly undercut us as security guards. Myself and other security guards are strict with entry policy and ID was always checked at the door, however, [Redacted] and [Redacted] were allowing in underage customers. I know this as some of [Redacted] girlfriend's friends are under 18 but would be brought into the venue.

There were regular fights at the venue which I believe were linked to drugs. This made my job as a security guard very difficult and this impacted my work. [Redacted]

[Handwritten signature]

Signature: [Redacted] .....

Signature witnessed by: .....

**POLICE SUGGESTED REVISED OPENING HOURS AND CONDITIONS**

The police position is that it is appropriate to revoke the premises licence; the below is submitted merely to assist the sub-committee should it decide not to revoke the premises licence.

In such circumstances Essex Police would ask the sub-committee to suspend the licence **for no less than three months** and impose the below modifications to opening hours, licensable activity times and license conditions.

**Revised opening and licensing hours**

The premises opening hours are currently set out on the existing licence as 0001 - 0000 daily.

The licence permits the sale of alcohol, the provision of live and recorded music and dance between 1100 – 0100 Monday to Wednesday (and Sunday), and 1100 – 0200 Thursday to Saturday.

**Proposed Revised Hours**

If the licence is not revoked, then the police would ask the sub-committee to revise the licensing and opening hours to the following.

**Sunday – Thursday**

Opening hours 11:00 a.m. to 11.30 p.m.

Licensable activities (all existing) 11.00 a.m. to 11.00 p.m.

**Friday – Saturday &.**

Opening Hours 11:00 a.m. to 00.00 a.m.

Alcohol sales and late-night refreshment – 11.00 a.m. to 11:30 p.m.;

Recorded music, live music, dancing and of a similar nature – 11.00 a.m. to 11.00 p.m.

**New Year's Eve & Christmas Eve**

Opening Hours 11:00 a.m. to 01.00 a.m.

Alcohol sales and late-night refreshment – 11.00 a.m. to 00:30 a.m.

Recorded music, live music, dancing and of a similar nature – 11.00 a.m. to 00:30 a.m.

**Revised Licence Conditions**

If the licence is not revoked, a strong suite of conditions is required to support the licensing objectives of the prevention of crime and disorder and the prevention of public nuisance.

Essex Police proposes the following as essential conditions which are appropriate to support the licensing objectives.

Proposed Conditions (if licence not revoked as requested)

1	After 20:00 hours on Fridays, Saturdays or any other day when the premises is licensed to sell alcohol after 23:00 hours, there shall be a personal licence holder on duty on the premises when alcohol is offered for sale.	
2	A Clubscan/IDSCAN or similar system shall be operated at the premises. At the time SIA licensed door supervisors are required to be on duty as a condition of the licence, all persons entering the premises must provide verifiable ID and have their details recorded on the system.	
3	<p>An individual may not supply alcohol unless that individual has the written consent of the Designated Premises Supervisor or other employed Personal Licence Holder.</p> <p>A written record of this consent will be retained on the premises at all times when such an individual supplies or proposes to supply alcohol and be made available immediately upon reasonable request of the police or licensing authority.</p>	
4	<p>The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system that at all times complies with the below requirements:</p> <ul style="list-style-type: none"> <li>i. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;</li> </ul>	

	<ul style="list-style-type: none"> <li>ii. CCTV cameras shall cover {all public areas including} all entrances and exits and all areas where the sale of alcohol takes place;</li> <li>iii. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of {31} days;</li> <li>iv. At all times, whilst the premises is open for licensable activities, there are members of staff able to immediately provide viewable copies of recordings to the police or licensing authority staff upon reasonable request;</li> <li>v. The recording equipment and data storage devices shall be kept in a secure environment and fitted with security functions (such as passwords) to prevent recordings being tampered with;</li> <li>vi. An operational daily log report must be maintained endorsed by signature, indicating the system has been checked and is compliant: in the event of any failure, this will be recorded immediately.</li> </ul>	
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5	<p>Signs must be displayed at all entrances {and exits} advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities.</p>	
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6	<p>An incident log shall be kept at the premises, and made immediately available to police or licensing authority staff upon reasonable request.</p> <p>The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:</p> <ul style="list-style-type: none"> <li>(a) all crimes reported to the venue</li> <li>(b) all ejections of patrons</li> <li>(c) any complaints received concerning crime and disorder</li> <li>(d) any incidents of disorder</li> <li>(e) all seizures of drugs or offensive weapons</li> <li>(f) any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence</li> </ul> <p>The incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least 12 months from the date of the last entry.</p>	
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7	<p>Where SIA licensed door supervisors are used at the premises a record shall be maintained (on the premises) which is legible and details:</p> <ul style="list-style-type: none"> <li>i. The day and date when door supervisors were deployed;</li> <li>ii. The name and SIA registration number of each door supervisor on duty at the premises; and</li> <li>iii. The start and finish time of each door supervisor's worked duty period.</li> </ul> <p>This record shall be retained on the premises for 31 days and be immediately provided to police or licensing authority staff upon reasonable request.</p>	
8	<p>Where SIA licensed door supervisors are employed at the premises (either directly or via a third party) a check of the current validity of each door supervisor's licence shall be conducted via the SIA website at the commencement of employment at the premises and monthly thereafter and recorded in a log.</p> <p>This log shall be retained for at least 3 months after the last recorded check and be immediately provided to police or licensing authority staff upon reasonable request.</p>	
9	<p>On any occasion where the premises conducts licensable activities past 23:00 hours, at least 3 SIA licensed door supervisors must be on duty from 21:00 hours until at least 30 minutes after the premises closes.</p>	
10	<p>On those days and times where the use of SIA licensed door supervisors are a condition of the licence; all persons entering or re-entering the premises after 23:00 hours shall be searched by a SIA licensed door supervisor for drugs and concealed weapons.</p> <p>Prominent signs (minimum size 200 x 148 mm) to this effect shall be displayed at all entrances and be legible to prospective patrons whilst the premises is open for licensable activities.</p>	

11	All SIA licensed door supervisors engaged at the premises for the purpose of supervising or controlling queues or customers must wear high visibility jackets, vests or armbands	
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12	<p>The premises shall have in place and operate a zero-tolerance policy with regard to the use/possession of controlled drugs and psychoactive substances and advertise the same within the premises on posters and similar means.</p> <p>This policy shall specifically include but not be limited to:</p> <ul style="list-style-type: none"> <li>i. Searching practices upon entry;</li> <li>ii. Dealing with patrons suspected of using drugs on the premises;</li> <li>iii. Scrutiny of spaces including toilets or outside areas;</li> <li>iv. Clear expectations of staff roles (including the DPS, managers/supervisors and door supervisors);</li> <li>v. Staff training regarding identification of suspicious activity and what action to take;</li> <li>vi. The handling of items suspected to be illegal drugs or psychoactive substances</li> <li>vii. Steps taken to discourage and disrupt drug use on the premises</li> <li>viii. Steps to be taken to inform patrons of the premises drug policy/practices</li> </ul> <p>A copy of this policy document shall be lodged with the police and licensing authority.</p>	
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13	A suitable drugs safe/cabinet shall be fitted and any seized items shall be deposited in it. The safe shall be installed at a location agreed upon with the police and only the police shall have the access keys. Any seized items shall be placed in a clear bag with a label stating the circumstances of why it is in the safe.	
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14	After 22:00 hours on all days where licensable activity is allowed after 23:00 hours drinks must only be served in polycarbonate/plastic and/or toughened glass containers, unless served with a table meal.	
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15	<p>Clear and legible notices must be prominently displayed at any area used for smoking requesting customers to respect local residents and use the area quietly.</p> <p>These signs shall be a minimum size of 200mm x 148 mm.</p>	
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16	<p>On those days and times where SIA licensed door supervisors are required to be on duty as a condition of the licence, after 23:00 hours no persons shall be admitted or re-admitted to the premises {except for persons who have temporarily left the premises to smoke}.</p> <p>Notices to that effect (of a minimum size of 200mm x 148mm) will be displayed at the premises' exits.</p>	
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17	<p>The premises shall display prominent signage indicating at any point of sale and at the entrance to the premises that it is an offence:</p> <p>for a person under the age of 18 to buy or attempt to buy alcohol}; or buy, or attempt to buy, alcohol for a person under the age of 18.</p>	
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18	<p>A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement <b>and</b> is either a:</p> <ul style="list-style-type: none"> <li>• Proof of age card bearing the PASS Hologram;</li> <li>• Photocard driving licence;</li> <li>• Passport; or</li> <li>• Ministry of Defence Identity Card.</li> </ul>	
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19	<p>The premises shall clearly display signs at the each point of sale and in areas where alcohol is displayed advising customers that a 'Challenge 25' policy is in force.</p> <p>At the point of sale, such signs shall be a minimum size of 200mm x 148mm.</p>	
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20	<p>A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale.</p> <p>All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be</p>	
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	<p>made immediately available to police, trading standards or licensing authority staff upon reasonable request.</p> <p>The refusals record shall be either electronic or maintained in a bound document and retained in a GDPR compliant manner for at least 12 months from the date of the last entry.</p>	
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21	<p>All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every six months.</p> <p>Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.</p>	
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23	<p>At all times when entertainment, activity or services of an adult nature takes place (which is not subject to a sexual entertainment licence) no persons under the age of 18 shall be permitted to be present.</p>	
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23	<p>The premises shall not directly employ door supervisors, rather any door supervisors deployed at the premises must be employed via a third party contractor who is a member of the SIA Approved Contractor Scheme (and approved for door supervision) and where the door supervisors are not self-employed operatives.</p>	
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24	<p>The playing (at any time) of amplified music in external (i.e. outdoor) areas of the licensed premises is prohibited.</p>	
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08:23



  ▶ Spotted in Clacton 

Official (new)

1 h · 

Kassaba I want the name of your chef. CIA licence my ass. You physically attacked my sister after she was defending herself it's on camera you throw them out for her to be attacked. You absolute scum come forward with your name and badge number ?? Your a chef you can not lay your hands on someone like that.



 6

23 comments





**Case Notes – Tendring District Council Licensing Authority**

<p>28 July 2020</p>	<p>Following complaint received for this weekend activities, Michael Cook (Licensing Enforcement Officer) visited the premises with William Moody (Essex Police Licensing) and met with [REDACTED] - licence holder of Giesha Ltd.</p> <p>The premises are currently operating more as a late night pub / bar with a handful of tables indoors and using the outside decking area. [REDACTED] says that he closed the bar at 2330hrs Friday but upon inspection of CCTV we could see that customers were still sitting on the decking area 0020hrs Saturday morning. He said that he found customers just sitting outside the premises drinking still although they were closed. However, It appeared on CCTV that customers were still using the door to the left of the premises when he said they were closed but he said they were going to the toilet. It would appear that no control for closing and dispersing of customers were in place. This was spoken about in great detail.</p> <p>During conversation, William Moody as asked for the following conditions to be added to the licence and [REDACTED] has verbally agreed and said that he would have SIA doorstaff with effect from tomorrow, Wednesday 29 July 2020.</p> <ol style="list-style-type: none"> <li>1) A minimum of two SIA registered Doorstaff to be employed at the premises from 22:30 until close each night that the premises is open for licensable activity.</li> <li>2) Doorstaff are to be supplied by a registered company previously agreed with Essex Police and Tendring District Council.</li> <li>3) Doorstaff and all other staff are to be actively involved in the dispersal of patrons and the management of queues from the premises.</li> <li>4) A dispersal policy, agreed and co-signed by Tendring District Council and Essex Police, is to be in use at all times and available to view on request by any authorised person.</li> </ol> <p>I asked to see CCTV of inside the premises but it would appear that only two camera were working. One showing the kitchen area and one showing the corner of bar area. When asked about other cameras, [REDACTED] said that the cables had been cut by the people that were taking over the rear of the premises. During lockdown, the rear of Kassaba ground floor got de-licensed as this was going to be taken on as a Caribbean restaurant.</p>
<p>5 August 2020</p>	<p>Joint visit with William Moody (Essex Police) following more incidents at the weekend. At the time of visit, the managers of the door team were at the premises and were spoken to in detail about the incidents which William has taken on board from a police point of view. [REDACTED] (owner) was at the premises and said that he does not intend to re-licence the back entrance of the premises just yet as it has been made into more a building site. He showed me the room which has been gutted. [REDACTED] was not happy with the proposed conditions that Essex Police have asked him for and said he would not be agreeing. It was discussed between [REDACTED], Essex Police and TDC Licensing Authority that the premises needs to improve immediately and the police incidents need to be reduced massively. [REDACTED] has asked that we give him time to improve and asked that we do nothing for at least six months. This was declined by both authorities and it was agreed that we would review this in two weeks time. Conditions about SIA doorstaff being on every evening was not accepted but with some discussion, he said that he would have them on Fridays and Saturdays from 2230hrs summer periods. William will review this within the next couple of weeks. [REDACTED] was made aware, should the premises not improve then a Review application would be made where conditions could be made by the Committee, the licence could be suspended or revoked. At the time of visit the front decking area was being pulled up so this area was out of use.</p>



**Case Notes – Tendring District Council Licensing Authority**

<p>07 August 2020</p>	<p>Following visit on 5 Aug 2020, Essex Police Licensing issue a warning letter. This has been recorded on uniform for further info.</p>
<p>27 August 2020</p>	<p>Joint visit with Essex Police William Moody. Essex Police wanted to view CCTV of an incident outside to the left of the building over the weekend. William asked to view this and when went to view the CCTV the recordings were not available. The CCTV system was dated 2004 and everything had been wiped from the system. They have said that they would look into this immediately and find out why this was not working.</p> <p>Spoke about CCTV for the premises ground floor and basement area which [REDACTED] says that they have all new cameras and just waiting for them to be installed. [REDACTED] said that he believes that CCTV in basement is working but he does not know how to use this. It would appear that basement CCTV would be on a different system to the ground floor.</p>
<p>02 September 2020</p>	<p>Joint visit with Essex Police William Moody. Essex Police wanted to view CCTV of an incident that occurred over the Bank Holiday weekend. William asked to view this and when went to view the CCTV the recordings were only available on one camera. This camera was inside the premises pointing towards the bar area. No other CCTV was available to view. The CCTV cameras outside the front of the premises that were working on previous meetings no longer work.</p> <p>[REDACTED] said that the fight happened outside the premises when closed. Timings on CCTV showed that they were still open according to the incident time that Essex Police were looking at. He said that they had four door staff guys on a regular basis and that senior members of staff do not get involved in any incidences.</p> <p>[REDACTED] has said that they have all new CCTV cameras ready to install, however, this was said approx. four weeks ago.</p> <p>COVID restrictions - CCTV shows the premises quite busy but [REDACTED] said that they only allow people in for the amount of chairs they have however, this did not look like it at the time.</p> <p>[REDACTED] was asked if he had anyone permanently living at the premises to which he replied that they have a couple of members of staff staying permanent while working but other than that, only those who staying over the COVID period.</p> <p>CCTV for 29 August 2020 at approx. 0125hrs shows members of public walking backwards and forwards into the kitchen area.</p> <p>Saturday evening / morning of Sunday 30 August 2020 at approx. 0220hrs two females were seen on CCTV at the jukebox although [REDACTED] said that the premises was closed.</p> <p>CCTV times checked and appear to be showing plus 25 minutes out.</p>

APPENDIX L

**From:** [REDACTED]  
**Sent:** 21 September 2020 11:05  
**To:** OS Customer Support <[OSCustomerSupport@tendingdc.gov.uk](mailto:OSCustomerSupport@tendingdc.gov.uk)>  
**Subject:** Clacton Hotel 7-9 Marine Parade

Hi I would like to bring some things to your attention about the above named establishment. My partner booked us a night in the Clacton Hotel for 19th September so we could have a short break because I have been working the whole of the lockdown period and we wanted a relaxing short break.

