

**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> Bentley's of Clacton (Pulse /Truth Nightclub) 5 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> Bentley's of Clacton Ltd Company number 11163318
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<b>Number of premises licence or club premises certificate (if known)</b> 18/00146/PREMVA
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**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

Name and address  William Moody on behalf of the Chief Officer of Police Essex Police Licensing Department Braintree Police Station Blyths Meadow Braintree CM7 3DJ
Telephone number (if any) 07966 481 931
E-mail address (optional) Licensing.applications@essex.pnn.police.uk

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

Please tick one or more boxes

- |   |                                     |
|---|-------------------------------------|
| 1) the prevention of crime and disorder | <input checked="" type="checkbox"/> |
| 2) public safety                        | <input type="checkbox"/>            |
| 3) the prevention of public nuisance    | <input type="checkbox"/>            |
| 4) the protection of children from harm | <input type="checkbox"/>            |

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

On Friday the 14<sup>th</sup> of August, the crime and disorder objective of the Licensing Act was undermined in that, on its first night of reopening, the licence holder and DPS immediately breached The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 in that it 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.

Regulation 4(1) requires that a person responsible for carrying on a business or providing a service which is listed in Schedule 2 must cease to carry on that business or to provide that service during the emergency period. Schedule 2 lists 1. Nightclubs, and 2.—(1) Dance halls, discotheques, and any other venue which— (a) opens at night, (b) has a dance floor or other space for dancing by members of the public (and for these purposes members of the venue in question are to be considered members of the public); (c) provides music, whether live or recorded, f or dancing.

This is a criminal offence and one committed by the operators and licence holders of the venue as a calculated act.

By operating in the fashion they have risked potential exposure of hundreds of people spreading of coronavirus . The current backdrop shows that Clacton is on the cusp of a local lockdown – Essex Police have evidenced that the premises cannot be trusted to act to support any of the licensing objectives.

Deterrence is an established part of the Licensing Act 2003 – see the cases of R (Bassetlaw District Council) v Worksop Magistrates' Court; [2008] WLR (D) 350 and

East Lindsey District Council v Abu Hanif (Trading as Zara's Restaurant and Takeaway), [2016] EWHC 1265 (Admin) where in both cases the High Court stated remedy of the harm or potential harm is not the only consideration and that deterrence is an appropriate consideration in dealing with reviews where there has been activity in connection with crime. This also forms part of the reason Essex Police has applied for a review of the premises licence.

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

On Saturday the 15<sup>th</sup> of August, officers from Clacton Town Team - part of the community policing team, were patrol licensed premises in the town as part of their regular duties. Officers had concerns raised to them by members of the public and staff from various other venues that Truth nightclub had operated in breach of the Health Protection Regulations 2020 the day previously (Friday the 14<sup>th</sup>), by opening as a nightclub for dancing. Evidence obtained from social showing the inside of the nightclub very busy with loud music and people dancing media supported the suggestion the venue had operated as a night club. This evidence will be made available for the review hearing.

Officers attended the venue to share their concerns with staff, after initially denying that there was any issue at the club on Friday, once shown the video, door staff conceded that it was taken from inside the nightclub. On subsequent visits to the nightclub on Saturday the 15<sup>th</sup>, officers challenged the Designated Premises Supervisor (DPS) that, the premises were operating as a nightclub, with patrons dancing to loud music and a live-stream DJ in the premises. This was accepted by the DPS who stated that she "could not ask people to stop dancing as they were waiting for the bar". This is simply not acceptable. Licensees have a responsibility to uphold the four licensing objectives and the operators of Truth have had over a month to prepare and learn from how the licensed trade has responded to the threat of COVID-19, and as such we can attest that opening in breach of the regulations over two consecutive days was a calculated act.

These breaches have been considered serious enough for Tendring District Council's Environmental Health Team to serve a prohibition notice on the venue on 20/08/2020.

On Tuesday the 18<sup>th</sup> of August a meeting was held with the DPS at Clacton Police station. The seriousness of the matter was relayed and the DPS who, in mitigation, reported that there were people dancing while waiting for the bar. It was explained that Essex Police did not accept this as an excuse, and all the evidence that had been gathered will be passed to Tendring District Council's Environmental Health Team. The DPS was also informed that Essex Police were considering a review and the seriousness of the matter was compounded due to the fact Clacton has been on the cusp of a local lockdown due to an uptick in COVID-19 cases.

In addition to this, in response to police attendance and advice given, the Premises Licence Holder took to social media in a clear disregard for authority and reported 'Truth nightclub opening with a power look' as well as abusing the police officers who attended to give advice on the Saturday evening and stating that he wishes to waste police time. It is clear neither the DPS nor the Premises Licence Holder took their responsibilities seriously.

It is for these reasons Essex Police have proceeded with a review application.

Essex Police reserves the right to amplify this application at a licensing 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

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

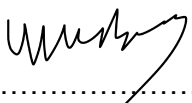
**Please tick yes**

- 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 25/08/2020 .....

Capacity District Licensing Officer .....

**Contact name (where not previously given) and postal address for correspondence associated with this application** (please read guidance note 5)

<b>Post town</b>	<b>Post Code</b>
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**Telephone number (if any)**

**If you would prefer us to correspond with you using an e-mail address your e-mail address (optional)**

**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.

