





**Brighton & Hove
City Council**

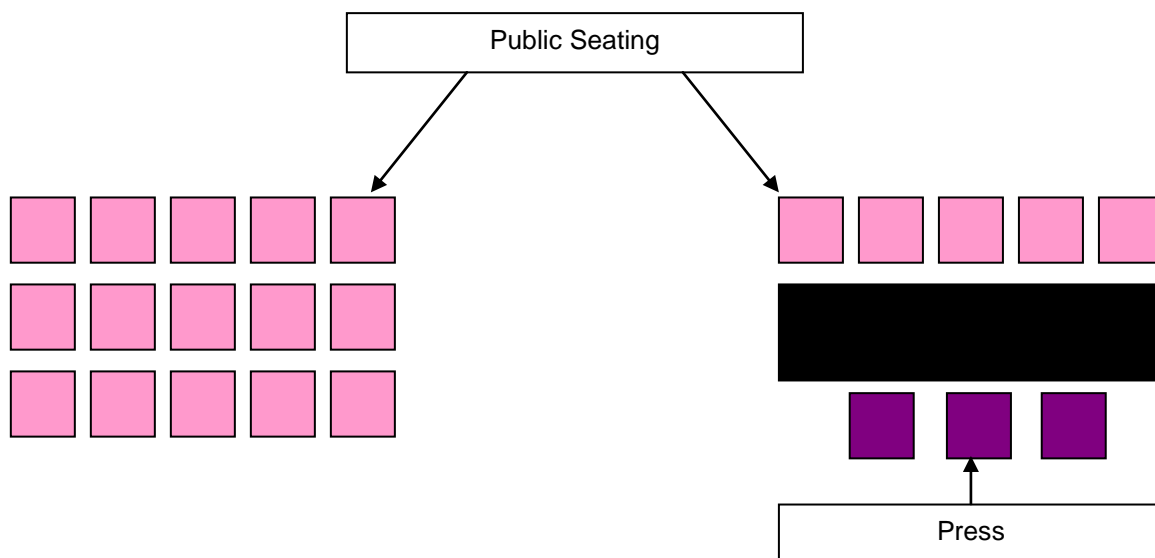
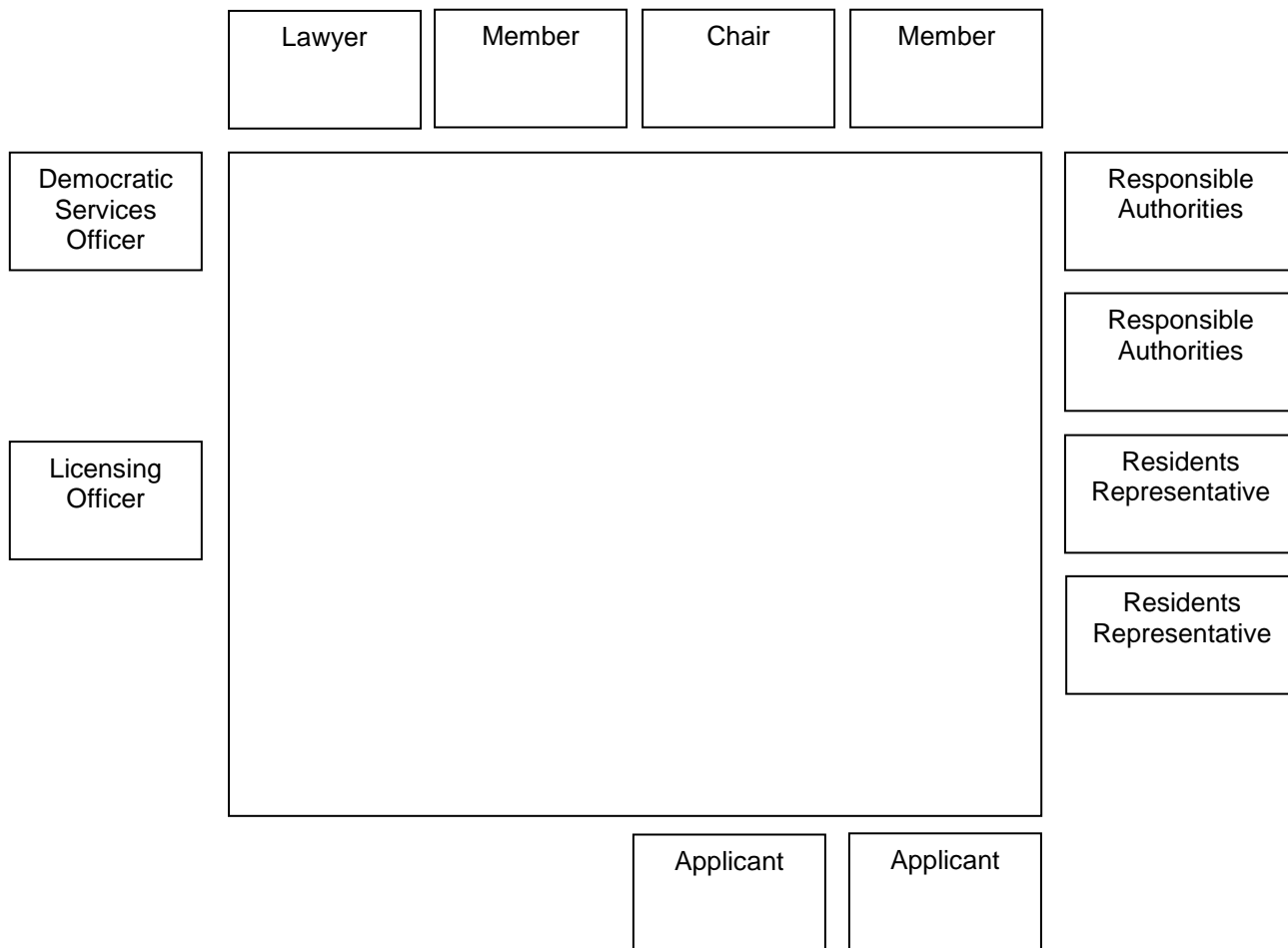
Licensing Panel