When we arrived it looked a bit run down but we thought 'its only one night what can happen!'. Owner and staff were friendly on checkin but boy did that not last. When we went to the room to sleep that night the noise was loud but with Kassaba restaurant underneath it was expected. What was not expected was the blind eye turned to serving alcohol to underage kids, the blind eye turned to the open and blatant drug taking (the morning revealed numerous Co2 canisters and balloons littering the forecourt. Add to seemingly random people roaming the hotel disturbing residents, a woman being kicked out for smoking in her room as well as having her dog in there, what seemed to be certain females using rooms on an hourly basis, staff seemingly letting drunk/drugged friends in for free and seemingly the restaurant stays open till 3 normally because people kept turning up and shouting abuse that it was shut it was a wrecked night's sleep.

In the morning we wanted to get away quickly but remembered our security deposit. No staff could be found so we called the number provided which the owner answered and suggested we wait till 10am to get our money back. When I adamantly asked for the money he reluctantly appeared from inside the hotel to return. He asked if we'd had a good stay and my partner replied 'Clacton is nice but wouldn't stay at that place again' he turned extremely nasty saying 'what did we expect when ALL RESIDENTS of Clacton are taking drugs' but not on his property (wrong - evidence scattered all around our feet) and ended the conversation with the statement 'go and don't F\*\*\*ING come back!'. I ask you to please look into this because he is letting your area down badly and denigrating all residents.

Thankyou

**Timeline for video exhibits**

**Exhibit 1**

00:00 – video starts and shows an argument between a crowd of people in the beer garden.

00:17 – a fight breaks out and customers move away for safety

00:26 – a male is seen to throw a glass from inside the beer garden

00:40 – fight continues in the street with multiple people throwing punches

00:58 – a doorman can be seen attempting to intervene

01:15 – Video ends

**Exhibit 2**

00:00 - Videos starts and shows the end of exhibit 1

00:14 - an argument can be seen between customers on the street

00:30 - another fight breaks out with multiple males throwing punches

00:48 - another fight breaks out towards the left of the scene

01:07 – a male can be seen running in and punching someone standing in the group

01:29 – group start to disperse

01:33 – video ends

**Exhibit 3**

00:00 – video starts and shows a large fight spilling into the street from the Kassaba

00:12 – fight continues, and a male can be seen leaning over the beer garden fence to punch a male

00:20 – Video ends

**Exhibit 4**

00:00 - video starts and shows groups of people in and outside of the beer garden

00:39 - 3 males can be seen leaving the beer garden

00:46 - 1 of the males takes off his T-shirt on the opposite side of the road

01:27 - someone is seen to throw furniture out of the beer garden and glasses can be seen being thrown between the groups

01:38 - police arrive and speak to [REDACTED], head chef at the Kassaba

02:00 - Police leave the scene

02:06 - video ends

**Exhibit 5**

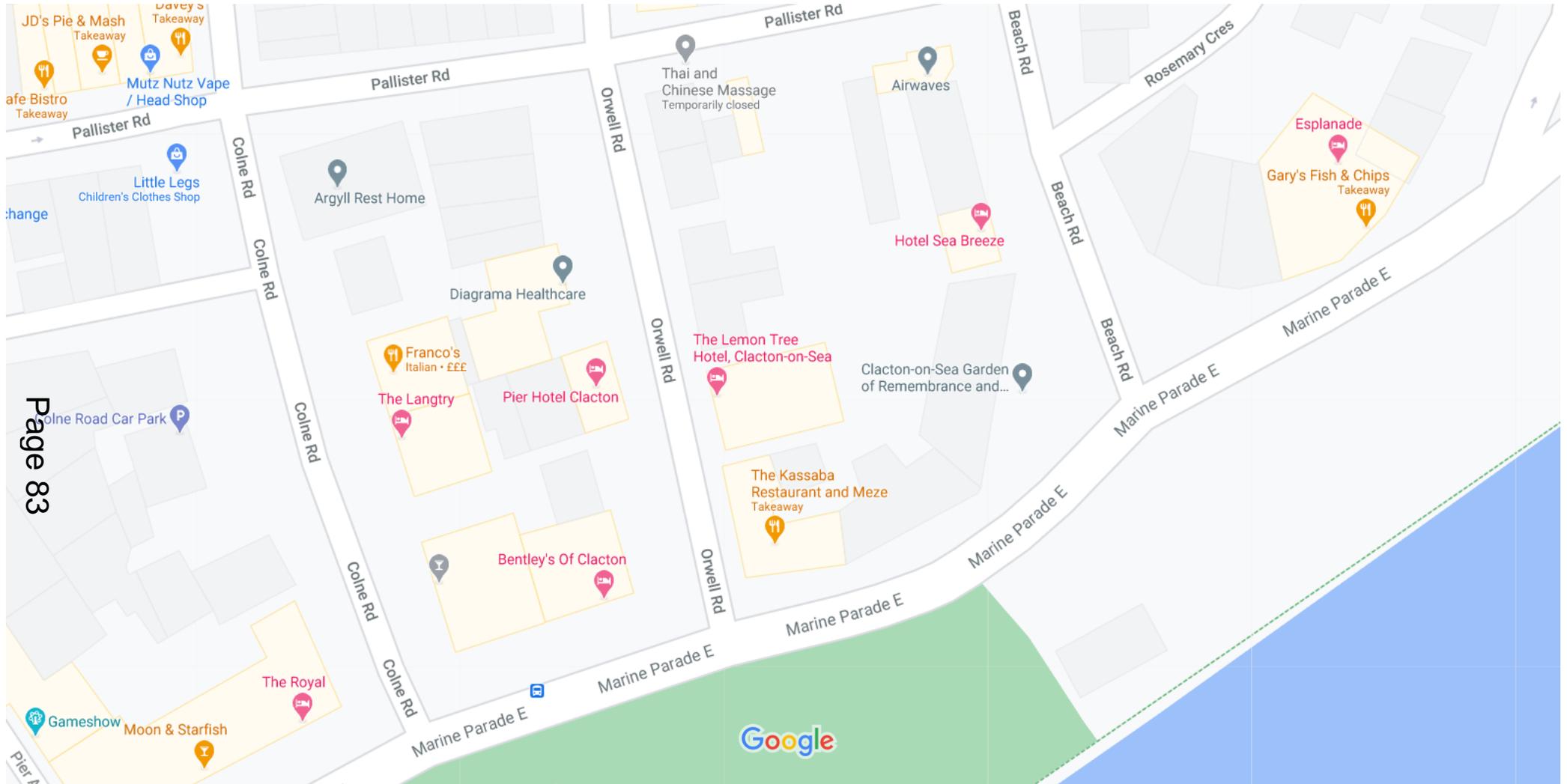
00:00 video begins and shows the underage male leaving the Kassaba

00:05 the male can be seen struggling to walk straight

00:30 Male approaches a neighbouring business

00:51 video ends

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Map data ©2020 20 m

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**These following coloured pages contain the work carried out by Mark Baker, Environmental Health Officer from the Councils Food, Health and Safety team.**

- 1. An email from Mark Baker to Michael Cook and various other colleagues.**
- 2. The letter sent from Mark Baker to Kassaba.**
- 3. Mark Bakers photographic evidence from his visit to Kassaba.**

1.

**From:** Mark Baker <[mbaker@tendringdc.gov.uk](mailto:mbaker@tendringdc.gov.uk)>  
**Sent:** 01 October 2020 08:15  
**To:** Michael Cook <[mcook@tendringdc.gov.uk](mailto:mcook@tendringdc.gov.uk)>  
**Cc:** William Moody 42079383 <[William.Moody@essex.police.uk](mailto:William.Moody@essex.police.uk)>; Justin Baddeley <[jbaddeley@tendringdc.gov.uk](mailto:jbaddeley@tendringdc.gov.uk)>; Carol Archibald <[carchibald@tendringdc.gov.uk](mailto:carchibald@tendringdc.gov.uk)>; Tim R. Clarke (Head of Hsg & EH) <[trclarke@tendringdc.gov.uk](mailto:trclarke@tendringdc.gov.uk)>  
**Subject:** Kassaba Licence Review Oct 2020

For the attention of Michael Cook Licensing Team, Tendring District Council

I understand that Essex Police have made an application for review of the Licence for Kassaba, 7-9 Marine Parade East, Clacton on Sea, Essex CO15 1PS on grounds of prevention of Public Nuisance and Crime and Disorder. I would further support the application for review of the licence on the grounds of public safety.

Members of the food safety team have been dealing with a number of complaints about Kassaba in relation to poor control of risk of transmission of COVI-19 especially in relation to poor hygiene conditions and facilities and lack of social distancing occurring on the premises and the area of pavement to the front of the premises. I have been involved in discussions with the management and security contractor to emphasise the need for controls to be in place to reduce the risk of transmission of the virus. The poor level of food hygiene found at a recent inspection would indicate that the understanding of hygiene for contamination of food and control of spread of infection is poor. This is particularly evident from the lack of attention to cleanliness of the structure equipment and hand contact points in the food preparation areas. I consider poor control regarding prevention of risk of transmission of COVID-19 to be a public safety issue relevant to the licensing condition.

Please find the attached collection of photographs taken at the time of the inspection and the letter and sent to the food business operator following the inspection.

Regards  
Mark Baker  
Environmental Health Officer  
Tendring District Council

# 2.

Mr Baktash Roohrawan  
Kassaba  
7-9 Marine Parade East  
Clacton on Sea  
Essex  
CO15 1PS

Public Experience (Food, Health & Safety)  
Council Offices  
88-90 Pier Avenue  
Clacton on Sea  
Essex CO15 1TN

Telephone: 01255 686768  
Email: mbaker@tendringdc.gov.uk  
Fax: 01255 686404

Our Ref: 18/00161/FOOD &  
04385\FDHPRA

29<sup>th</sup> September 2020

Dear Mr Roohrawan

**THE FOOD SAFETY AND HYGIENE (ENGLAND) REGULATIONS 2013  
REGULATION (EC) NO.852/2004 HYGIENE OF FOODSUFFS  
FOOD SAFETY ACT 1990  
THE GENERAL FOOD REGULATIONS 2004  
HEALTH AND SAFETY AT WORK (ETC) ACT 1974 AND OTHER REGULATIONS MADE UNDER THE  
ACT.  
RE: KASABA RESTAURANT 7-9 MARINE PARADE EAST**

With reference to my visit to the above premises with my colleague Justin Baddeley on the afternoon of 22<sup>nd</sup> of September I would bring the following items to your attention in order to assist you in meeting you statutory obligations under the above food safety and occupational health and safety legislation.

The attached Inspection report outlines my findings at the time of the visit and highlights the priority actions and improvements that are needed to ensure that you are complying with the Food Hygiene (England) Regulations and associated legislation. These are listed in three areas:

- **Compliance with food hygiene and safety procedures:**( how hygienically the food is handled, how it is prepared, cooked cooled, stored and what measures are taken to prevent food being contaminated)
- **Compliance with structural requirements;** (the conditions of the structure of the premises including cleanliness, layout, lighting, ventilation, equipment and other facilities)
- **Confidence in management/control procedures** ( how you manage food safety, previous compliance history and what records you keep to make sure food is safe using a system like Safer Food Better Business)

**Schedule A:** outlines the works needed to comply with the law.

**Items in bold require your immediate attention.**

- As a guide to compliance, those items to do with cleaning, temperature control and poor practice should be dealt with **straight away**. Those items that which relate to structural repair, training and the provision/review of your food safety management system should be completed **within 3 months**, unless otherwise indicated. **Urgent matters must be dealt with straight away.**
- You may do works other than those specified in the report but these must achieve the same minimum standard.
- This report only covers the areas inspected as they were found at the time of the inspection, however it should be noted that this is not an exhaustive report covering all legislation relevant to the businesses undertakings as this would not be possible given the time period spent on the premises.
- After the inspection an assessment was made of the risks associated with the business using a standard format set out by the Food Standards Agency. This assessment will be used to decide when the business will next be inspected.
- Under the Freedom of Information Act 2000, and the Environmental Information Regulations 2004, I would like to advice you that a copy of this and any previous report relevant to this premises, maybe requested by any person or organisation.

A digital inspection will be carried out within one week of the date of this letter to assess progress with the items mentioned and the general level of cleanliness of the food storage, preparation and service areas and to consider if formal proceedings are necessary. This could be in the form of Hygiene Improvement Notices and or formal prosecution under the above legislation.

Depending on the level of compliance with these structural and cleaning issues further inspection may be necessary to assess compliance with statutory requirements regarding food safety practices and their supervision and management.

**If you are unclear about anything in the report, please get in touch with me via the contact details given above.**

Should you wish to discuss this letter or require further information please contact me on the above direct line. Alternatively you can access food safety guidance on our website <http://www.tendringdc.gov.uk/TendringDC/Business/Food+Safety/> or at [www.food.gov.uk](http://www.food.gov.uk)

Yours sincerely

Mark Baker  
Environmental Health Officer  
Department of Public Experience

## Food Premises Inspection Report:

Name of Business:	Kassaba
Address:	7-9 Marine Parade East Clacton on Sea CO15 1PS
Date of Inspection:	22 <sup>nd</sup> September 2020

### Schedule A: Legal Requirements

<b>No</b>	<p><b>Compliance with food hygiene and safety procedures:</b>( how hygienically the food is handled, how it is prepared, cooked cooled, stored and what measures are taken to prevent food being contaminated)</p>
	<p><b><u>Protection of food from risk of contamination</u></b></p> <ul style="list-style-type: none"> <li>• Open plastic packets of spices and dried ingredients were found in the dry store and open to contamination by debris or pests.</li> <li>• In the display refrigerator the handles of serving spoons were in contact with yoghurt</li> <li>• The cleaning mop was badly stained and the bucket contained filthy water.</li> <li>• The lights over the extract canopy did not have covers to prevent contamination of food in the event of a breakage</li> <li>• The electric fly killer was heavily laden with dead insects and positioned over a food preparation area by the display fridge in the service area.</li> </ul> <p>At all stages of production, and processing, food is to be protected against any contamination likely to render the food unfit for human consumption, injurious to health or contaminated in such a way that it would be unreasonable to expect it to be consumed in that state <i>Regulation (EC) No 852/2004 Annex II Chapter 9 para 3</i></p> <p><b><u>Storage of food waste and other refuse</u></b></p> <ul style="list-style-type: none"> <li>• Black plastic bags full of waste were found on the ground by the bulk waste containers and were not suitably pest proof.</li> </ul> <p>Food waste, non-edible by-products and other refuse are to be deposited in closable containers. These containers are to be of an appropriate construction, kept in sound condition, be easy to clean. <i>Regulation (EC) No 852/2004 Annex II Chapter 6 para2</i></p> <p><b><u>Unfit food</u></b></p> <ul style="list-style-type: none"> <li>• A can of mouldy sweetcorn was found in the under-counter fridge in the rear preparation room.</li> <li>• In the lower floor rear kitchen area a saucepan of cooked rice was found on the cooker, seafood was found in the upright freezer and a mixture of cooked food and waste materials was found in the microwave. It is understood that these items may have been there since July.</li> </ul>

	<p>It is an offence to sell food which is unfit for human consumption. All food on your premises is deemed to be for sale unless it is clearly marked as being unfit and separated from other foods.</p> <p><i>Article 14(1) of (EC) 178/2002 creating an offence under reg.4 of the General Food Regulations 2004</i></p>	
	<p><b>Compliance with structural requirements;</b> (the conditions of the structure of the premises including cleanliness, layout, lighting, ventilation, equipment and other facilities)</p>	
	<p><b><u>Level of Cleanliness</u></b></p> <ul style="list-style-type: none"> <li>• A large amount of spilled salt and other debris was found on the floor at base of the dry store shelves.</li> <li>• The walls around the dry store shelving were dirty and littered with cobwebs</li> <li>• Filters in the extract canopy were badly stained with grease and debris</li> <li>• The lights over the canopy were badly stained and did not have covers to prevent contamination of food in the event of a breakage</li> <li>• Generally the food storage, preparation and service areas require more thorough cleaning and organising throughout. Poor standards were found at the time including heavy accumulation of debris to many areas especially so in difficult to reach areas such as around pipework/waste pipe from wash hand basin in servery area</li> </ul> <p>Food premises must be kept clean and maintained in good repair and condition. <i>Regulation (EC) No 852/2004 Annex II Chapter I para 1</i></p> <p><b><u>Wash hand basin</u></b></p> <ul style="list-style-type: none"> <li>• There was no suitable means of drying hands readily available at the wash hand basin in the service area.</li> </ul> <p>An adequate number of washbasins is to be available, suitably located and designated for cleaning hands. Washbasins for cleaning hands are to be provided with hot and cold running water, materials for cleaning hands and for hygienic drying <i>Regulation (EC) No 852/2004 Annex II Chapter 1 para 4</i></p> <p><b><u>Condition of floor and walls</u></b></p> <ul style="list-style-type: none"> <li>• Floor tiles were cracked and damaged on the steps to the upper floor areas, in the upper rear prep room and in the service area and towards the front display area to the rear of the display refrigerator</li> <li>• Painted wall surfaces in the upper rear preparation room were badly stained.</li> </ul> <p>Floor and wall surfaces are to be maintained in a sound condition and be easy to clean and, where necessary, to disinfect. <i>Regulation (EC) No 852/2004 Annex II Chapter2 para 1a &amp; 1b</i></p> <p><b><u>Condition of surfaces in food preparation rooms</u></b></p> <ul style="list-style-type: none"> <li>• Bare hardboard was exposed in a cupboard in upper rear preparation room</li> <li>• Bare chipboard was exposed on an under-counter cabinet in the upper rear preparation room.</li> </ul> <p>Surfaces (including surfaces of equipment) in areas where foods are handled and in particular those in contact with food are to be maintained in a sound condition This will require the use of smooth, washable corrosion-resistant materials <i>Regulation (EC) No 852/2004 Annex II Chapter2 para 1f</i></p>	

	<p><b><u>Cleanliness of equipment</u></b></p> <ul style="list-style-type: none"> <li>• The blade to the bench mounted can opener was encrusted with food debris</li> <li>• Items of equipment in the upper rear food preparation room was badly stained. This included the kettle and other electrical equipment, chest freezer seals and interior surfaces and handles to doors of cupboards, and fridges and freezers.</li> <li>• In the front service area a work surface was composed of a badly stained piece of bare fibre board.</li> <li>• Containers of dried food ingredients were stained and dirty in the dry store</li> <li>• The interior surfaces of the microwave oven in the upper floor rear preparation area was badly stained</li> <li>• Debris and staining was found in the base of the cutlery trays.</li> </ul> <p>All articles, fittings and equipment with which food comes into contact are to be effectively cleaned and, where necessary, disinfected. <i>Regulation (EC) No 852/2004 Annex II Chapter 5 para 1a</i></p> <p><b><u>Pest control</u></b></p> <ul style="list-style-type: none"> <li>• The electric fly killer in the front service area was dirty and not in working order</li> </ul> <p>Adequate procedures are to be in place to control pests. <i>Regulation (EC) No 852/2004 Annex II Chapter 9 para 4</i></p>	
	<p><b>Confidence in management/control procedures</b> ( how you manage food safety, previous compliance history and what records you keep to make sure food is safe using a system like Safer Food Better Business</p>	
	<p><b><u>Food safety management documents and records</u></b></p> <p>The use of practices that present risk of contamination of food and the poor condition of the structure and cleanliness of the premises would indicate that you have not met the pre-requisites for a food safety management system based on HACCP principles.</p> <p><b>Cleaning schedule</b> It was not possible to examine a cleaning schedule and in view of the poor level of cleanliness detailed above it would appear to be necessary to adequately supervise and manage the cleaning activities taking place.</p> <p><b>Allergen content of food provided</b> There was no clear indication of which of the fourteen recognised allergens may be contained in menu items.</p> <p>I suggest that you follow the guidance issued by the Food Standards Agency Safer Food Better Business (England) which will guide you through how to comply and provide the necessary documentation. <i>Regulation (EC) 852/2004 Article 5 paras 1</i></p> <p><b><u>Training, supervision and instruction</u></b> The level of cleanliness observed and the evidence of poor practice regarding risk of contamination of food indicates that insufficient training, supervision or instruction has been provided to food handlers working on the premises. Food business</p>	

	<p>operators must ensure that food handlers are supervised and instructed and/or trained in food hygiene matters commensurate with their work activity;  <i>Regulation (EC) No 852/2004 Annex II Chapter 12 para 1</i></p>	
	<p><b><u>Health &amp; Safety at Work Act 1974</u></b></p>	
	<p><b><u>Electrical Installation</u></b>  During the inspection taped repairs were noted to electrical cables in the front of house customer area of the restaurant.</p> <p>The Electricity at Work Regulations 1989 require that electrical systems and equipment must be maintained, so far as reasonably practicable, to prevent danger.</p> <p>The Fixed Installation - Fixed installations (the wiring and equipment between the supply meter and the point of use, e.g. socket outlets) should be inspected and tested periodically by a competent person to ensure that they are maintained in a safe condition. The recommended frequency for commercial premises is every 5 years and the report is now called an Electrical Installation Condition Report, and was previously known as a periodic inspection report.</p> <p>Please forward details of the most recent inspection or examination report by a competent person regarding the condition and safety of the electrical appliances and electrical installation on the premises. This should include the hotel accommodation and any other parts of the premises.</p> <p>I understand that rooms 5 7 &amp; 8 are currently being refurbished after damage caused by guests behaviour. I would be grateful if you could confirm what regular checks are carried out on electrical appliances provided in guest rooms such as TV and kettles.</p>	



Food debris on the blade of can opener



Bare fibre board to side of refrigerated display unit



Electric Fly killer Not in working order and heavily loaded with dead insects



View of EFK and bare fibre board by display fridge



Broken floor tiles on steps to dry store



Large spillage of salt under dry store shelf unit



Dirty floor to lower floor disused kitchen



Food waste in microwave rear lower kitchen



Open packets of food ingredients dry store area



Spillages under dry store shelving



Dirty walls in dry store area



Staining and dirt in dry store area



Damaged floor tiles on steps from dry store



View of upper floor rear preparation area



Dirty water and mop in mop bucket



Dirty hand contact points in rear kitchen kettle



Dirty electric socket points in rear upper kitchen



Mouldy sweetcorn found in fridge



Bare chipboard exposed in cabinet rear upper preparation room



Stained interior of microwave oven



Interior of microwave oven upper rear preparation room



Stained seal and hand contact points on a freezer in upper rear preparation room



Dirty interior of chest freezer upper rear preparation room



Contents of chest freezer upper rear preparation room



Wall stained in upper rear preparation room



Dirty cupboard doors and broken tile upper rear preparation room



Bare hardboard exposed in cupboard in upper rear preparation room



Contents of chest freezer upper rear preparation room



Walls stained and cobwebbed to side of stairs to dry store



Staining to lights for canopy over BBQ



Broken floor tiles to rear of display fridge in serving area



Debris and dirt accumulation to rear of display fridge



Staining and no diffusers to lights in extract canopy



Staining and no diffusers to lights in canopy



Open tin of stuffed vine leaves

# 3.



Serving spoons left in contact with yogurt



Debris in base of cutlery trays



Staining and grease accumulation in deep fryer

# 3.



Plastic bags of waste on floor in waste area


**These following coloured pages contain two complaints received by the licencing team in relation to Kassaba.**

- 1. Redacted email complaint.**
- 2. Pink Palace letter of complaint and email.**

1.

**From:**

**Sent:** 25 September 2020 13:01

**To:** Licensing Section <[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)>

**Subject:** Review of the Premises Licence in respect of : Kassaba Restaurant,7-9 Marine Parade East Clacton CO151PS.

My representation to the licensing authorities is as follows>

I agree with the application to review the licence of the above premises.

During the last three months there has been numerous demonstrations of Crime and Disorder/Public Nuisance.

Surprisingly over the last few weeks,since your notification of the 3rd of September there has been no problems!

One wonders if this is advice from their legal representatives to try to convince the committee of a change of attitude by them.

In my experience of this establishment,I very much doubt any improvement will happen!

They had many opportunities to remedy their actions whilst in conversation with the licensing authorities during the last 3 months.

I have sent numerous e-mails to Licensing over the last 10 weeks regarding my concerns over the Kassaba Restaurant/ Clacton Hotel abuse of it"s licence.

I would like these e-mails to be included in my representation as they highlight instances of Crime and Disorder/Public nuisance from both the Kassaba Restaurant and Clacton Hotel.

These e-mails are dated as following < 27th July-7th August-10th August-14th August-24th August 2020.

I have seen notices displayed outside these premises quoting "£10 Entrance Fee".

I find it amazing that a "Restaurant" is charging an entrance fee if it is not trading as a Bar or Night Club!

The best Restaurant in Clacton namely Francos has never charged an entrance fee,even Gordon Ramsay,Tom Kerridge and other top chefs do not charge either.

If the licence of this Restaurant/Hotel is revoked,can the management just change the name of the licenceholder to a relative and continue as they have been until people have to complain again ?

If this is the case surely some conditions to the hotel premises should be applied.

Hotels in this area( Seafront) are not allowed to become bedsits or HMO premises to my knowledge.

I was of the understanding that hotels or bar premises had a time limit at night written in their licence to control the use of outside space regarding noise pollution for neighbours.

This obviously would also cover control of crime and disorder outside the premises during opening times and on closing.

Under The Licensing Act 2003- I would like my details to be Redacted.

I feel this is necessary owing to the aggressive attitude from these premises that has been demonstrated in my e-mails.

I am fully aware that my representation is legally binding.

I believe that the facts stated in this representation are true.

Regards.

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## **Pink Palace**

11-13 Marine Parade East  
Clacton On Sea  
CO15 1PS

▶ **The Licensing Authority  
Tendring District Council  
88-90 Pier Avenue  
Clacton On Sea  
CO15 1TN**

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### **To whom it may concern**

I would like to make a representation to the Licensing Authority in regards to The Kassaba Restaurant, 7-9 Marine Parade East, Clacton On Sea, CO15 1PS. The Licensing Objectives in respect of The Prevention of Crime and Disorder and the Prevention of Public Nuisance, which has been affecting my business on a daily basis. Myself and my two children have suffered severely as have other members of my family. I would like to attend the review of the premises license so that I can air my views/distress in person.

I have kept a diary of all disturbances and incidents which have occurred at the above-mentioned address on a nightly/weekly basis which are as follows and dated from 15th July 2020.

- Wednesday 15<sup>th</sup> July, a vast amount of public nuisance out the front of the premises with overcrowding with a lot of under age drinkers. I had a complaint from a customer who was staying at the hotel in the ground floor room (right next door to the entry to The Kassaba) she reported that there was fighting and screaming outside her bedroom window who she has previously seen drinking in The Kassaba.
- Friday 17<sup>th</sup> July from 12am onwards very busy again with people causing a public nuisance all over the pavement on the street, people shouting, around 30 to 40 people outside on the front still with no social distancing.
- Saturday 18<sup>th</sup> July, around 70 people outside the venue with no social distancing at all, very noisy lots of screaming and shouting from 12 am, a fight broke out which you have been made aware of I believe this comes under crime and disorder. I had three complaints from hotel guests, one in which was a family placed here for temporary accommodation through Tendring District Council. Police were in attendance but no action was taken.
- Sunday 19<sup>th</sup> July, about 20 to 25 people outside the front of the venue causing a public nuisance.
- Monday 20<sup>th</sup> July, around 30 people outside the front of the venue causing a public nuisance with underage drinkers.
- Tuesday 21<sup>st</sup> July, around 30 to 40 people outside the front of the venue making a lot of noise. Two fights broke out, one at 11pm then another fight at 11.50pm I believe this is an objective in respect of crime and disorder with chairs being thrown in the road, I had to call the police as was worried that somebody was going to get seriously hurt. The police

- attended and drove around the chairs in the road and failed to even get out of their car, I have this on video cctv. The chef from next door went over to the police car and spoke to them and the police drove off, which is not acceptable.
- Wednesday 22<sup>nd</sup> and Thursday 23<sup>rd</sup> July, 20 to 30 people on both nights no social distancing, disturbances and public nuisance with empty cups being thrown on my drive as well as fag butts.
- Friday 24<sup>th</sup> July, Very busy with people out the front of the venue. Plenty of shouting from 12am onwards, people causing a public nuisance by blocking the pavements, no social distancing.
- Saturday 25<sup>th</sup> July, Started getting busy at 12am, very noisy with around 40 people out the front, no social distancing, had a complaint from a hotel guest who said she could not sleep because of the noise.
- Sunday 26<sup>th</sup> July was very busy and loud from 11pm. Lots of under age drinking, shouting and chanting football songs. Had one complaint from a guest in my hotel who said she will never stay again as the noise was too much for her and her children.
- Wednesday 29<sup>th</sup> July, a public nuisance with lots of people blocking the pavement, shouting from 12am onwards.
- Thursday 30<sup>th</sup> July, very busy and very loud causing disturbances towards my hotel guests.
- Friday 31<sup>st</sup> July, public nuisance from 12am very busy with around 30 to 40 people out the front a lot of noise at 12.30 there was a fight, no police were called but the bar continued to let the people fighting continue to drink in their premises. At 12.49 another fight broke out which ended up around the corner on Orwell Road, it was very loud for the customers at the back of the hotel which is a crime and disorder.
- Saturday 1<sup>st</sup> August, very busy and very noisy, there was a few fights that both myself and my customers were witnesses to. The police came to the premises three times, the first fight being at 23.40pm which ended up coming outside the front of my hotel. At 23.52pm the second fight started which was the same people that had the first fight again very loud a lot of shouting, police were in attendance and did take someone away but the others were let back into the premises. It continued to be busy out the front until 1.30am there were a lot of people blocking the road and the pavements again causing a public nuisance. There was another disagreement at 1.34am both licenses objectives are covered in respect of the prevention of crime and disorder and the prevention of public nuisance.
- Friday 7<sup>th</sup> August, busy a lot of noise and a large gathering of people on the pavement causing a public nuisance at 1.05 am all shouting very loud.
- Saturday 8<sup>th</sup> August, busy with a lot of noise, they had customers buying drinks from them then going and standing across the road opposite the hotel, they were shouting and singing and being rude to people walking at 12.50am. At 1.02am there were a lot of people on the pavement blocking people's access a man climbed over the fence and was standing in my car park and was not told to move on by their bouncers at any time which was severely affecting the family in the ground floor room. The noise continued then a black jeep pulled up outside at 1.40am where one of the passengers got out and opened all the doors and boot to play very loud bass music to which everybody from next door started to dance. At 1.51am another man climbed over the fence onto my premises outside the ground floor room while talking to the head chef Mustafa who woke two children up in the ground floor room, and guests on the second floor who complained saying the noise had woken her daughter up again. People were still hanging around after 2 am making a noise.
- Tuesday 11<sup>th</sup> August, two of the Clacton Hotel residents were shouting abuse out of the window at the back of the hotel at 11.30am into my garden asking me why I was making so much noise why they were trying to sleep. This was in fact the gardeners in Clearwater Reach Flats. The night did not start to get busy until 11.50pm a lot of shouting which was very loud, there was a fight between two lads in the middle of the road. Continued to get busy at 12.10am a very loud argument going on with a lot of people watching at 1.40am. A lot of people shouting and standing in the road again causing a public disturbance.
- Wednesday 12<sup>th</sup> August, at 12.30pm in the afternoon we had some music on in the back garden for the hotel customers, at 12.44 the same two people shouting from the day before started shouting abuse again but at a customer who was putting their rubbish in the bin. He told them he was on holiday and was just staying at the hotel in which they said they were going to smash him up, so which I went into the garden as the Manager and tried to calm the situation down they continued to shout abuse saying that we were going to pay for waking them up, that we should not have music on, then they started accusing my dad and uncle of being paedophiles and they were going to come for us all just wait and see. At 6.25pm I had a few customers sitting outside the front of the hotel a young boy came down the stairs from the Kassaba and started to linger around the front of my hotel. He was staring out my customers and my family trying to intimidate my brother, he squared up to him saying he was to kick off and smash him up, I got between them and told him to go away, he was on his phone to his friends trying to get them to come down and do us all over. I have a picture of the lad and I also have cctv. (I now know that the lad is Harry and who I believe was 17 years old at the time), why is he allowed to get drunk in the premises when he is only 17?