(Licensing Act 2003 Functions)

Title:	Licensing Panel (Licensing Act 2003 Functions)
Date:	14 March 2017
Time:	10.00am
Venue	Committee Room 1, Brighton Town Hall
Members:	Councillors: Cattell, O'Quinn and Wares
Contact:	Caroline De Marco Democratic Services Officer 01273 29-1063 caroline.demarco@brighton-hove.gov.uk

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Democratic Services: Meeting Layout



AGENDA

75 TO APPOINT A CHAIR FOR THE MEETING

76 PROCEDURAL BUSINESS

(a) **Declaration of Substitutes:** Where Councillors are unable to attend a meeting, a substitute Member from the Licensing Committee may attend, speak and vote in their place for that meeting.

(b) **Declarations of Interest:**

- (a) Disclosable pecuniary interests;
- (b) Any other interests required to be registered under the local code;
- (c) Any other general interest as a result of which a decision on the matter might reasonably be regarded as affecting you or a partner more than a majority of other people or businesses in the ward/s affected by the decision.

In each case, you need to declare

- (i) the item on the agenda the interest relates to;
- (ii) the nature of the interest; and
- (iii) whether it is a disclosable pecuniary interest or some other interest.

If unsure, Members should seek advice from the committee lawyer or administrator preferably before the meeting.

(c) **Exclusion of Press and Public:** To consider whether, in view of the nature of the business to be transacted, or the nature of the proceedings, the press and public should be excluded from the meeting when any of the following items are under consideration.

NOTE: Any item appearing in Part Two of the Agenda states in its heading the category under which the information disclosed in the report is exempt from disclosure and therefore not available to the public.

A list and description of the exempt categories is available for public inspection at Brighton and Hove Town Halls.

77 **MISTY'S, 116 CHURCH ROAD, HOVE- REVIEW OF A PREMISES LICENCE**

1 - 86

Report of the Executive Director of Neighbourhoods, Communities & Housing (copy attached).

Contact Officer: Sarah Cornell
Ward Affected: Central Hove

Tel: 01273 295801

LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)

NOTES: *Applicants, Agents, Representatives from Statutory Authorities and Other Interested Parties are kindly requested to wait outside before the beginning of the hearing until called in together by the clerk.*

There may be more than one item on this agenda, and as such the item you are interested in may not be heard until later in the day. However, the Chair reserves the right to alter the running order of the agenda at the start of the meeting without prior notice.

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Meeting papers can be provided, on request, in large print, in Braille, on audio tape or on disc, or translated into any other language as requested.

For further details and general enquiries about this meeting contact Caroline De Marco, (01273 29-1063, email caroline.demarco@brighton-hove.gov.uk) or email democratic.services@brighton-hove.gov.uk

Date of Publication - Monday, 6 March 2017

Licensing Panel (Licensing Act 2003 Functions)

Agenda Item 77
Brighton & Hove City Council

Subject:	Review of a Premises Licence under the Licensing Act 2003		
Premises:	Misty's, 116 Church Road, Hove, BN3 2EA		
Applicant:	Sussex Police		
Date of Meeting:	14 March 2017		
Report of:	Director of Neighbourhoods, Communities and Housing		
Contact Officer:	Name:	Sarah Cornell	Tel: (01273) 295801
	Email:	sarah.cornell@brighton-hove.gcsx.gov.uk	
Ward(s) affected:	Central Hove		

FOR GENERAL RELEASE

1. PURPOSE OF REPORT AND POLICY CONTEXT

1.1 To review a Premises Licence for Misty's under the Licensing Act 2003.

2. RECOMMENDATIONS:

2.1 That the Panel review the licence granted to the premises known **Misty's** under the Licensing Act 2003.

1. CONTEXT/ BACKGROUND INFORMATION & CONSULTATION

1.1 Existing licence attached at **Appendix A**.

1.2 Brighton & Hove City Council is both the relevant licensing authority and a responsible authority in respect of any premises, and may in its capacity apply under Section 51 of the Licensing Act 2003 for a review of any premises licence in respect of the premises.

1.3 An application was received by the Licensing Authority on 26 January 2017 from Sussex Police, to review the licence granted to the premises known as Misty's, 116 Church Road, Hove, BN3 2EA.

1.4 The grounds for the review relates to the following Licensing objectives

- The Prevention of Crime and Disorder
- Public Safety

Full details of the grounds for the review are in **Appendix B**

1.5 At this hearing the licensing authority must:

- Consider the application made in accordance with Section 51
- Consider any relevant representations
- Take such steps (if any) as are considered appropriate for the promotion of the Licensing objectives. These steps are
 - to modify the conditions of the licence
 - to exclude a licensable activity
 - to remove the designated premises supervisor from the licence
 - to suspend the licence for a period not exceeding 3 months, or
 - to revoke the licence.

And for this purpose the conditions of a premises licence are modified if any of them are altered, omitted or any new condition is added. It may provide that the modification or exclusion have effect for a specified period not exceeding 3 months. The determination, if not completed at the hearing, shall be within 5 working days of the hearing. Such determinations do not have effect until after the appeal period or, if an appeal is lodged, until after the appeal is disposed of.