- Friday 14<sup>th</sup> August, very busy a lot of noise out the front. There was a big fight further down the road at 2.10am which I believe were people from both venues open that night. I believe the police were in attendance.
- Saturday 15<sup>th</sup> August, busy and very noisy from 11.30pm. It was very reassuring to see police officers standing across the road from the venue observing everything. Not long after the police left it then became very noisy until 2am.
- Monday 17<sup>th</sup> August, very noisy, there was a fight at 12.57am. Then another fight at 1.05am which then continued around the corner in Orwell Road causing both a public nuisance and crime and disorder.
- Tuesday 18<sup>th</sup> August, busy very loud with what seems to be full of underage drinkers, there was a fight at 12.40am this went on for ten minutes.
- Thursday 20<sup>th</sup> August, noisy, people outside, very young customers, music playing.
- Friday 21<sup>st</sup> August, a busy night, lot of noise and music playing very loud. Mustafa watched one of the customers climb over the fence and piss up the wall outside my ground floor room, then he climbed back over to next door. I have not recorded this due to the nature. There were very loud arguments from 1.18am which developed into a fight again to around the corner into Orwell Road, police attended. Then more loud shouting started again at 1.39am which then turned into a fight again directed to Orwell Road again this falls under the licensing objectives.
- Saturday 22<sup>nd</sup> August There was a lot of noise again a lot of people in and out and music playing very loud. There was another loud argument, a big crowd outside until 2.30am and I believe drinks were still being served as people were coming outside with fresh drinks.
- Tuesday 25<sup>th</sup> August, busy, the basement downstairs is being used as well as the restaurant, very noisy as the evening went on. At 12.57am the same group that are there every evening left and vandalising the bus stop outside TRUTH. Music was playing very loud. At 1.12am a group of six people left the premises with drinks and came and sat outside my premises on the steps pulling down the table and chairs being noisy. I had to ask them to leave as my son had been woken up yet again.
- Thursday 27<sup>th</sup> August, noisy, argument between a boy in a red jumper and others, the boy in the red jumper was asked to leave but hung around opposite outside the crazy golf.
- Friday 28<sup>th</sup> August, very busy, a lot of noise, at 12.38 there were groups of people dancing outside, there was a fight at 2.20am until 2.40am which ended up outside TRUTH, which we know is not currently open where an ambulance attended.
- Saturday 29<sup>th</sup> August, busy and loud. We had another issue with the same young lad from next door, he is definitely gunning for a fight (Harry). He left the Kassaba very drunk sat outside the wall of my front room window which is not covered by CCTV at 1.06am. I asked him politely to move on but he was getting very loud and refused. At this point my brother came out of his caravan to see what the commotion was and told Harry to leave. I went to the bouncer and asked him to remove Harry from my property to which I was totally ignored by the bouncer and one of the owners. They exchanged words then Harry went and got a group of his friends from Kassaba to come and help him do Wayne over. At this point the bouncer had seen Harry go back to Kassaba to get his group of friends, there was a further commotion to which my aunt had to call the police as the situation was becoming worse. The police arrived at 1.16am they spoke to myself, the officer said he will not be arresting Harry because it is too much paperwork. They put Harry in the car and drove him up the road. In the meantime a group of lads which Harry had gone to get to join the fight was let back in to the Kassaba. It was one of Harry's friends that confirmed to me that Harry was only 17 and a minor and not to touch him. He came back with his friend at 2.00am but saw the police on the corner so left. At 1.50am there was another fight which was very loud and a lot of screaming but yet again was directed towards Orwell Road, the police arrived at 2.00am and was there until 2.30am which woke up everyone in the hotel who had a seaview room. (found out the next day that two of his customers and broken into my garden shed and slept in there until the early hours of the morning, the reason I know this is because the next day the girl came to my hotel to say she had left her back in my shed). (yet again my son was woken up crying).
- Sunday 30<sup>th</sup> August busy and loud, regular group of people outside, arguments/fight at 1.08am, the boy was moved on but lingered across the road outside Clearwater Reach making a noise.
- Tuesday 1<sup>st</sup> September, busy and very loud, there was a commotion involving Harry again with some other man this was kicking off at 10.30pm, it was very loud there were no bouncers, this carried on for ten minutes. The other man left but Harry was allowed to stay in the premises, the police did attend. I do not understand why a licensed premises would continue to let a well known troublemaker back in the premises especially after they had told us he had been barred.
- Friday 4<sup>th</sup> September, busy and noisy, everyone sitting on tables being loud with no social distancing.
- Saturday 5<sup>th</sup> September, very busy from 12am onwards, a lot of drunk people going in and out, there was a fight at 1.40am which started on the corner of Orwell Road/Marine Parade East, these people had been drinking in the premises to which I have CCTV

footage, It ended up across the road. There was another very loud disagreement a lot of shouting involving a man, Harry and the bouncers which continued to shout abuse at the bouncers as he walked past our hotel.

- Monday 7<sup>th</sup> September. A loud disturbance at 1.00am with a lot of shouting between people hanging around on the pavement outside the premises.
- Tuesday 8<sup>th</sup> September, busy and very noisy a lot of groups outside, groups of girls messing around until 1.20am and a lot of people hanging around until 2.00am outside the premises.
- Wednesday 9<sup>th</sup> September, very noisy again a lot of young people, music was being played very loud with a lot of shouting. There were people dancing outside the front the music continued for one and a half hours. At 12.50am there was a disagreement which carried on until 1.08am. Someone who we believe to have been drinking in the premises got in their car and drove mad out of Orwell Road across Marine Parade East onto the pavement and through inbetween the crazy gold to the beach promenade and then reversed back out and drove off. I believe this was reported to the police.
- Thursday 10<sup>th</sup> September, very loud during the day with what looked like under age drinkers playing loud music. Very busy one man got out of a cab very drunk making a lot of noise and they let him in then they kicked him out at 12.00am, then the staff and bouncers were pushing the man down the road.
- Friday 11<sup>th</sup> September, busy and noisy right through until 2.00am.
- Saturday 12<sup>th</sup> September, busy and noisy, large group of people outside on the pavement from 1.30pm, a lot of shouting, people are still sitting out the front past 2.00am making noise.
- Sunday 14<sup>th</sup> September, argument at 9.15pm the same man as the other day.
- Monday 15<sup>th</sup> September, quiet think the premises was shut then from 11.30pm a crowd gathered outside making a noise then the owners turned up and let them in.
- Tuesday 16<sup>th</sup> until 18<sup>th</sup> September, I believe it was closed.
- Saturday 19<sup>th</sup> September, incident with Harry with 22.12pm, Harry left next door's premises and approached myself, my brother and a customer outside the front of my premises getting loud and looking for a disagreement. I tried to calm the situation down which ended up with him walking straight back into next door looking angry. Another incident happened where a boy was having a disagreement with two girls then he walks inside comes out with an empty bottle then smashes it on the wrought iron fence at the property and headed in the direction to Wetherspoons, then the said boy walked back into the premises about ten minutes after and was let back in.

When the premises was used as the Geisha Nightclub from previous owners we never encountered any of these problems. The bouncers, the owners had the place run efficiently and had respect for their surrounding neighbours.

This is really affecting my life and my two children who are aged 14 and 8 it is giving my 8 year old nightmares and anxiety and is very scared when he hears loud voices, it is also affecting my mum who is 67 and feels very intimidated by the customers who are daily regulars and staff next door when walking past to do her daily shop. It is causing stress for my brother who is being intimidated by Harry because he knows my brother will not touch him because he is a minor. My daughter who is very vulnerable and is 14 years of age does not like going past the venue as everyone looks and stares at her, this should not be allowed. I have had regular customers coming here from the day we opened the hotel and have said they will no longer be coming here due to this. My business has taken a big hit this summer not just because of Covid but also because of the noise and disturbances of next door. Regulars that come each year have now cancelled for following dates due to this. I feel the managers and staff are all aware of this situation but are overlooking it and I have tried to be the better person by being professional and work with them to sort out the issues that are ongoing.

Overall this is affecting my personal life, having to live on the maximum of 4 hours sleep a night, as well as my business, which was already struggling due to Covid-19, where I am adhering to all legislations and guidance like most premises in Clacton. I have had to refund money back to customers and I have received numerous letters of complaint not about my hotel but about the establishment next door.

I feel that I have covered all the licensing objectives in respect of the prevention of crime and disorder and the prevention of public nuisance. I have cctv and images if required. Please find attached my customers complaints. Also is it at all possible for myself and a work colleague to attend the review of the premises licence. Please could you contact me to let me know if this is possible.

Kind Regards

Charmaine Gibson,

Manager and Owner of The Pink Palace Hotel.

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## Follow up email from the Pink Palace

**From:** Pink Palace <[pinkpalaceltd@gmail.com](mailto:pinkpalaceltd@gmail.com)>

**Sent:** 25 September 2020 13:35

**To:** Licensing Section <[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)>

**Subject:** review of licence (kassaba restaurant)

Good afternoon,

i have written a representation to the licensing authority (tendring district council) with regards to the application for review of a premises licence for the kassaba restaurant

7-9 marine parade east

clacton on sea

essex

CO15 1ps

i have sent a letter through the post and i will be attaching a copy with this email

kind regards

charmaine

manager of pink palace hotel



# 11. Reviews

## The review process

- 11.1 The proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.
- 11.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the licensing authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 11.3 An application for review may be made electronically, provided that the licensing authority agrees and the applicant submits a subsequent hard copy of the application, if the licensing authority requires one. The licensing authority may also agree in advance that the application need not be given in hard copy. However, these applications are outside the formal electronic application process and may not be submitted via GOV.UK or the licensing authority's electronic facility.
- 11.4 In addition, the licensing authority must review a licence if the premises to which it relates was made the subject of a closure order by the police based on nuisance or disorder and the magistrates' court has sent the authority the relevant notice of its determination, or if the police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.
- 11.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the relevant licensing authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for licensing authorities to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.
- 11.6 Where the relevant licensing authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. As outlined previously in Chapter 9 of this Guidance, the distinct functions of acting as licensing authority and responsible authority should be exercised by different officials to ensure a separation of responsibilities. Further information on how licensing authorities should achieve this separation of responsibilities can be found in Chapter 9, paragraphs 9.13 to 9.19 of this Guidance.

# Appendix 3

- 11.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives. Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 11.8 Where a licensing authority receives a geographic cluster of complaints, the authority may consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the authority may also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 14 of this Guidance.
- 11.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the licensing authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.
- 11.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.
- 11.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the licensing authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of this Guidance (paragraphs 9.4 to 9.10).

## **Repetitious grounds of review**

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

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

- 11.13 Licensing authorities are expected to be aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the licensing authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, it is recommended that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.
- 11.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.
- 11.15 When a licensing authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the 2003 Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](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 promoting the licensing objectives. In addition, there is nothing to prevent a licensing authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. It is expected that licensing authorities will regard such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.
- 11.18 However, where responsible authorities such as the police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, licensing authorities should not merely repeat that approach and should take this into account when considering what further action is appropriate. Similarly, licensing authorities may take into account any civil immigration penalties which a licence holder has been required to pay for employing an illegal worker.
- 11.19 Where the licensing authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

# Appendix 3

- 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)<sup>10</sup>;
- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

- 11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.
- 11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.
- 11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.
- 11.23 Licensing authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the licensing objectives or preventing illegal working. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives and for the prevention of illegal working in licensed premises. But where premises are found to be trading irresponsibly, the licensing authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

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<sup>10</sup> See chapter 15 in relation to the licensing of live and recorded music.

## Reviews arising in connection with crime

- 11.24 A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises, money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.
- 11.25 Reviews are part of the regulatory process introduced by the 2003 Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the licensing authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing objectives. Where a review follows a conviction, it would also not be for the licensing authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.
- 11.26 Where the licensing authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the licensing authority is still empowered to take any appropriate steps to remedy the problems. The licensing authority's duty is to take steps with a view to the promotion of the licensing objectives and the prevention of illegal working in the interests of the wider community and not those of the individual licence holder.
- 11.27 There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:
- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
  - for the sale and distribution of illegal firearms;
  - for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
  - for the illegal purchase and consumption of alcohol by minors which impacts on the health, educational attainment, employment prospects and propensity for crime of young people;
  - for prostitution or the sale of unlawful pornography;
  - by organised groups of paedophiles to groom children;
  - as the base for the organisation of criminal activity, particularly by gangs;

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

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

## **Review of a premises licence following closure order or illegal working compliance order**

11.29 Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- when the licensing authority receives notice that a magistrates' court has made a closure order it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;
- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

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

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

# Tendring District Council



## POLICY FOR DEALING WITH APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003

(revised Oct 2019)

## **FOREWORD**

This is the fourth Statement of Licensing Policy (to be referred to in this document as the Licensing Policy or Policy) produced by Tendring District Council under the Licensing Act 2003, as amended. Since the adoption of the second and third policy statement the Act has been amended.

For example, the amendments have expanded the list of responsible authorities; allowed the imposition of additional mandatory conditions; removed the requirement for certain community premises to have a designated premises supervisor; provided a simplified procedure for minor variations to a premises licence or club premises certificate; provided a summary review procedure in cases of serious crime and disorder; provided new offences and powers in relation to underage sales, empowered local authorities to make early morning alcohol restriction orders; impose a Late Night Levy on premises open after midnight; implemented changes imposed by the Live Music Act, 2012; extended the rights of those who can make representations with regards to both applications and reviews; reduced the evidential burden on licensing authorities in regards to the promotion of the licensing objectives from “necessary” to “appropriate”; amended the limits and requirements of Temporary Event Notices and further de-regulated live music, recorded music and other entertainments. The Licensing Authority is also permitted to re-adopt its policy for dealing with matters under the Licensing Act 2003 every five years, instead of three under changes made by the Government under the Police Reform and Social Responsibility Act 2011.

This fourth policy statement will come into effect from the 9 February 2016 sets out the general approach the Authority will be taking when making licensing decisions during the next five year period up to January 2021. The Policy will be subject to public consultation and scrutiny before its adoption and publication by the Council. It is however proposed that any future legislative changes to the Licensing Act during the five years up to January 2021 will be amended in the policy under delegated authority and it is unlikely to be subjected to further public consultation or comment as a result.

This Policy therefore explains how the Council, acting in its capacity as the Licensing Authority, will seek to balance increased leisure opportunities with the protection that local residents, businesses, visitors to the District and local communities need and expect. References in this Statement of Licensing Policy to the Licensing Act 2003 are references to the Act as amended.

The Council (as the Licensing Authority) recognises its key role in dealing with alcohol related crime and disorder and anti-social behaviour issues and by working closely with our partner organisations such as the Police and Trading Standards to promote the licensing objectives, it has achieved some notable successes in this area. Therefore while it is entirely accepted that the majority of the public are well behaved and responsible and consume alcohol responsibly and that most licensed premises sell or supply alcohol in a responsible way, we must not let a minority of badly behaved and inconsiderate individuals spoil life for the majority.