Representations received

- 1.6 Details of the representations made are notified to applicants on receipt by the Licensing Authority using a pro-forma.
- 1.7 A map detailing the location of the premises is attached at **Appendix C**.

2. COMMENTARY ON THE LICENSING POLICY

2.1 The following extracts from Brighton & Hove City Council Statement of Licensing Policy are considered relevant to this application and **are numbered as they appear in the policy**:

1. Introduction

1.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Licensing Act 2003 (the Act) and having regard to Guidance issued by the Home Office under Section 182 of the act. The licensing authority is Brighton & Hove City Council. The purpose of this statement is to promote the licensing objectives and set out a general approach to making licensing decisions. The discretion of the licensing authority in relation to applications under the act is only engaged if 'relevant representations' are made by other persons or responsible authorities. This policy will inform the approach to be taken when deciding applications and imposing conditions when relevant representations are received. It is also intended as a guide for applicants as to what to include in their operating schedules, always recognising that if no representations are received, the application must be granted. The licensing authority must carry out its functions with a view to promoting the licensing objectives and this policy is framed around those objectives. Each application will be given individual consideration on its merit. The scope of this policy covers the following:

- Retail sales of alcohol;
- The supply of alcohol by or on behalf of a club, or to the order of, a member of the club;
- The provision of regulated entertainment;
- The provision of late night refreshment.

1.2 The licensing objectives are:-

- (a) Prevention of crime and disorder;
- (b) Public safety;
- (c) Prevention of public nuisance;
- (d) Protection of children from harm.

1.3 Scope

Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events. Any conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations; i.e. the premises and its vicinity. Each application will be given individual consideration on its merit. Nothing in this policy shall undermine the right of any individual to apply under the terms of the act for a variety of permissions and to have any such application considered on its individual merits. Similarly, nothing in this policy shall override the right of any person to make representations on an application or seek a review of a

licence or certificate where provision has been made for them to do so in the act.

4 Prevention of Crime and Disorder

- 4.1.1 The following details and measures are intended to address the need for the prevention of crime and disorder which may be associated with licensed premises and certificated club premises. Conditions attached to licences and certificates will, as far as possible, reflect local crime reduction strategies.
- 4.1.2 The licensing authority acknowledges that training and good management play a key part in preventing alcohol and drug related crime. The authority expects that all licensees of on-licensed premises attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all bar staff and door supervisors so that drug dealers and users will be deterred from using licensed premises for illegal purposes and that incidents of violence in licensed premises will be reduced. Licensees are also encouraged to attend training programmes to help identify children at risk and issues of basic child protection. It is the duty of the designated premises supervisor (DPS) to train staff on induction concerning conditions on their premises licence.
- 4.1.3 It is expected that the DPS will spend a significant amount of time on the premises. When not on the premises it will be essential that the DPS is contactable, particularly should problems arise with the premises and that staff are authorised by the DPS.
- 4.1.4 The location of violent attacks, anti-social behaviour and hate crime or related incidents may be used to justify closing times.
- 4.1.5 Measures put in place should support the intentions of Operation Marble (police operational order), which aims to prevent incidents of crime and disorder within the night time economy, at weekends. Operation Marble operates with a view to minimising the risk to the public of being a victim of public place violent crime; to reduce incidents of violent crime and public disorder within the city centre; to deal positively with offences and offenders; to secure and preserve evidence which will assist in the prosecution of offenders and to support the night time economy and the responsibly run businesses within it.

Matrix approach for licensing decisions in a Statement of Licensing Policy

	Cumulative Impact Area	Special Stress Area	Marina	Other Areas
Restaurant	Yes (midnight)	Yes (midnight)	Yes	Yes (midnight)
Café bar	Yes (11.30)	Yes (midnight)	Yes	Yes (midnight)
Late Night Takeaways	No	Yes (midnight)	Yes	Yes (midnight)
Night Club	No	No	Yes	No
Pub	No	Yes (11pm)	Yes	Yes (midnight)
Non-alcohol lead (e.g. Theatre)	Yes (favourable)	Yes (favourable)	Yes	Yes (favourable)
Off-licence	No	No	Yes	Yes (Up to 11pm but if in densely residential area may be earlier – see note 7 below)
Members Club (club premises certificate)	Yes (<100 capacity) (11pm)	Yes (<100 capacity) (11pm)	Yes	Yes

- 1) Each application will be considered on individual merit
- 2) Applications within the CIZ are subject to the special policy on cumulative impact at para 3.1, and those within the special stress area to the special stress policy considerations at para 3.2.
- 3) Departure from the matrix policy is expected only in exceptional circumstances
- 4) Exceptional circumstances will not include quality of management or size of venue except where explicitly stated in policy matrix.
- 5) Exceptional circumstances may include: consultation with and meeting requirements of responsible authorities, an appropriate corporate social responsibility policy, community contribution to off set impact (such as financial contribution to infrastructure), community support, alcohol sale ancillary to business activity (demonstrable to responsible authorities and licensing

- authority, for instance by licence condition allowing authorised officers access to sales accounts).
- 6) The following licensing activities are encouraged and valued by the licensing authority: outdoor regulated entertainment, community based street parties, members clubs, traditional pubs outside the city centre and non-alcohol led licensable activities, particularly within city centre.
 - 7) Other Areas; consideration will be given to the nature of the area and location in relation to any application. In a residential area for example the concerns of local residents will be relevant when considering applications for off-licences, pubs or café bars, especially if there is evidence of anti-social behaviour, street drinking or underage drinking. Earlier closing times may be appropriate. Regard will be had to the Public Health Framework for assessing alcohol licensing and the Street Community and Drug Activity Profile. These documents are available on the following page of our website www.brighton-hove.gov.uk/licensingact.
 - 8) In an area where there are already several existing off-licences and where representations are received about negative cumulative impact on the licensing objectives of a further premises, the application may be refused on these grounds.
 - 9) Outdoor events will be supported where arranged through the council's event planning process. Generally, regulated entertainment in the open air including tents and marquees should have a maximum closure hour of 2300. Earlier hours may be imposed in sensitive open spaces or near residential areas. The Licensing Authority will have regard to Noise Council guidance.

4.3 Care, control and supervision of premises

- 4.3.1 The Licensing authority supports the Business Crime Reduction Partnership and other approved schemes. Where appropriate, premises licence holders should be members of the BCRP for the deterrence to violent crime that such membership provides. The BCRP NightSafe radio scheme is normally expected as an operational requirement for city centre bars, clubs and pubs and is an example of good practice in achieving the aim of reducing crime and disorder and improving public safety. Well managed pub-watch schemes provide information exchange between the premises licence holders and responsible authorities that reduce and deter violent crime and disorder. The council will support a responsible licensing scheme.
- 4.3.2 The effective management and supervision of a venue is a key factor in reducing crime and disorder, both within it and outside. The police will consider the applicants, objecting to the application where appropriate. The police may suggest crime prevention measures in relation to, for example, the internal layout of the premises, closed-circuit television, help points, lighting and security staff. The police may ask for conditions which support such measures to be imposed when licensing applications are granted, e.g. type of licence, capacity, operating hours restrictions.
- 4.3.3 Following the grant of a licence, the management and supervision of the premises, in so far as it might impact on crime and disorder, will continue to be monitored. Particular attention will be paid to any licensed premises where there is evidence of criminal activity or any association with racist or homophobic crime. The licensing authority will keep itself well briefed on the nature, location

and type of premises where alcohol related violence and disorder are occurring so it can take full account of the facts and avoid exacerbating problems as required by the Community Safety Strategy. Where licensed premises are found to cause nuisance or be associated with disorder or unreasonable disturbance, the review process may be invoked, and powers of revocation or the imposition of conditions may be considered. Conditions may include use of closed-circuit television, licensed door supervisors and earlier closing times. Such action to restrict the operation may be taken for trial periods to allow businesses an opportunity to remedy existing disorder, nuisance or disturbance.

- 4.3.4 This policy recognises the use of registered Door Supervisors All Door Supervisors will be licensed by the Security Industries Authority. Mobile security units and similar systems are in use by some premises operators as a means of providing security cover at very short notice at premises which may not normally require a permanent security presence. The Licensing Strategy Group has sought to define the standards and operating guidance for such mobile units, which will be in need of regular review. This policy endorses the use of units following such guidance and standards in appropriate circumstances. A copy can be found on the licensing pages of the council's website.
- 4.3.5 The development of codes of practice and general operating standards for security companies is encouraged for local businesses; premises operators are urged to ensure that security services, when engaged, are provided by suitably qualified businesses operating to recognised standards and who should be working towards SIA accreditation.
- 4.3.6 Enforcement will be achieved by the enforcement policy appended (Appendix B of SoLP).

5 Public Safety

- 5.1 The following details and measures are intended to address the need for the protection of public safety which may be associated with licensed premises and certificated club premises.
 - 5.1.1 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the 2003 Act, the applicant should conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.
 - 5.1.2 Normally in the city centre, pubs and clubs will be expected to operate using polycarbonate or toughened/shatterproof glass.
 - 5.1.3 Conditions may be imposed in accordance with operating schedules to protect public safety including where justified:

- (a) provision of closed-circuit television and panic buttons.
- (b) use of shatterproof drinking vessels; bottles requiring use of toughened glass or plastic should normally be required unless applicants can show exceptional reasons.
- (c) use of door supervisors, licensed by the Security Industry Authority.
- (d) requirement of a minimum of a licensed door supervisor for every 100 customers in nightclubs and large city centre pubs or as indicated by risk assessment.
- (e) occupant capacity conditions will be applied where appropriate.
- (f) the provision of designated and suitably trained first aiders.

5.1.4 Where appropriate, licence holders or their authorised representatives will submit event safety plans and operating manuals, attend Event Planning Teams or Safety Advisory Groups and similar meetings prior to large events and shall be part of Event Liaison Teams during such events. Due regard shall be had to relevant guidance and publications including, for example: HSE approved code of practice for events.

8 Integration of Strategies

8.1 The licensing authority shall secure the proper integration of this policy with local crime prevention, planning policy, transport, tourism and cultural strategies by:-

- Liaising and consulting with the Sussex Police, Community Safety Forum, Sustainability Commission representatives and following the guidance in community safety and crime and disorder strategy
- Liaising and consulting with Public and Alcohol Programme Board
- Liaising and consulting with the East Sussex Fire & Rescue Service
- Liaising and consulting with the Local Strategic Partnership, Safety Advisory Group (Emergency Planning) and Equalities and Social Justice Consultation Forum
- Liaising and consulting with the Planning authority
- Liaising and consulting with the Highways authority
- Liaising and consulting with local business and business associations. Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice

8.2 In line with statutory requirements and the Council's Inclusion Policy, the Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, for example communities of interest such as: lesbian, gay,

bisexual and transgender people; disabled people; racial and ethnic groups; religious and faith groups.