The Licensing Authority recognises how important the leisure and entertainment industry is to the economic and social well being of the district and well-run businesses will get the support of the Authority. Applications for new leisure developments that are well planned and where issues such as crime and disorder, transport and public safety are considered early in the planning process are welcomed. However, the Licensing Authority has demonstrated on a number of occasions that it will not hesitate in dealing firmly where problems of anti-social behaviour fuelled by excess alcohol and other issues, such as the sale of alcohol to minors, exist.

This Policy will be kept under review and it will no doubt change over a period of time to reflect local issues and circumstances. The Licensing Authority will seek through the licensing process and the decisions it takes, to make Tendring a safe and welcoming place for residents, businesses and visitors to live, work and visit.



**CONTACT FOR FURTHER INFORMATION AND**  
**ALTERNATIVE LANGUAGES AND FORMATS OF THIS POLICY**

If you require an alternative language or format of this Policy or if you would like further information or have any comments on anything contained in the Policy, please contact the Licensing Section on  
**01255 686565**

or write to us at:-

Licensing Section  
88-90 Pier Avenue  
Clacton on Sea  
Essex  
CO15 1TN

or e-mail at: -

**[licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk)**

This Policy is also available on the Council's Website

**[www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)**

**BENGALI**

যদি আপনার এই নথিটি বাংলা ভাষায় প্রয়োজন হয়, তাহলে [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk) এর মাধ্যমে অনুবাদ করে দেওয়ার জন্য অনুরোধ করা যেতে পারে।

**CHINESE**

如果你需要这份文件的简体中文翻译，可以通过[www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk)订购。

**GUJERATI**

જો આ દસ્તાવેજ તમને ગુજરાતીમાં જોઈતું હોય તો [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk) થકી એનું ભાષાંતર ખરીદી શકાય છે.

**HINDI**

यदि आप इस दस्तावेज़ को हिन्दी में चाहते हैं, तो [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk) के माध्यम से अनुवाद का ऑर्डर दिया जा सकता है।

**POLISH**

Jeśli potrzebujesz ten document w J. Polskim, tłumaczenie może być zlecone na stronie [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk)

**TURKISH**

Eğer bu dökümanı Türkçe olarak istiyorsanız, çeviri [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk) yolu ile düzenlenebilir.

**URDU**

اگر آپ کو اس دستاویز کی ضرورت اردو میں ہے تو [www.Tendringdc.gov.uk](http://www.Tendringdc.gov.uk) کے ذریعے اس کے ترجمہ کی فرمائش کی جا سکتی ہے

# TENDRING DISTRICT COUNCIL

## STATEMENT OF LICENSING POLICY

### 1.0 INTRODUCTION

- 1.1 Tendring District Council is the Licensing Authority under the Licensing Act 2003, (as variously amended), and is responsible for granting premises licences, club premises certificates, temporary events notices and personal licences in the District in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. For the purposes of this policy document, when carrying out functions required by the Licensing Act 2003, as amended, Tendring District Council will be referred to as "the Licensing Authority", otherwise Tendring District Council will be referred to as "the Council".
- 1.2 When assessing applications, the Licensing Authority expect to be satisfied that the measures proposed in the applicant's operating schedule positively promote the four licensing objectives. In this policy, bold type refers to matters that the Licensing Authority considers being of particular importance for applicants to take account of when preparing their application and operating schedule, where it is appropriate and proportionate to do so. Passages of text that are not in bold are provided to assist applicants and any other interested parties in understanding what the Licensing Authority is seeking to achieve through the day to day operation of its policy, the factors that influence the promotion of the licensing objectives and the control measures that could be implemented by the applicant to achieve that outcome.
- 1.3 However, it should be recognised that this policy covers a wide variety of premises and activities carried on in them including theatres, cinemas, restaurants, pubs, nightclubs, private members clubs, village halls and community centres, as well as off-licences and late night food premises and vehicles selling hot food or hot drink after 11p.m. For this reason, this policy cannot detail all the factors that influence the achievement of the licensing objectives, nor can this policy detail all the control measures that may be appropriate and proportionate.
- 1.4 Nothing in this Statement of Policy should be regarded or interpreted as an indication that any requirement of law may be over-ridden; each application will be considered in its own right and treated entirely on its own merits.
- 1.5 The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local authority to act in a way that is incompatible with a Convention right. The Licensing Authority will have particular regard to the following relevant provisions of the European Convention on Human Rights:
- Article 6 that in the determination of civil rights and obligations everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
  - Article 8 that everyone has the right to respect for his home and private life; and
  - Article 1 of the First Protocol that every person is entitled to the peaceful enjoyment of his or her possessions.

## **The Licensing Objectives**

- 1.5 The 2003 Act requires the Licensing Authority to carry out its various licensing functions so as to positively promote the four licensing objectives. These are:-
- (a) The Prevention of Crime and Disorder.
  - (b) Public Safety.
  - (c) The Prevention of Public Nuisance.
  - (d) The Protection of Children from Harm.
- 1.6 In respect to the promotion of each of the four licensing objectives, applicants should provide appropriate evidence to the Licensing Authority & other Responsible Authorities that suitable and sufficient measures are detailed in their operating schedule, which will be implemented and maintained, relevant to the individual style and characteristics of their premises and events. Applicants should also consider whether or not any additional measures will be appropriate for an occasional or specific basis, such as when a special event or promotion is planned, which is intended to, or is likely to, attract, larger audiences.

## **Statement of Licensing Policy**

- 1.7 The 2003 Act further requires that the Licensing Authority publishes a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally seek to appropriately and proportionately apply in order to positively promote the licensing objectives when making decisions on applications submitted under the Act.
- 1.8 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act, as amended, and having regard to the revised Guidance issued under Section 182 of the Act, (as amended). It has been drafted in partnership with the Essex Joint Licensing Officers Forum, Tendring Community Safety Partnership and the Essex Drug and Alcohol Partnership. These partnerships provide links to the Essex Chief Executives Association's Crime and Disorder Strategy Group, who will maintain a strategic overview of all issues associated with the Licensing Act 2003.
- 1.9 This Policy Statement took effect on 9 February 2016 and will remain in force for a period of not more than 5 years. It will be subject to review and a further consultation process prior to re-adoption in January 2021. In the interim, changes to legislation or guidance may make it necessary to further review and amend this policy.
- 1.10 When making, publishing and applying its policy, the Licensing Authority must have regard to the Secretary of State's Guidance, as amended. The Licensing Authority may depart from its Licensing Policy if the individual circumstances of any application or case merit such a decision in the interests of the promotion of the Licensing Objectives and if this situation arises the Licensing Authority will give its full reasons for having done so.

## **Consultation**

- 1.11 There are a number of groups who have a stake in the leisure industry, including providers, customers, residents, businesses, visitors to the District, responsible authorities and compliance and enforcement authorities, all of whom may have views and concerns that require consideration as part of the licensing function and promotion of the licensing objectives and who will have had an opportunity to comment on this policy as part of the consultation process. These are in addition to those authorities and agencies that the Council is statutorily required to consult with in accordance with Section 5(3) of the Licensing Act 2003.
- 1.12 In developing this Policy, the Licensing Authority consulted widely. Along with the statutory consultees (including the Chief Officer of Police for the District, the Essex County Fire and Rescue Service and local representative for the Director of Public Health in England) and persons/bodies representative of existing licence and certificate holders, the views of Ward

Councillors, Town and Parish Councils, Business representatives such as the Clacton Town Partnership, known residents associations or groups, Citizens Advice Bureau and known night time economy groups or trade bodies and bodies representing ethnic minority groups, disabled persons and known faith groups were also sought. Appropriate weight and consideration was given to the views of all those who responded to the consultation process.

### **Links to Other Strategies**

- 1.13 In preparing and reviewing this Policy, the Licensing Authority has had regard to, and consulted with, those involved in its local strategies on crime prevention, planning, transport, culture, equality and diversity, tourism and economic development and regeneration, to ensure the proper co-ordination and integration of the aims and actions of these strategies. Relevant review and amendment of these strategies will be considered for their impact on this Statement of Licensing Policy.
- 1.14 To ensure suitable integration with the Council's Planning policies, the Licensing Authority will consult with the Planning Authority on grant applications and full variations of a premises licence or certificate and work closely with the Planning Authority to ensure that the need for compliance with planning requirements are made known to the applicant. As appropriate, the Licensing Authority will liaise and work closely with the Planning Authority and respond to requests for information or to general consultation regarding licensed premises in the District, including the wider impact of alcohol related crime and disorder and anti-social behaviour to enable the Planning Authority to have regard to such matters when making its decisions.
- 1.15. The Council recognises its responsibilities under appropriate equal opportunity and diversity legislation, in particular the Equality Act 2010 and the Race Relations Act, 1976, as amended by the Race Relations (Amendment) Act, 2000. The impact of this policy will be monitored through the Council's equality and diversity policies and strategies and the Licensing Authority will take these responsibilities into account when dealing with applications.

### **Regulated Entertainment**

- 1.16 Having regard to the Live Music Act 2012, the Council's Corporate Plan, 2016-2020, its Cultural Strategy and the International Covenant on Economic, Social and Cultural Rights (ICESCR), a diverse provision of cultural activities is welcomed for the benefit of all communities. The Licensing Authority will monitor the licensing of regulated entertainment, especially with regard to live music and dancing, theatrical performances, etc., to ensure that such events are promoted without unreasonable restrictions being imposed, which would discourage such events. The Licensing Authority may need to balance the natural concern to prevent disturbance in neighbourhoods with the wider cultural benefits, particularly the cultural benefits for children. Advice and guidance on this matter will be sought from the appropriate cultural and leisure services within Tendring District Council and will also include outside forums and town centre managers where appropriate. Licensed Council premises and land are available for the promotion of cultural activities in accordance with, and subject to, established letting arrangements.

### **Applications**

- 1.17 When considering applications, the Licensing Authority will have regard to:-
  - (a) The Licensing Act 2003, as amended and the licensing objectives.
  - (b) Government guidance issued under Section 182 of the Licensing Act 2003, as amended.
  - (c) Any supporting regulations.
  - (d) This Statement of Licensing Policy.

(e) Amendments to the licensing regime brought about by the:

- Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Deregulation Act 2015
- Any other relevant or future legislation that may be introduced by Central Government

1.18 **This does not, however, undermine the rights of any person to apply under the 2003 Act for a variety of permissions and have the application considered in its own right and on its individual merits, nor does it override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the 2003 Act.**

1.19 When the Licensing Authority is considering any application, it will avoid duplication with other regulatory regimes, so far as possible, and does not intend to use the licensing regime to achieve outcomes that can be achieved by other legislation. In particular, its licensing functions will be discharged separately from the Authority's functions as the local planning authority. **However, applications for premises licences for permanent commercial premises should normally be from businesses with appropriate planning consent for the property concerned.** (Other permissions may be applicable to licensed premises and applicants are expected to ensure that such permissions are obtained where necessary.)

1.20 When one part of the Council seeks a premises licence from the Licensing Authority, the Licensing and Registration Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Those making representations who are aggrieved by a positive decision in favour of a Local Authority application by the Licensing Authority will be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision made.

1.21 In all cases, applicants and those making representations in respect of applications to the Licensing Authority have a right of appeal to the Magistrates' Court against the decisions of the Licensing Authority.

1.22 Appendix A of this policy provides applicants with the details of the application process, having regard to the Licensing Act 2003, as amended, the regulations, statutory guidance and local practice and procedures. It should be noted that an incomplete or incorrect application will not be accepted but will be returned with an explanation of why it is incomplete or incorrect. Reasonable assistance and advice on the application process will be given to all applicants if needed, particularly voluntary, charity or community groups and every effort will be made to keep the process as simple and as easy as possible, but an application will only be deemed to be properly served if it has been served as follows below and in accordance with the statutory instrument regulations that cover the submission of applications made under the Licensing Act 2003:-

(a) Hard copy by post and sent to the address shown below:-

Licensing Section  
Tendring District Council  
88-90 Pier Avenue  
Clacton on Sea  
Essex  
CO15 1TN

(b) Hard copy delivered in person to the above address during normal office opening hours, when a receipt will be issued.

- (c) Has been sent to the Licensing Authority by electronic means, in accordance with the EU Services Directive. Applications can be made on line either through using GOV.UK or the Council's own web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) and accessing the licensing home pages.

## Representations

- 1.23 The Chief Officer of Police, the Fire and Rescue Authority, the Licensing Authority, the Enforcing Authority for health and safety purposes, the Local Planning Authority, the authority responsible for Environmental Health, Trading Standards, the Safeguarding Children's Authority and the authority responsible for Public Health are all known as 'Responsible Authorities'. These responsible authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted.
- 1.24 Any other person, (this includes any individual, body or business), regardless of their geographical location or proximity to the premises, or those who are likely to be affected by it, or their representatives, are free to raise relevant representations for or against a grant, full variation or review application. Elected Members of the Licensing Authority may also make representations on behalf of such persons, but may not sit on a Licensing Sub Committee that considers those representations. A representation would only be 'relevant' if it relates to the likely effect or impact of the grant of the licence on the promotion of at least one of the four licensing objectives. In addition, the representation must not be frivolous or vexatious, and in the case of reviews not repetitious.

**It is only when relevant representations are received, that the Licensing Authority may hold a hearing. Where no representations are received, the application must be granted on the terms sought by the applicant.**

## Conditions

- 1.25 Licensing is about the appropriate and proportionate compliance of licensed premises, qualifying clubs, temporary events and the people who manage them or hold personal licences within the terms of the 2003 Act. Where relevant representations are made, the Licensing Authority will seek to make objective judgments as to whether appropriate and proportionate conditions may need to be attached to various authorisations in order to secure achievement of the licensing objectives. Any conditions arising from the operating schedule or as a result of representations will primarily focus on the direct impact of the activities taking place at licensed premises on those attending the premises and members of the public living, working or otherwise engaged in normal activity in the area concerned. These conditions will only cover matters that are within the control of individual licensees and others with relevant responsibilities and which are clear, unambiguous and enforceable.
- 1.26 The Licensing Authority acknowledges that the licensing function cannot ordinarily be used for the general control of nuisance or the anti-social behaviour of individuals once they are beyond the direct control of the licensee of any premises concerned. Other mechanisms may be utilised, where appropriate, to tackle unruly or unlawful behaviour of consumers when beyond the control of the individual, club or business holding the licence, certificate or authorisation concerned. These include:
  - (a) Planning controls.
  - (b) Positive measures to create a safe and clean town environment in partnership with local businesses, transport operators and other services within the Local Authority.
  - (c) The provision of CCTV surveillance in town centres, ample taxi ranks, street cleaning and litter patrols.
  - (d) Use of Local Authority powers to designate relevant parts of the District as places where alcohol may not be consumed publicly other than at premises licensed for 'on' sales.

- (e) Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices.
- (f) The prosecution or issuing of Penalty Notice for Disorder to any personal licence holder, member of staff or person at such premises who is selling alcohol to people who are drunk or under age.
- (g) The confiscation of alcohol from children and adults in designated areas.
- (h) The power of the Police, other responsible authorities or another person or body such as a local resident or business to seek a review of the licence or certificate in question.
- (i) Action under the Violent Crime Reduction Act 2006.
- (j) Use of Police and/or Local Authority powers (under the Anti-Social Behaviour Crime and Policing Act 2014) to close down instantly for 24 hours up to a maximum of 48 hours any licensed premises or temporary events on grounds of disorder or the likelihood of disorder or noise emanating from premises causing a nuisance.

1.27 If an applicant volunteers a prohibition or restriction in their operating schedule because their own risk assessment has determined such prohibition or restriction to be appropriate and proportionate, such volunteered prohibitions or restrictions will become conditions attached to the licence, or certificate and will be enforceable as such.

1.28 The Licensing Authority recognises that all applications should be considered on an individual basis in its own right and on its own merits and any condition attached to such a licence will be tailored to each individual premises, in order to avoid the imposition of disproportionate and other burdensome conditions on those premises. Although the Licensing Authority may maintain a pool of conditions which may be produced to assist applicants and others, standard conditions, other than mandatory conditions, will be avoided and no condition will be imposed that cannot be shown to be appropriate or proportionate for the positive promotion of the licensing objectives.

### **Delegation of Functions**

1.29 With the exception of the approval and review of its Licensing Policy and the making of Early Morning Restriction Orders/Late Night Levy Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how the Licensing Authority will approach its various functions is attached at Appendix B. The Licensing and Registration Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.

### **The Need for Licensed Premises**

1.30 There can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a licensing authority in discharging its licensing functions or for its Statement of Licensing Policy.

### **Cumulative Impact of a Concentration of Licensed Premises**

1.31 “Cumulative impact” means the potential negative impact on the promotion of the licensing objectives of a significant number of licensed premises being concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority to consider when reviewing its Licensing Policy Statement.

1.32 The Licensing Authority acknowledges that a concentration of licensed premises in a particular area can result in an increased number of people walking through or congregating in streets during the night with the potential impact of an increase in alcohol related crime, anti-social behaviour, noise pollution and other disturbance to residents,

together with an increase in littering or fouling. In such cases the amenity of local residents can be placed under severe pressure but this may not be attributable to any individual premises.

- 1.33 The Licensing Authority will only adopt a special policy on cumulative impact if there is relevant documented evidence received or sourced from a variety of sources such as the Police, Environmental Health Authority, residents, Ward Councillors, Parish and Town Council's that a significant number of licensed premises concentrated in one area is resulting in unacceptable levels of alcohol related crime and disorder or public nuisance.
- 1.34 The Licensing Authority, having regard to the evidence currently available, and being aware of other measures that are in particular available to the Local Authority and Police to address such issues, considers that there is no specific part of the District causing a cumulative impact on any of the licensing objectives.
- 1.35 However, the cumulative impact of licensed premises in a particular area may, at a future time, on representation from residents or businesses or a responsible authority, trigger the consideration of whether any additional licences or substantial variations to existing licences, to increase such aspects as capacity or operating hours, would lead to an unacceptable saturation in an area. In such cases, the Licensing Authority will follow the procedure set out in the Secretary of State's Guidance to determine whether a special policy covering cumulative impact should be incorporated in the Statement of Licensing Policy. The onus however will be on the objector or objectors to provide documented evidence that additional licences or the variation of existing licences will provide the cumulative impact that is being claimed.

#### **Late Night Levy**

- 1.36 The Licensing Authority, having regard to the evidence currently available, has decided not to implement a Late Night Levy on licensed premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

#### **Early Morning Restriction Orders**

- 1.37 The Licensing Authority, having regard to the evidence currently available has decided not to impose an Early Morning Restriction Order on any premises in the District. The Licensing Authority will monitor the situation and review its position should circumstances alter.

#### **Advice and Guidance**

- 1.38 The Licensing Authority recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act 2003 provides and welcomes the diversity of activities that are provided by licence holders. In respect of new businesses and developments involving licensable activities, the Licensing Authority welcomes an early opportunity to offer advice and guidance preferably before planning permission has been sought. At this stage, it is often easier and more cost effective to integrate issues such as crime and disorder, transport and public safety into the early design stages. With regard to existing businesses, discussions prior to submitting an application under the Licensing Act 2003 will be encouraged to assist applicants to develop their operating schedule. The Licensing Authority, Essex Police and/or Essex County Fire and Rescue Service will offer as much reasonable advice and guidance to applicants as resources permit.
- 1.39 The Licensing Authority may also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the Licensing Authority's Licensing Team and those from whom they think representations are likely prior to submitting their application.

Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

- 1.40 Appendix C provides details of various organisations, trade associations and reference literature that an applicant may find useful in preparing an operating schedule and running a safe premises/event.

## Reviews

- 1.41 Where possible and appropriate the Licensing Authority and all other Responsible Authorities will give early warning to licence holders of any concerns about problems identified at premises which may undermine, or are undermining, one or more of the licensing objectives and to initiate a dialogue that can lead to a resolution of these problems to the satisfaction of all parties. The review process represents a valuable protection mechanism for residents and the wider community to be able address problems with a specific premises where for instance there is alcohol related crime and disorder or public nuisance and where for example dialogue between the licence holder, responsible authorities or other parties concerned such as residents to prevent or mitigate such problems has not worked.
- 1.42 Responsible authorities, other persons (which could include a resident, business or Ward Councillor for example) can make an application to trigger a review of a premises licence but evidence of the problems being experienced would be required to be presented to the Licensing Authority and an applicant or applicants for a review would ordinarily be expected to be able to substantiate their complaints at a Licensing Sub Committee hearing. Representations must be relevant to one or more of the four licensing objectives and will not be accepted if they are determined by the Licensing Authority to be frivolous, vexatious or repetitious.
- 1.43 No more than one review application from interested parties other than a Responsible Authority will normally be permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

## Enforcement

- 1.44 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Licensing Authority supports the principles of the Department for Business Innovation and Skills Regulators Code designed to regulate for the protection of the vulnerable, the environment, social or other objective and to promote proportionate, consistent and targeted regulatory activity through the development of transparent and effective dialogue and understanding between regulators and those they regulate. A copy of the Regulators Code April 2014 is available to view through the publications page at [www.gov.uk](http://www.gov.uk).
- 1.45 Specifically, the Licensing Authority is committed to accord with the principles of good enforcement practice by carrying out its regulatory functions in a fair, open and consistent manner. These are that businesses should:
- (a) Receive clear explanations from enforcers of what they need to do and by when.
  - (b) Have opportunities to resolve differences before enforcement action is taken  
- unless immediate action is needed.
  - (c) Receive an explanation of their rights of appeal.
  - (d) Regulators should carry out their activities in a way that supports those they regulate to comply and grow
  - (e) Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

- (f) Regulators should base their activities on risk
- (g) Regulators should share information about compliance and risk
- (h) Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- (i) Regulators should ensure that their approach to their regulatory activities is transparent.

1.46 The Licensing Authority recognises the interests of both citizens and businesses and will work closely, with partners, to assist licence holders to comply with the law and the four licensing objectives it seeks to promote. However, proportionate but robust action will be taken against those who commit serious offences or consistently break the law. The Licensing Authority has set clear standards of service and performance that the public and businesses can expect. In particular, a Licensing Enforcement Policy has been adopted that explains how the Council will undertake its role as Licensing Authority and how the principles of effective enforcement will be achieved. This policy is freely available from the Tendring District Council website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) as are details of the Council's corporate complaints procedures.

1.47 The Licensing Authority has established an Enforcement Protocol with Essex Police, Essex County Fire and Rescue Service, and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises that are well operated. A similar protocol has been agreed with Essex County Council Safeguarding Children's Board.

## 2.0 LICENSING OBJECTIVES

2.1 The following sections set out the Licensing Authority's Policy relating specifically to the four licensing objectives:

- (a) The Prevention of Crime and Disorder.
- (b) Public Safety.
- (c) The Prevention of Public Nuisance.
- (d) The Protection of Children from Harm.

2.2 In each section relating to the objectives, the Licensing Authority has defined its intended outcome (in bold type). Each section then lists the influencing factors on the achievement of that objective but, because of the wide variety of premises and activities to which this policy applies, the lists provided are not exhaustive. **Applicants should know their premises best and will be expected to address all aspects relevant to the individual style and characteristics of their premises and events.**

2.3 Further, in each section, a list of possible control measures is provided, to be of assistance to applicants, but again is not intended to be an exhaustive list. Many control measures achieve more than one objective but have not necessarily been listed under each objective. Similarly, applicants will not be expected to mention a control measure more than once in their operating schedule.

2.4 **The selection of control measures, referred to in 2.3 above, should be based upon a risk assessment of the premises, events, activities and the customers expected to attend (e.g. their age, number, etc.).** Whilst the Licensing Authority cannot require such risk assessments to be documented, (although this may be required by other legislation such as a fire safety risk assessment), it considers such documentation to be good practice and a useful tool in the instruction and training of staff, as well as pro-actively assisting the licence holder, in the event of him/her wishing to make application for variation or in response to changing circumstances/conditions at the premises.

2.5 Additional measures may be necessary on an occasional or specific basis such as when a special event (e.g. popular live band) or promotion (e.g. during major sporting occasions) is planned, which is intended to, or likely to attract larger audiences and/or audiences of a

different nature, and which can have a significant impact on the promotion of the licensing objectives. Reference should be made in an applicant's operating schedule, where applicable, to such occasions and the additional measures that are planned in order to achieve the licensing objectives. If they are not, it is more likely that the application or event may receive closer scrutiny from Responsible Authorities as a result.

- 2.6 **The Licensing Authority considers the effective and responsible management of the premises, instruction, training and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority expects that these elements should be specifically considered and addressed within an applicant's operating schedule.**
- 2.7 In addition, the occupancy capacity for premises, and events as appropriate, is also considered to be an essential factor in the achievement for the positive promotion of the four licensing objectives, (except in respect of premises licensed exclusively for the consumption of food and/or alcohol off the premises). The Licensing Authority will expect the issue of occupancy capacity to be considered and addressed, where appropriate, within an applicant's operating schedule. Occupancy capacity of a premises will however ordinarily be a matter for the Fire Authority to consider under the Regulatory Reform (Fire Safety) Order 2005 as part of the premises fire risk assessment, or the Police for example if there are concerns that capacity is impacting on crime and disorder or public nuisance and therefore also impacting on general public safety.
- 2.8 The design and layout of premises are important in determining capacity, as is the availability and size of exits within recommended travel distances. Other factors should also be considered when assessing the appropriate capacity for premises or events. These include:-
- (a) The nature of the premises or event.
  - (b) The nature of the licensable activities being provided.
  - (c) The provision or removal of such items as temporary structures, such as a stage, or furniture.
  - (d) The number of staff available to supervise customers both ordinarily and in the event of an emergency.
  - (e) The age of the customers.
  - (f) The attendance by customers with disabilities, or whose first language is not English.
  - (g) The availability of suitable and sufficient sanitary accommodation.
  - (h) The nature and provision of facilities for ventilation.
- 2.9 The Licensing Authority will consider applications for minor variations to premises licences, provided that the Authority is satisfied that the minor variation will not adversely impact on the licensing objectives and the Licensing Authority will consult with Responsible Authorities or other persons whom they deem appropriate to make such assessment.
- 2.10 The agreement to a capacity for premises or events should not be interpreted as a requirement to also provide permanent monitoring arrangements such as doorstaff, attendance clickers or maintenance of attendance records. The Licensing Authority recognises that the person in charge of the premises can often readily assess the occupancy level of the premises without resort to such measures. However, where the capacity is likely to be reached (such as on known busy evenings) and particularly where a special event or promotion is planned, the applicant will be expected to detail the additional arrangements that will be put in place to ensure that the capacity of the premises is not exceeded.

### 3.0 PREVENTION OF CRIME AND DISORDER

- 3.1 Tendring District Council, through its Corporate Strategy is committed to further improving the quality of life for the people of the District of Tendring by continuing to reduce crime and the fear of crime.
- 3.2 Section 17 of the Crime and Disorder Act 1998 introduced a wide range of measures for preventing crime and disorder and imposed a duty on Tendring District Council, Essex Police, Essex County Council and others to consider crime and disorder reduction in the exercise of all their duties. The Licensing Act 2003, as amended, reinforces this duty for local authorities.
- 3.3 The promotion of the licensing objective, to prevent crime and disorder, places a responsibility on licence holders to become key partners in achieving this objective. **Applicants will be expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and events.**
- 3.4 When addressing the issue of crime and disorder, the applicant should expect to demonstrate that those factors that impact on crime and disorder have been considered. These may include:-
- (a) Underage drinking.
  - (b) Drunkenness on premises.
  - (c) Public drunkenness.
  - (d) Drugs.
  - (e) Violent behaviour.
  - (f) Anti-social behaviour.

#### Control Measures

- 3.5 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (b) Training and supervision of staff including in the use of CCTV systems and retrieval of images.
  - (c) Adoption of best practice guidance (e.g. Safer Clubbing, the National Alcohol Harm Reduction Strategy Toolkit and other voluntary codes of practice, "Security in Design", "Drugs and Pubs" which are published by the British Beer and Pub Association [BBPA])
  - (d) Acceptance of accredited 'proof of age' cards e.g. PASS, locally approved 'proof of age' cards, e.g. 'Prove It' and the Essex County Council BITE card and/or 'new type' driving licences with photographs. E.g. Challenge 25 scheme, an approved ID must be produced as proof of persons being over 18.
  - (e) Provision of effective CCTV in and around premises.
  - (f) Employment of Security Industry Authority licensed Doorstaff.
  - (g) Provision of toughened or plastic drinking vessels.
  - (h) Provision of secure deposit boxes for confiscated items ('sin bins').
  - (i) Provision of litterbins and other security measures, such as lighting, outside premises.
  - (j) Membership of local 'Pubwatch' 'Behave or be Banned' (BOBB) schemes or similar organisations (where they exist).

## Designated Premises Supervisor [DPS]

- 3.6 Within the operating schedule for premises from which alcohol will be sold, with the exception of qualifying community premises, a Premises Supervisor must be designated ("Designated Premises Supervisor") and such person must be in possession of a current Personal Licence. The Licensing Authority will normally expect the Designated Premises Supervisor [DPS] to have been given the day to day responsibility for running the premises by the premises licence holder and, as such, would normally be present on the licensed premises on a regular basis. In addition to the DPS holding a personal licence, the Licensing Authority would strongly encourage the DPS to undergo additional training and to have experience commensurate with the nature and style of entertainment provided and the capacity of the premises.

The Act does not require a DPS or any other Personal Licence Holder to be present on the premises at all times when alcohol is sold. However, the DPS and the Premises Licence Holder remain responsible for the premises at all times and have a duty to comply with the terms of the Licensing Act and any conditions, including the matters set out in the premises' Operating Schedule, in order to promote the Licensing Objectives. To that end, the Licensing Authority will be mindful of the S182 Guidance issued by the Secretary of State, which recommends that a Personal Licence Holder/DPS gives specific written authorisations to those individuals they are authorising to retail alcohol. Although written authorisation is not a requirement of the Act and the Designated Premises Supervisor/Personal Licence Holder remain ultimately responsible for ensuring compliance with the Act and licensing conditions, this action could assist in demonstrating responsible management and due diligence should any issues arise with regard to enforcement. The Licensing Authority will therefore expect that where the Personal Licence Holder/DPS does not have the premises under their immediate day to day control, written authorisations should be issued to staff acting on their behalf, such authorisations being made available for inspection by a responsible Officer of the Licensing Authority or the Police upon request.

## Temporary Events

- 3.7 Certain temporary events whilst not required to be fully licensed must be notified to the Licensing Authority using the Temporary Event Notice procedure. However, depending on the nature and location of such events, these can have serious crime and disorder implications. Organisers of these events are encouraged to submit their notification as soon as reasonably practicable to enable the Police, the Environmental Department and the Licensing Authority to work with them to identify and reduce the risk of crime and disorder, (see Appendix D for details regarding the application process and timescales for the submission of Temporary Event Notices).

## 4.0 PUBLIC SAFETY

- 4.1 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised. **To this end, applicants are expected to demonstrate in their operating schedule that reasonable, appropriate and proportionate measures have been identified and will be implemented and maintained to ensure public safety, relevant to the individual style and characteristics of their premises and events.**
- 4.2 When addressing the issue of public safety, an applicant should expect to demonstrate that those factors that impact on the standards of public safety have been considered. These may include:-
- (a) The occupancy capacity of the premises.
  - (b) The age, design and layout of the premises, including emergency action procedures and means of escape arrangements in the event of fire or other emergencies.