- 8.3 This policy supports the aims of the tourism strategy, recognising the benefits for the tourism economy of creating a safer and more attractive city centre and improving competitiveness with other European cities. The Licensing Committee should receive any reports relevant to the needs of the local tourist economy and the cultural strategy for the area to ensure that it considers these matters.
- 8.4 The Licensing Committee should receive relevant information relating to the employment situation of the area and the need for new investment and employment where appropriate.
- 8.5 Specific conditions may be attached to premises licences to reflect local crime prevention strategies. Such conditions may include the use of closed circuit television cameras, use of the NightSafe radio system or accredited scheme, the provision and use of shatterproof drinking receptacles, drugs and weapons search policy, the use of registered door supervisors, specialised lighting requirements, hours of opening. Certificates issued to club premises shall reflect local crime prevention strategies and may include any or all of the requirements listed above.
- 8.6 The licensing authority will have regard to the need to disperse people quickly and safely from the city centre to avoid concentrations which may produce disorder and disturbance.

9. Reviews

- 9.1 Reviews represent a key protection for the community. Where the licensing authority considers action necessary under its statutory powers it will take necessary steps to support the licensing objectives. Action following review will be informed by licensing enforcement policy – **Appendix E**.
- 9.2 Where style of operation of a premises leads to applications concerning likelihood of racist, religiously motivated, homophobic or transphobic crimes or incidents, the review process should also support the community safety policy. Action should be proportionate and licences would normally be suspended or revoked in these circumstances to deter further incidents

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 The licensing Act 2003 provides for fees to be payable to the licensing authority in respect of the discharge of their functions. The fee levels are set centrally at a level to allow licensing authorities to fully recover the costs of administration, inspection and enforcement of the regime.

Finance Officer Consulted Michael Bentley

Date: 23/02/2017

Legal Implications:

- 5.2 The licensing authority must act to promote the four licensing objectives which are:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

The licensing authority must have regard to its statement of licensing policy and the guidance issued by the Secretary of State in carrying out its functions.

Lawyer Consulted: Rebecca Sidell

Date: 23/02/2017

Equalities Implications:

- 5.3 Diversity is valued and strong, safe communities are vital to future prosperity. Licensing policy aims to protect children from harm including sale and supply of alcohol to children.

Sustainability Implications:

- 5.4 Licensing policy aims to prevent public nuisance and develop culture of live music, dancing and theatre.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A – Part A of Premises Licence
2. Appendix B – Review Application
3. Appendix C – Map of area
4. Appendix D – Evidence Supporting the Premises
5. Appendix E – Enforcement Policy

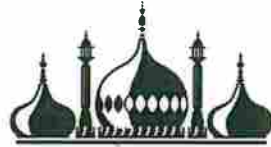
Documents in Members' Rooms

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

Background Documents

Brighton & Hove City Council, Licensing Act 2003: Statement of Licensing Policy 2011, as amended 20 December 2011.

APPENDIX A



**Brighton & Hove
City Council**

Schedule 12

Part A

Regulation 33, 34

**Premises Licence
Brighton and Hove City Council**

Premises Licence Number

1445/3/2012/03118/LAPRMV

Part I – Premises Details

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

Misty's
116 Church Road
Hove
BN3 2EA

Telephone number

Licensable activities authorised by the licence

Performance of Recorded Music
Late Night Refreshment
Sale by Retail of Alcohol

Times the licence authorises the carrying out of licensable activities:-

Performance of Recorded Music (Indoors & Outdoors)

Monday - Saturday 09:00 - 02:30

Sunday 11:00 - 00:00

Late Night Refreshment

Monday - Saturday 23:00 - 02:30

Sunday 23:00 - 00:00

Sale by Retail of Alcohol

Monday - Saturday 09:00 - 02:30

Sunday 11:00 - 00:00

In respect of the above licensable activities:

A further additional hour into the morning following for each Bank Holiday, Christmas Eve, Christmas



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Day, Boxing Day and for one week over the Chinese New Year.

The opening hours of the premises

Monday - Saturday 09:00 - 03:00

Sunday 11:00 - 00:30

A further additional hour into the morning following for each Bank Holiday, Christmas Eve, Christmas Day, Boxing Day and for one week over the Chinese New Year.

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

Alcohol is supplied for consumption on or off the Premises.

Part 2

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

Afshin Kianifard

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

Afshin Kianifard

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

Party Reference:

Licensing Authority:



Brighton & Hove City Council

Annex I - Mandatory conditions

S 19; mandatory conditions where licence authorises supply of alcohol

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, 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. (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone,



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encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

(e) dispensing 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).

4. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
5.
 - (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.
6. 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



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(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.”

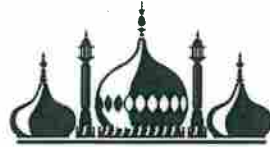
Minimum Drinks Pricing

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—

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

where—

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



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

3. Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from 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:

For the Prevention of Crime and Disorder: N/A

For Public Safety: N/A

For the Prevention of Public Nuisance:

Customers will be asked to leave the premises quietly and there will be clearly visible notices to this effect.

For the Protection of Children from Harm:

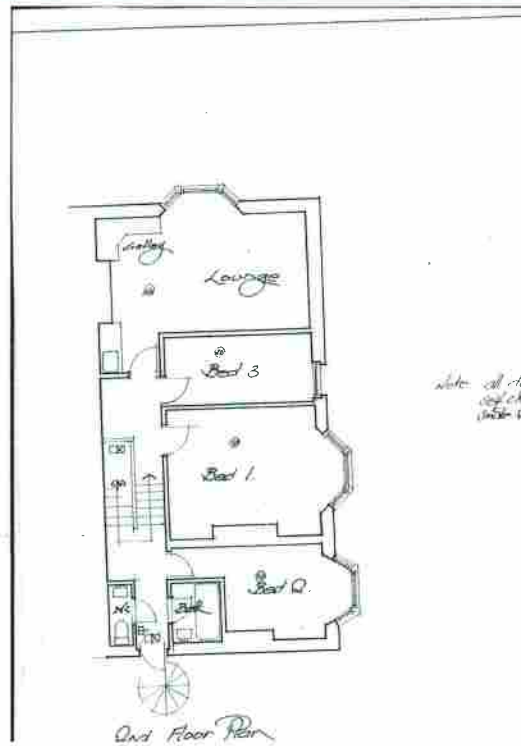
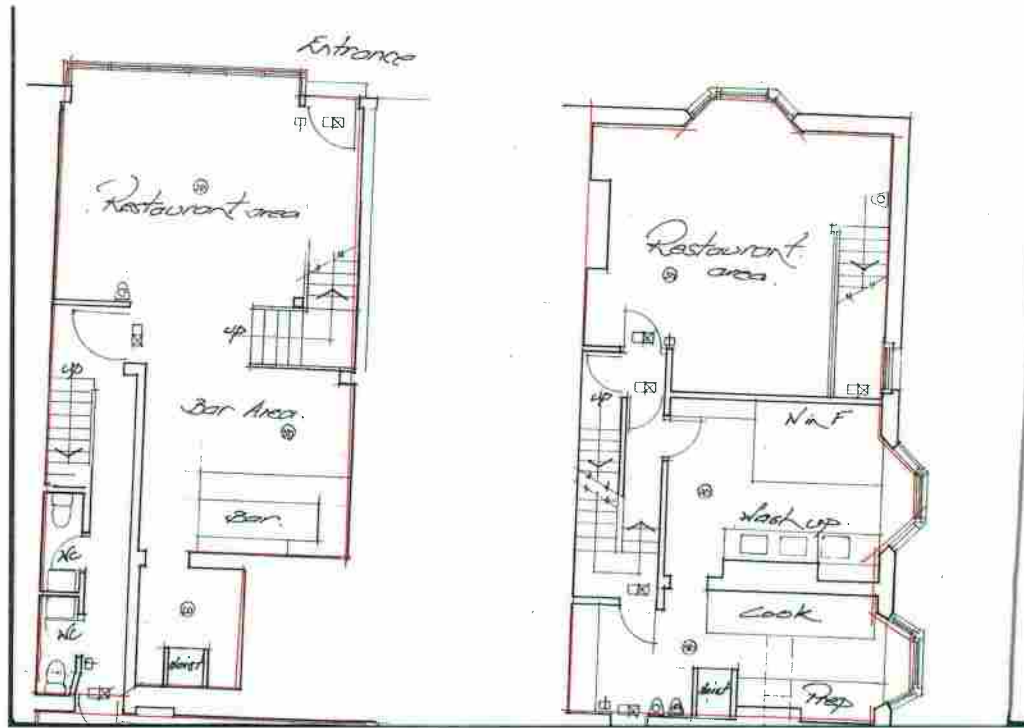
Children will be allowed on the premises only until 21.00 and only if accompanied by an adult.

Annex 3 - Conditions Attached after a hearing of a Licensing Panel - N/A



Brighton & Hove City Council

Annex 4 – Plans



APPENDIX B

VALID
C+D
PS

2017/100551/LAKEV



BRIGHTON & HOVE CITY COUNCIL
 ENVIRONMENTAL HEALTH & LICENSING
 DATE RECEIVED
 26 JAN 2017

Application for the review of a premises licence 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, <i>(insert name of applicant)</i>	Chief Supt Lisa Bell, Divisional Commander, Brighton and Hove Police on behalf of Chief Constable Giles York
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Apply for the review of a premises licence under Section 51 of the Licensing Act 2003 for the premises described in Part 1 below.

Part 1 – Premises or club premises details	
Misty's	
Postal address of premises or, if none, ordnance survey map reference or description	
116 Church Road Hove	
Post Town	Post code (if known)
Hove, East Sussex	BN3 2EA
Name of premises licence holder or club holding club premises certificate (if known)	
Mr Afshin Kianifard	

Number of premises licence or club premises certificate (if known)
1445/3/2012/03118/LAPRMV

Sussex Police
 Application for review of a premises licence
 01/2017

Part 2 – Applicant details

Please mark X for 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 mark X for yes

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

Surname

First names

Please mark X for yes

I am 18 years old or over

Current postal address if different from premises address

Daytime contact telephone number

E-mail address (optional)	
(B) DETAILS OF OTHER APPLICANT	

Name and address
Telephone number (if any)
Email address (if any)

(C) DETAILS OF RESPONSIBLE AUTHORITY APPLICANT
Name and address: Chief Supt Lisa Bell, Divisional Commander c/o Tantara Fox-Stillwell Police Licensing Officer Brighton & Hove Licensing Unit 4 th Floor, Police Station John Street BRIGHTON BN2 0LA
Telephone number (if any) 101 ext 550809
(Email address (if any)) brighton.licensing@sussex.pnn.police.uk

This application to review relates to the following licensing objective(s)	
	Please mark X for yes (one or more boxes)
1) the prevention of crime and disorder	<input checked="" type="checkbox"/>
2) public safety	<input checked="" type="checkbox"/>
3) the prevention of public nuisance	<input type="checkbox"/>

4) the protection of children from harm



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

Sussex Police contend that the following licensing objectives have been seriously undermined:

- The prevention of crime and disorder
- Public Safety

This application has been submitted due to ongoing problems at the premises. These include assaults, public order offences and numerous incidents involving intoxication. In the last seven months the premises saw two serious, 'grievous bodily harm' assaults with the victim in each case receiving life-changing injuries. There have been public order offences in the rear garden, one of which involved furniture and glass being thrown between groups of patrons. Many of the assaults have been carried out by intoxicated patrons and there have also been incidents whereby those who have become intoxicated at the venue have consequently suffered harm; this included a female who was attacked and sexually assaulted shortly after she left the premises. In addition to these incidents, drug swab profiling, conducted on three occasions throughout 2016, indicated consistently high readings of cocaine within the premises; the areas tested including the bar areas as well as the toilets.