- (c) The nature of the licensable activities to be provided, in particular the sale or supply of alcohol, and/or the provision of music and dancing and including whether those activities are of a temporary or permanent nature
- (d) The hours of operation (differentiating between the hours of opening from the hours when licensable activities are provided, if these are different)
- (e) The Customer profile (e.g. age, disability)
- (f) The use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) Compliance with the Disability Discrimination Act etc.

## **Control Measures**

4.3 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-

- (a) Suitable and sufficient risk assessments.
- (b) Effective, responsible and pro-active management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
- (c) Provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons such as SIA registered Door staff.
- (d) Appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons including in the use of CCTV systems and retrieval of images.
- (e) Adoption of best practice guidance (e.g. Guide to Fire Precautions in Existing Places of Entertainment and Like Premises, The Event Safety Guide, Safety in Pubs published by the BBPA).
- (f) Provision of effective CCTV in and around premises.
- (g) Provision of toughened or plastic drinking vessels.
- (h) Implementation of crowd management measures.
- (i) Proof of regular testing (and certification where appropriate) of procedures, appliances, systems etc., pertinent to safety.

## **5.0 PREVENTION OF PUBLIC NUISANCE**

5.1 Licensed premises, if poorly or irresponsibly managed, can have a significant potential to impact adversely on communities through public nuisances that might arise from their operation. The Licensing Authority wishes to maintain and protect the amenity of residents and other businesses from the consequence of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.

5.2 The Licensing Authority intends to interpret “public nuisance” in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in an area.

5.3 Applicants need to be clear that the Licensing Authority may apply stricter conditions, including controls on licensing hours, where licensed premises are in residential areas and where relevant representations have been received. Any such measures should be appropriate and proportionate to the individual nature of the premises and how it intends to operate. E.g. its hours of opening, its alcohol sales and its licensable activities. It may also take into account the location of the premises. For instance, if a shop or supermarket wished to open in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further.

For example the individual off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of very low cost super strength lagers, beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on 'Reducing the Strength' schemes and the Competition and Market Authority guidance to retailers dated March 2015. Conversely, premises for which it can be demonstrated have effective controls and measures in place, or are proposed to prevent public nuisance, may be suitable for 24-hour opening for example.

- 5.4 In the case of shops, stores and supermarkets selling alcohol, the Licensing Authority will normally permit the hours during which alcohol is sold to match the normal trading hours during which other sales take place, unless there are exceptional reasons relating to disturbance or disorder. For instance, if a shop or supermarket wished to open for longer hours in a location selling alcohol where there were existing known street drinking problems and alcohol related disorder and anti- social behaviour, the Licensing Authority will welcome the applicant individually and voluntarily working with the Licensing Authority and other Responsible Authorities in taking appropriate measures to reduce the existing problems, or at the very least not to contribute to them further. For example the off sale outlet in question may voluntarily offer not to sell very low cost, non- craft, super strength lagers, beers or ciders with an ABV of 6.5% or over, or not sell single cans of low cost super strength lagers, beers or ciders. Any such partnership working must however fully comply with for example; the Local Government Association guidance to Local Authorities dated December 2014 on 'Reducing the Strength' schemes and the Competition and Market Authority guidance to retailers dated March 2015.
- 5.5 Applicants will be expected to demonstrate in their operating schedule that appropriate and proportionate measures have been identified and will be implemented and maintained to prevent public nuisance, relevant to the individual style and characteristics of their premises and events.
- 5.6 When addressing the issue of prevention of public nuisance, the applicant should demonstrate that those factors that impact on the likelihood of public nuisance have been considered. These may include:-
- (a) The location of premises and proximity to residential and other noise sensitive premises, such as hospitals, hospices and places of worship.
  - (b) The hours of operating, particularly between 23.00 and 07.00.
  - (c) The nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside premises.
  - (d) The design and layout of premises and in particular the presence of noise limiting features.
  - (e) The occupancy capacity of the premises.
  - (f) The availability of public transport.
  - (g) A 'wind down period' between the end of the licensable activities and closure of the premises.
  - (h) A last admission time.

### **Control Measures**

- 5.7 The following examples of control measures are given to assist applicants who may need to take account of them in their operating schedule, having regard to their particular type of premises and/or activities:-
- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.

- (b) Appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance, e.g. to ensure customers leave quietly.
- (c) Control of operating hours for all or parts (e.g. garden areas) of premises, including such matters as deliveries, collections and clearing up of glasses or bottles.
- (d) Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Noise from Pubs and Clubs, produced by the Institute of Acoustics, Licensed Property: Noise, published by BBPA).
- (e) Installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices.
- (f) Management of people, including staff, and traffic (and resulting queues) arriving and leaving premises.
- (g) Liaison with public transport providers.
- (h) Sighting of external lighting, including security lighting.
- (i) Management arrangements for collection and disposal of litter including the provision of appropriate receptacles.
- (j) Clearly showing the name of the premises on all disposable packaging used for takeaway food and/or hot drinks.
- (k) Effective ventilation systems to prevent nuisance from odour.

## **6.0 PROTECTION OF CHILDREN FROM HARM**

- 6.1 The protection of children from harm is a most important issue. It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 6.2 The general relaxation in the Licensing Act 2003, as amended, giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 6.3 The protection of children from harm includes the protection of children from moral, psychological and physical harm and in relation to the exhibition of films, or transmission of programmes or videos, this includes the protection of children from exposure to strong language and sexual expletives. In certain circumstances children are more vulnerable and their needs will require special consideration. Examples would include topless bar staff, striptease, lap, table or pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. This vulnerability includes their susceptibility to suggestion, peer group influences, inappropriate example, the unpredictability of their age and the lack of understanding of danger. This applies to premises licensed under the Licensing Act, 2003, as amended, only and not those fully licensed and regulated as sexual entertainment venues under the Local Government (Miscellaneous Provisions Act) 1982.
- 6.4 The Licensing Authority considers that there should be no presumption of giving or preventing children's access to licensed premises. Unless it is appropriate for the prevention of physical, moral or psychological harm following relevant representation, particularly where a responsible authority is engaged, the Licensing Authority has no intention of imposing conditions prohibiting or restricting the admission of children. Where no licensing restriction is appropriate, admission of children will remain entirely a matter for the discretion of the individual licensee or club, or person who has given a Temporary Event Notice.
- 6.5 **Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.**

6.6 Whilst children may be adequately protected from harm by the action taken to protect adults, they may also need special consideration and no policy can anticipate every situation. When addressing the issue of protecting children from harm, the applicant must demonstrate that those factors that impact on harm to children have been considered. Areas that will give particular concern in respect of children include:-

- (a) Where entertainment or services of an adult or sexual nature are commonly provided;
- (b) Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- (c) Where requirements for proof of age cards or other age identification to combat the purchase of alcohol by minors is not the norm;
- (d) With a known association with drug taking or dealing;
- (e) Where there is a strong element of gambling on the premises, and
- (f) Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

### **Control Measures**

6.7 The following examples of control measures are given to assist applicants and are considered to be amongst the most essential that applicants should take account of in their operating schedule, having regard to their particular type of premises and/or activities:-

- (a) Effective and responsible management of premises including for example, sufficient numbers of staff who hold a Personal Licence qualification.
  - (b) Provision of a sufficient number of people employed or engaged to secure the protection of children from harm.
  - (c) Appropriate instruction, training and supervision of those employed or engaged to secure the protection of children from harm.
  - (d) Adoption of best practice guidance (Public Places Charter, The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks).
  - (e) Limitations on the hours when children may be present in all or parts of the premises.
  - (f) Limitations or exclusions by age when certain activities are taking place (e.g. feigned or actual sexual acts or fetishism, etc.).
  - (g) Imposition of requirements for children to be accompanied by an adult.
  - (h) Acceptance of accredited 'proof of age' cards and/or 'new type' driving licences with photographs.
  - (i) Measures to ensure children do not purchase, acquire or consume alcohol.
  - (j) Measures to ensure children are not exposed to incidences of violence or disorder.
  - (k) Limitations on the parts of premises to which children might be given access.

These examples can be adopted in any combination.

### **Film Exhibitions**

6.8 In the case of film exhibitions, if relevant representations are made, the Licensing Authority will expect licence and certificate holders and those who have given notice of a Temporary Event within the terms of the 2003 Act to implement measures that restrict children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Council. In the case of a film exhibition that has not been classified, the Licensing Authority will expect the licensee to conduct an assessment of the suitability of the film for exhibition to children and to implement measures that restrict viewing by children if appropriate.

6.9 If relevant representations are made and it is considered appropriate and proportionate for the promotion of the licensing of the licensing objective, the Licensing Authority may require that adult supervisors be checked for suitability to work with children.

- 6.10 The Licensing Authority will rarely impose complete bans on access to children. However, in exceptional circumstances where relevant representations have been made, conditions restricting access or excluding children completely may be considered appropriate for the promotion of the licensing objective.

## APPENDIX A

### DETAILS OF APPLICATION PROCESS

#### GENERAL INFORMATION

##### **1. GRANT OF A PREMISES LICENCES**

- (a) All applications to be made under the provisions of the Licensing Act 2003, as amended, must be made in the form specified by the Secretary of State and appropriate application packs will be issued. Details of how to submit an application online can be found on the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk).
- (b) Guidance Notes providing full details of how to apply, documentation required and other information designed to assist applicants with the submission of their application will accompany the application pack. Further information can be obtained on the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk).
- (c) On receipt of an application, the Licensing Authority will check the form and the accompanying documents to ensure that their copy of the application is complete. If the application is not complete, the application will be rejected and all documentation, including the fee, will be returned to the applicant together with an explanation of why the application cannot be accepted. If the application is submitted electronically and is found not to be complete the applicant will be notified, by e-mail, that the application has been rejected.
- (d) Copies of all applications submitted to the Licensing Authority, in paper format (hard copy), must also be forwarded to the Responsible Authorities as detailed in the Guidance Notes at the same time that the application is sent to the proper office of the Licensing Authority as shown in the Licensing Policy. The Responsible Authorities' contact details are also included in Appendix 'C' attached to the Licensing Policy. An application is not deemed as complete unless the Responsible Authorities have been served and received a copy of the application, together with any supporting documents and plan(s) of the premises, on the same day that the application is submitted to the Licensing Authority. For applications submitted online the Licensing Authority will forward copies of complete applications to the Responsible Authorities. Details of how to apply on line can be found through the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or through GOV.UK.
- (e) The Licensing Authority will notify the Responsible Authorities that an application has been received and will request confirmation that they have received their copy. If a copy of the application has not been received by any of the consultees by noon the day following the submission of the application to the Licensing Authority, the application will be rejected and all documents, including the fee received by the Licensing Authority will be returned. This will mean that the applicant will have to submit a completely new application.
- (f) If the application is confirmed as being complete, with the Responsible Authorities having received their copy of the application together with any supporting documentation, then the timescale laid down by the Government will commence, namely, that an application for the grant or variation of a Premises Licence must be determined within a period of two months from the date a complete application is received, otherwise the application will be deemed as granted (under the EU Services Directive this is known as a Tacit Consent).

- (g) The applicant and the Licensing Authority will be informed by the relevant consultee whether or not the application is valid, i.e. that their relevant Licensing Objective has been fully met within their business Operating Schedule and if a representation [objection] is to be lodged. If a relevant representation is received a date will be set for the application to be heard by the Premises/Personal Licences Sub-Committee. In the meantime, if it is possible to do so, the applicant and the consultee are encouraged to make contact with one another to see if there is common ground between them whereby the applicant could offer measures that may mitigate the objection and lead to a withdrawal of representation and therefore make a hearing unnecessary for all parties concerned. The Licensing Authority is happy to facilitate such mediation if asked to do so and if it is possible to do so.
- (h) On the day that the application has been submitted, a notice to that effect has to be displayed on the premises for a period of 28 continuous days so that members of the public may be aware that an application has been submitted to the Licensing Authority allowing them to make representations if they so wish. The notice must be coloured blue and shall be no less than a minimum of A4 in size with a type size of not less than 12 pitch. The application will also be required to be advertised in a local newspaper in the area in which the premises are situated. If a representation is received which is relevant to one of the four Licensing Objectives, a Hearing will be required. A date for the Hearing will be set and all parties will be advised.
- (i) If no representations are received from any source by the relevant expiry date, the application will be dealt with by Council Licensing Officers and the licence issued on the terms and conditions as requested.
- (j) If an application is heard by a Licensing Sub Committee, the decision and the reasons that the Committee has arrived at that decision will be given in writing to all parties as soon as possible after the decision has been reached. The decision will be given verbally at the hearing. Any party who disagrees with the decision of the Licensing Authority has the right of appeal to the Magistrates' Court and they will be informed of their right of appeal when they receive notification of that decision.

## **2. VARIATION OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online.
- (b) The application procedure for the variation of a Premises Licence will follow the same procedural steps as for the grant of a Premises Licence as set out in 1, above. The exception being that of a Minor Variation Application. Applicants for a Minor Variation are advised to contact the Licensing Section, 01255 686565 or by e-mail, [licensingsection@tendringdc.gov.uk](mailto:licensingsection@tendringdc.gov.uk), for advice prior to submission as it is at the discretion of the Licensing Authority whether it will accept a minor variation and there are criteria under which the Licensing Authority cannot accept a variation to the licence as a minor variation. It is therefore best to have an initial dialogue with the Licensing Authority before applying.
- (c) The Act states that a licence may neither be varied so as to extend the period for which the current licence has effect nor to seek to vary substantially the premises to which the existing Licence(s) relates. If applicants are in any doubt as to whether they should apply for a variation of their Premises Licence or make a grant application, they should seek advice from the Licensing Authority.

### **3. TRANSFER OF A PREMISES LICENCE**

- (a) The appropriate application pack will be issued, together with guidance notes, which will state the documents required to be submitted with the application. Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) Although procedural arrangements follow those set out in 1. above, it should be noted that only the Police Authority must be consulted and receive a copy of the application and that the period for the receipt of representations from this source is 14 days. For applications submitted electronically the Licensing Authority will serve a copy of the application on the Police Authority.
- (c) If no representations are received, the application will be granted in accordance with 1(i) above.
- (d) If a representation is received then a Hearing will be arranged in accordance with the procedure set out in 1. above.

### **4. DESIGNATED PREMISES SUPERVISOR**

#### **GRANT/SUBSTITUTION OF DESIGNATED PREMISES SUPERVISOR**

Where a licensable activity includes the sale of alcohol, the applicant has to include in his application details of the person he wishes to be specified in the Premises Licence as the Designated Premises Supervisor, unless the premises are Community Premises and a dispensation has been sought. Should it be necessary to request that the licence be varied so as to substitute another person to act as the Designated Supervisor the following procedure is to be adopted:-

- (a) An application shall be submitted to the Licensing Authority in the specified format, together with the documentation specified in the Guidance Notes. Applications can also be submitted online.
- (b) A copy of the notice shall be served upon the Police Authority. For applications submitted electronically the Licensing Authority will serve a copy of the notice on the Police Authority.
- (c) A copy of the notice shall be served upon the Designated Premises Supervisor [if there is one]
- (d) It will be necessary to state whether the application requires the variation to take immediate effect.
- (e) The procedure for determining the application follows the normal procedure set out in 3. above in that, if there are no representations from the Chief Officer of Police, the application must be granted.
- (f) If representations are received, the Licensing Authority will notify all parties and, unless the representation is withdrawn, a Hearing will be held in accordance with the procedure already detailed in this Appendix.

#### **REMOVAL OF DESIGNATED PREMISES SUPERVISOR**

- (a) Where an individual wishes to cease being the Designated Premises Supervisor in respect of a Premises Licence he or she may give the Licensing Authority notice to that effect, the notice to be in writing together with the documentation required for the particular type of notice being given and detailed in the Guidance Notes.