Sussex Police have, on many occasions, raised these concerns with Mr. Afshin Kianifard, who is both the Designated Premises Supervisor and the Premises Licence Holder. Despite this, incidents have continued to occur at Misty's.

Sussex Police contend there have been continual failures by the management and staff to promote the licensing objectives, in particular those pertaining to the prevention of crime and disorder and public safety. Mr. Kianifard has been advised that his failure to effect sustainable remedial measures would result in further action being taken by Sussex Police.

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

Misty's is a late night bar situated in Church Road, Hove. Church Road is a busy arterial route through Hove leading into the city centre of Brighton. The surrounding area is densely populated with restaurants, bars and public houses and there are a considerable amount of residential properties in the vicinity of the premises.

Misty's has two floors with the entrance leading to the main bar located on the ground floor. In addition to the bar, the ground floor has a seating area and a staircase leading to the first floor. A hallway to the right of the main bar leads to the male toilets, the outside area and a second staircase leading to the first floor and female toilets. There is a second bar on the first floor which also has seating situated around the room.

The premises is authorised to carry out the following licensable activities:

- **Performance of Recorded Music** (Indoors & Outdoors)
Monday - Saturday 09:00 - 02:30
Sunday 11:00 - 00:00
- **Late Night Refreshment**
Monday - Saturday 23:00 - 02:30
Sunday 23:00 - 00:00
- **Sale by Retail of Alcohol**
Monday - Saturday 09:00 - 02:30
Sunday 11:00 - 00:00

The premises licence was originally granted in 2006, with the most current licence issued by Brighton and Hove City Council in February 2013. The licence has 2 conditions under Annex 2 – Conditions consistent with the Operating Schedule:

Prevention of public nuisance

- Customers will be asked to leave the premises quietly and there will be clearly visible notices to this effect.

Protection of children from harm

- Children will be allowed on the premises only until 21:00 and only if accompanied by an adult.

The Designated Premises Supervisor (DPS) and Premises Licence Holder (PLH) is Mr. Afshin Kianifard. It is believed Mr. Kianifard was appointed as DPS when the premises licence was first issued in 2006 and became the PLH in September 2012 after the licence was transferred from Amour Limited into his name. Mr. Kianifard was one of the directors for Amour Limited, which dissolved in August 2012.

Despite Sussex Police becoming increasingly concerned with incidents at Misty's from the beginning of 2015, the premises have experienced problems prior to this date; some of which have been extremely serious. One of these incidents led to a patron at Misty's being sentenced to six years imprisonment in 2013 for grievous bodily harm after he smashed a glass into the victim's face at the premises, causing a serious injury to his eye. Both the offender and the victim had been drinking at Misty's and were intoxicated. The offender was also under the influence of drugs and cocaine was found in possession of the victim.

Below is a two year chronology of events relating to the premises:-

1. Thursday 1st January 2015 – 03:08hrs

.member of door staff at Misty's made an emergency call to the police. He stated that a drunken male customer started to kick windows and doors when he was asked to leave and was currently being restrained by door staff. Police arrived within five minutes, but the male had been permitted to leave before their arrival.

2. Saturday 17th January 2015 – 02:35hrs

At 02:35hrs police were called to the premises by staff reporting that a member of the door team had a glass smashed over his head by a female patron who was being restrained on the floor. The call handler reported hearing a disturbance in the background. On arrival, the police found a female suspect being held down on the ground and the victim being treated by paramedics. The female was subsequently arrested for grievous bodily harm (GBH).

The suspect stated that her group had ordered a round of alcoholic drinks as last orders were being called, despite still not having finished their existing drinks. Soon after this, the doorman asked them to leave and poured away the suspect's pint. After complaining, the suspect's drink was replaced with the proviso that it was consumed within one minute. When leaving, the suspect refused to hand over her glass and smashed it against the doorman's head.

At custody, the suspect was assessed to be 'drunk' and required a period in which to sober up before being interviewed. She received a caution for the assault.

3. Saturday 7th February 2015 - 22.15hrs

Sussex Ambulance contacted the police stating they had been called to Misty's by a member of door staff after a male reported being attacked in the beer garden by a group of males and receiving a facial injury. Police attended and spoke to the victim, who had a visible injury and appeared drunk. He stated there had been a fight in the beer garden, but refused to support the police with a prosecution. When questioned, the door staff stated they did not see the fight as the beer garden was unsupervised at the time.

4. Saturday 7th March 2015 – Between 20:30hrs and 22:30hrs

A call was made to police by a female reporting her drink had been spiked whilst at the premises. She reported not remembering much of her visit or how she returned home. Tests were conducted by the female's general practitioner to confirm if a drink spiking had occurred; the results eventually returned as negative. During this two week police investigation, her friends, who were present during the evening, informed police that the female had consumed considerably more alcohol in Misty's than initially disclosed and was clearly drunk. The case was filed with no further action on the 23rd March 2015.

5. Friday 13th March 2015 – 22:04hrs

M.D, the Manager as Misty's, made an emergency call to the police to report an incident of criminal damage. Police arrived at the scene and located the suspect in an ambulance outside. It was confirmed that the suspect had smashed a glass picture within the premises. The matter was recorded as a criminal damage and an agreement was arranged between the parties regarding payment for the damage caused.