Applications can also be submitted online through the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.

- (b) Within 48 hours of the notice being served upon the Licensing Authority, the individual must [unless he or she is the Premises Licence holder] serve a copy of the notice and another notice requiring the Premises Licence holder to send the Premises Licence to the Licensing Authority. The Premises Licence holder must comply with this request within 14 days of that notice.
- (c) Provided that the proper notices are served and documentation supplied within the specified timescales, the Licensing Authority will no longer treat that individual as the Designated Premises Supervisor.

## **5. PROVISIONAL GRANT APPLICATIONS**

The Licensing Act 2003, as amended, permits the granting of Provisional Licences to allow applications to be accepted for the grant of a Premises Licence where the actual premises has not been built or where works are necessary to be carried out to bring the building into use for any purposes covered by the Act. Guidance notes will be available for those persons wishing to make this type of application and may be obtained from the Licensing Authority upon request.

## **6. INTERIM AUTHORITY NOTICES**

- (a) Should a Premises Licence lapse due to the death, incapacity or insolvency of the licenceholder, then an application may be made to the Licensing Authority for an Interim Authority Notice to enable the premises to continue to trade pending a transfer application being made. This may be made in paper format or electronically through the licensing pages of the Council's website [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk) or via GOV.UK.
- (b) An application may be submitted by a Personal Representative, a person holding a Power of Attorney or an Insolvency Practitioner.
- (c) As soon as the Interim Authority Notice is given, the Premises Licence will be reinstated as from that time and the person who gave the notice will be considered to be the holder of the Premises Licence.
- (d) The Premises Licence will lapse after a period of 28 days unless a copy of the notice has been given to the Chief Officer of Police or a Transfer application has been submitted to the Licensing Authority.
- (e) If no representation is received, the application will be processed by Officers of the Licensing Authority.
- (f) If the Chief Officer of Police wishes to object to the transfer on the grounds that it will undermine the Crime and Disorder Licensing Objective he must, within 2 working days of receiving the notice, give notice to the Licensing Authority stating the reasons for this decision and, unless the representation is withdrawn, a Hearing will be arranged in accordance with the procedure set out above.
- (g) There is nothing to prevent the person giving the Interim Authority Notice from making a transfer application if it is made during the Interim Authority period or if the application for the Interim Authority application is rejected or withdrawn or if the licence lapses again at the time of rejection or withdrawal.
- (h) In certain circumstances, the Interim Authority Notice may be cancelled if the Crime and Disorder objective is being undermined and the Act provides the procedure which must be followed in this event.

## **7. REINSTATEMENT OF LICENCE**

The Act provides that an application for the reinstatement of a licence following the events set out in Paragraph 6 above can be made when the Interim Authority Licence ceases to have effect when it is cancelled or withdrawn.

The application must be made no later than seven days after the licence has lapsed and where an application for transfer has been made.

## **8. GRANT OF A PERSONAL LICENCE**

- (a) An application for the grant of a personal licence:-
  - (1) must, if the applicant is ordinarily resident in the area of a licensing authority, be made to that authority, and
  - (2) may, in any other case, be made to any Licensing Authority.
- (c) The application should be accompanied by the required supporting documentation or a statement as to why such documents are not being supplied.
- (e) Only one Personal Licence may be held by an individual at any one time.
- (f) The criteria to be met for the grant of a Personal Licence will be contained in the appropriate application pack.
- (g) Where the criteria are not met with regard to age, qualifications or forfeiture of a personal licence, the application will be rejected. In circumstances where the applicant has been convicted of a relevant offence under Schedule 4 of the Licensing Act 2003, the Chief Officer of Police will be notified. If a representation is received from that source under the Crime and Disorder objective and is not withdrawn, or considered by the applicant, the Police and the Licensing Authority to be unnecessary, then a Hearing of the Council's Licensing Sub Committee will be held to determine the application.

## **9. Applications Submitted Electronically.**

All online applications must be submitted by way of the ELMS Portal provided by Business Link UK. For further information, please go to GOV.UK or the licensing pages of the Council's web site [www.tendringdc.gov.uk](http://www.tendringdc.gov.uk)

## APPENDIX B

### DELEGATION OF FUNCTIONS

Matter to be dealt with	Licensing and Registration Committee	Premises/Personal Licences Sub-Committee	Officers
Application for Personal Licence		If a Police objection	If no objection made
Application for Personal Licence with unspent convictions		All cases	
Application for Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application for Provisional Statement		If a relevant representation made	If no relevant representation made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation made	If no relevant representation made
Application to vary Designated Premises Supervisor		If a Police objection	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a Police objection	All other cases
Applications for Interim Authorities		If a Police objection	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when Local Authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a Police objection to a Temporary Event Notice		All cases	

## APPENDIX C

### BIBLIOGRAPHY OF USEFUL CONTACTS / INFORMATION

	<b>ORGANISATION</b>	<b>CONTACT ADDRESS</b>	<b>TELEPHONE</b>
1.	The Licensing Authority <b>[Responsible Authority]</b>	The Licensing Team 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN	☎ 01255 686565
2.	Essex Police <b>[Responsible Authority]</b>	Licensing Department (Alcohol) Essex Police Braintree Essex CM7 3DJ	☎ 101 or 01245 452035 e-mail: <a href="mailto:licensing.applications@essex.pnn.police.uk">licensing.applications@essex.pnn.police.uk</a>
3.	Essex County Fire and Rescue Service <b>[Responsible Authority]</b>	Essex County Fire and Rescue Service Colchester and Tendring Community Command Colchester Fire Station Cowdray Avenue Colchester Essex CO1 1XT	☎ 01376 576600  e-mail <a href="mailto:colchesterdp@essex-fire.gov.uk">colchesterdp@essex-fire.gov.uk</a>  <a href="http://www.essex-fire.gov.uk">www.essex-fire.gov.uk</a>
4.	Planning Services <b>[Responsible Authority]</b>	Tendring District Council Planning Services Council Offices Thorpe Road Weeley Essex CO16 9AJ	☎ 01255 686123
5.	Environmental Health [Noise Pollution and Premises Inspections] <b>[Responsible Authority]</b>	Environmental Department 88-90 Pier Avenue Clacton on Sea Essex CO15 1TN	☎ 01255 686767
6.	Essex County Council Social Services <b>[Responsible Authority]</b>	Head of Child Protection [Licensing Applications] Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS	☎ 01245 436744
7.	Public Health <b>[Responsible Authority]</b>	Public Health Team Essex County Council Essex House 200 The Crescent Colchester Essex CO4 9YQ	☎ 07921 397530
8.	Essex Trading Standards <b>[Responsible Authority]</b>	Business Support Team Essex Trading Standards Essex County Council CG32 County Hall Chelmsford Essex CM1 1QH	☎ 01245 341888

9.	Arts Council England	Arts Council England 14 Great Peter Street London SW1P 3NQ	☎ 0845 300 6200 <a href="mailto:enquiries@artscouncil.org.uk">enquiries@artscouncil.org.uk</a>
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			<a href="http://www.artscouncil.org.uk">www.artscouncil.org.uk</a>
10.	Association of Licensed Multiple Retailers (Includes BEDA)	9B Walpole Court Ealing London W5 5ED	☎ 020 8579 2080 <a href="mailto:info@almr.org.uk">info@almr.org.uk</a> <a href="http://www.almr.org.uk">www.almr.org.uk</a>
11.	British Beer and Pub Association	Market Towers 1 Nine Elms Lane London SW8 5NQ	☎ 020 7627 9191 <a href="mailto:web@beerandpub.com">web@beerandpub.com</a> <a href="http://www.beerandpub.com">www.beerandpub.com</a>
12.	British Board of Film Classification	3 Soho Square London W1D 3HD	☎ 020 7440 1570 <a href="mailto:helpline@bbfc.co.uk">helpline@bbfc.co.uk</a> <a href="http://www.bbfc.co.uk">www.bbfc.co.uk</a>
13.	British Institute of Innkeeping	Wessex House 90 Park Street Camberley GU15 3PT	☎ 01276 684449 <a href="mailto:reception@bii.org">reception@bii.org</a> <a href="http://www.bii.org">www.bii.org</a>
14.	Tendring Community Safety Partnership	Community Safety Manager Tendring District Council Council Offices Weeley Essex CO16 9AJ	☎ 01255 686359
15.	Essex Racial Equality Council	13 Northlands Pavement Pitsea Centre Basildon Essex SS13 3DU	☎ 01268 465068 <a href="http://www.essexrec.org.uk">www.essexrec.org.uk</a>
16.	Equity	Guild House Upper Martins Lane London WC2H 9EG	☎ 020 7379 6000 <a href="mailto:info@equity.org.uk">info@equity.org.uk</a> <a href="http://www.equity.org.uk">www.equity.org.uk</a>
17.	Institute of Acoustics	3 <sup>rd</sup> Floor St Peters House 45-49 Victoria Street St Albans Herts. AL1 3WZ	☎ 01727 848195 <a href="mailto:ioa@ioa.org.uk">ioa@ioa.org.uk</a> <a href="http://www.ioa.org.uk">www.ioa.org.uk</a>
18.	Musicians Union	60-62 Clapham Road London SW9 0JJ	☎ 020 7840 5537 <a href="mailto:eastsoutheast@musiciansunion.org.uk">eastsoutheast@musiciansunion.org.uk</a> <a href="http://www.musicians.org.uk">www.musicians.org.uk</a>
19.	Security Industry Authority	PO Box 8 Newcastle Upon Tyne NE82 6YX	☎ 08702 430100 <a href="http://www.sia.homeoffice.gov.uk">www.sia.homeoffice.gov.uk</a>
20.	The Portman Group	7-10 Chandos Street Cavendish Square London W1G 9DG	☎ 020 7907 3700 <a href="mailto:info@portmangroup.co.uk">info@portmangroup.co.uk</a> <a href="http://www.portmangroup.org.uk">www.portmangroup.org.uk</a>

## APPENDIX D

### TEMPORARY EVENT NOTICES

#### APPLICATION PROCESS / TIMESCALES

##### TEMPORARY EVENT NOTICES

If an event is to be held at a premises where the Premises Licence does not authorise the activity involved and/or for the times and days sought, an application should be made to the Licensing Authority for a Temporary Event Notice. The aim of the Temporary Event process is to minimise the regulatory burden on such events, this can be especially pertinent where they are run by community or charity groups.

The main points to bear in mind are:-

- ❑ Anyone aged 18 or over may apply to hold a Temporary Event [TEN] and, if the supply of alcohol is involved, they do not have to possess a Personal Licence.
- ❑ The applicant must be over 18 years old.
- ❑ The period of time over which the event is to be held must not exceed 168 hours.
- ❑ The maximum number of people attending the event, including staff, should not exceed 499 at any one time. If more than 499 people are to attend the event, then a Premises Licence would be required.
- ❑ There must be a minimum period 24 hours between one TEN and the next TEN.

The number of times that a premises may be used for a TEN or that an individual may apply for a TEN are restricted as follows:-

- ❑ The same premises cannot be used on more than 15 occasions in any calendar year. Also, each premises is subject to an overall aggregate of 21 days' use, irrespective of the number of individual occasions on which they have been used.
- ❑ The number of notices given by one individual within a given period of time is limited:-
  - (i) A Personal Licence Holder is limited to 50 Temporary Event notices (10 of which may be Late Temporary Event notices) in one calendar year, which is deemed to run from 1 January in each year.
  - (ii) Any other person is limited to 5 Temporary Event notices (2 of which may be Late Temporary Event notices) in the same period.
  - (iii) A Late Temporary Event Notice must be given no later than 5 working days and no sooner than 9 working days before the event.  
[N.B. This limitation applies to England and Wales, not just this Licensing Authority]
- ❑ There is also a limitation attached to 'Associated Persons' in order to prevent the above restrictions being exceeded. Generally, an Associated Person would be deemed to include the immediate family, down to child, parent, grandchild, brother or sister, an agent or employee of the original applicant and the agent's or employee's spouse.

**IF YOU ARE IN ANY DOUBT WITH REGARD TO THE ABOVE, PLEASE CONTACT THE LICENSING SECTION FOR ADVICE.**

##### APPLICATION PROCESS

The application form should be completed in accordance with the printed instructions accompanying the form. An application fee of £21.00 is required to accompany the application and the form should be submitted in duplicate to the Licensing Authority, one copy of which will be returned to you signed on behalf of the Licensing Authority and a copy of the application form should also be sent to the Police. Applications can also be submitted online. In such cases the Licensing Authority will forward a copy to the Police.

You **must** give a full ten **working** days' notice prior to the event being held (a minimum of 5 working days in the case of a Late Temporary Event Notice) as; otherwise, your application will be rejected. Only the Police or Environmental Health are permitted to object to the granting of a Temporary Event Notice/Late Temporary Event Notice, however, if the granting of the application would exceed any of the limitations/conditions set out above, the Licensing Authority may issue a Counter Notice, which will cancel the Temporary Event Notice/Late Temporary Event Notice that has been submitted. The Licensing Authority is allowed to give advice on Noise, Nuisance or Health & Safety issues, etc., and applicants are advised to contact the Authority for such advice.

If the Police or Environmental Department wishes to object to the application, they must do so within 3 working days of the notification being received and in this case a Hearing will be convened of the Council's Licensing Sub Committee unless all parties, following discussions, agree that this will not be necessary. Any decision made at the hearing must be given no later than 24 hours before the date of the event. **The Licensing Sub Committee can attach conditions to the grant of a TEN if it is considered appropriate and proportionate to promote the licensing objectives, but only where those conditions already exist on a premises licence or club premises certificate.** If the Licensing Authority upholds the Police or Environmental Health representation, then a Counter Notice will be issued giving the reasons for the decision and copies of the Notice will be given to the Police and/or the Environmental Health Authority. However, if the Temporary Event notice/Late Temporary Event Notice is in order and no Counter Notice is given, the Licensing Authority will record the event in the Licensing Register and the event will proceed.

#### **Service of Temporary Event Notice/Late Temporary Event Notice.**

In order for your Notice to be deemed as having been properly served, you should proceed in accordance with the Temporary Event procedures set out at the end of the application form. The form should be completed in accordance with the instructions contained in the form, which should be submitted as follows:-

- (a) One copy to the Licensing Authority at the following address:

The Licensing Officer, Licensing Section, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1TN

- (b) One copy to Essex Police at the following Address:

Licensing Department (Alcohol), Essex Police, Braintree, Essex, CM7 3DJ

- (c) One copy to Environmental Department at the following address:

Environmental Department, 88-90 Pier Avenue, Clacton on Sea, Essex, CO15 1TN

For applications submitted electronically the Licensing Authority will forward a copy to Essex Police and Environmental Department. On line applications can be made through the licensing pages of the Council's web site or via GOV.UK.

**N.B.** When accepting an application for a Temporary Event Notice/Late Temporary Event Notice, the Licensing Authority will assume that the applicant has ensured that all the necessary permissions and planning consents have been obtained to enable the particular event to take place.

## **Appeals**

If, in the case of a Temporary Event Notice, as a result of Essex Police/Environmental Health lodging a representation, the Licensing Authority issues a Counter Notice, the premises user has the right of appeal. However, there is no right of appeal if a representation is made against a Late Temporary Event Notice or where the limits have been exceeded with regard to the number of persons attending the event or where the applicant has not given the required ten working days' notice (or minimum 5 working days notice in the case of a Late Temporary Event Notice).

Similarly, if the Police/Environmental Health lodge a representation and the Licensing Authority do not issue a Counter Notice, the Police/Environmental Health may appeal against that decision.

In both cases the appeal is made to the Magistrates' Court within 21 days, commencing on the day which either party was notified of the decision either to issue - or not issue - a Counter Notice. However, no appeal may be brought later than 5 working days before the first day of the relevant event period.