6. Friday 13th March 2015 - 23:30hrs

A visit was conducted by PC Heasman and PC Vasey. Mr. Kianifard was spoken to and explained that earlier in the evening an incident of criminal damage had occurred. During the visit officers witnessed a female who had been ejected from a local premises walk into Misty's without being challenged. This was pointed out to door staff, who removed her. A male was also seen by officers to leave the premises and vomit in the road.

7. Saturday 4th April 2015 – 22:55hrs

An emergency call was received from an off duty paramedic who was present outside Misty's. He reported that a female had been hurt at the premises; (stating later that she had fallen down the stairs). His friend, who was also a paramedic, tried to give her medical assistance and when the informant entered the premises to assist, he alleged that a door man grabbed him, threw him to the floor and punched him. On police attendance, it was noted the informant was intoxicated. In a meeting held at John Street Police Station on Wednesday 8th April 2015 this incident was discussed. M.D stated that she saw the incident herself. Mr. Kianifard commented that door staff offered to help a lady downstairs as she was drunk and was going to be ejected. The woman refused assistance and stumbled. M.D explained that the paramedic had too much to drink to be of assistance and was removed from the premises.

8. Saturday 4th April 2015 – 23:00hrs

A call was made to Sussex Police on the 5th April 2015 by an informant who stated he had been assaulted the previous night at the premises at approximately 23:00hrs. The incident took place in the smoking area at the back of the premises where the suspect had thrown a glass at the wall causing injury to the informant. When the victim asked door staff to call the police they refused and ejected him from the premises stating that he was drunk. This incident was recorded by police as an assault occasioning actual bodily harm (ABH).

9. Wednesday 8th April 2015

A meeting was held at John Street Police Station with Sergeant Hearth, Mr. Kianifard, M.D and their licensing consultant. The recent incidents at Misty's were discussed and it was agreed that training would be given to the door staff and improvements would be made to address problems of intoxication at the premises.

Mr. Kianifard was reminded by Sergeant Hearth that he required a non-frontline Security Industry Authority (SIA) licence to direct door staff and, as he employed 'in-house' door staff, it would constitute an offence under the Private Security Industry Act 2001 if he did not have one. The licensing consultant confirmed they were already aware of this fact. Mr. Kianifard then expressed that he was confident that he knew the process surrounding the direction of his door staff and was currently satisfied with how they were behaving. Mr. Kianifard's non-front line licence became active on 1st July 2015.

10. Thursday 7th May 2015

An email was received from Mr. Kianifard outlining the changes he had put in place at the premises. This included implementing staff meetings, training on intoxication and improving the communication skills of the door staff.

In his email, Mr. Kianifard stated: 'Since these meetings and training sessions were initialised, we have noticed that over all, all parties appear to be more comfortable, and in rare situation where

tain members of the public have had to be ejected, verbal communication seems to be effective, resulting in no need for physical action'.

11. Saturday 16th May 2015 – 02:34hrs

An emergency call was made to the police by door staff at Misty's. The informant stated that a male who had been ejected earlier had now returned to the premises. He informed the police that the male was acting strangely and had become aggressive towards members of the public passing by the premises. The Police Call Handler could hear the male screaming in the background of the call. When police arrived, the male had already left the scene.

12. Sunday 14th June 2015 – 00:57hrs

An emergency call was made to police by doorstaff stating two males had become, 'really drunk in the bar.' Door staff had attempted to eject the males but they refused to move from the doorway. A further call was received advising that police officers were no longer required as the males had left the premises.

13. Sunday 12th July 2015

The Sussex Police Licensing Department received an email from Mr. Kianifard outlining the steps that had been put in place at venue. Mr. Kianifard stated the premises had gone, 'above and beyond' what was asked of them by Sussex Police as they no longer allowed DJ's to play there, which Mr. Kianifard believed was one of the reasons Misty's was receiving 'problem members of the public'.

Mr. Kianifard stated in his email that the changes recently made were 'dramatic' so they were operating with minimal issues, like it had been in the past.

Mr. Kianifard confirmed he had obtained his non-frontline licence and there had been a change of door staff at the premises. Mr Kianifard added that the new door staff were far more 'communicative and approachable' with the public.

It was also stated in the email that weekly meetings with bar staff were now in place to specifically discuss, 'the types of customers' that go to the venue and the problem of intoxication. Mr. Kianifard remarked that intoxication levels had dramatically reduced since the changes were made.

14. Tuesday 4th August 2015

Mr. Kianifard and M.D attended a meeting with Sergeant Hearth at John Street Police Station to follow on from the meeting held on the 8th April 2015. Mr. Kianifard stated that they had refurbished Misty's and changed the style of the premises, aiming at a more mature crowd and returning to the 'cocktail bar' business model which they used to have. He re-affirmed that they would not be using D.Js regularly, stating: 'they are not worth the associated noise and drug issues'. M.D explained the venue now had a much calmer, more mature atmosphere.

Sergeant Hearth confirmed there had been no incidents reported to the police in regards to Misty's since June 2015 and this would hopefully continue.

Mr. Kianifard stated he was sure they were now over the problems and was confident that the premises would not return to how it used to be.

15. Saturday 26th September 2015 – 01:05hrs

Police were called by staff at a premises located near to Misty's. They reported being approached by a drunken male who had been assaulted. The male had spent the evening in Misty's and whilst at the premises he explained getting into an argument with a group. He was subsequently asked to leave by door staff at Misty's and admitted refusing to do so until he had finished his beer; by his own admission, he was very drunk. The male has then left the premises and whilst walking up the road he recalled being hit on the back of the head, causing him to fall to the ground and injure his face. Due to the lack of CCTV and witnesses to the incident the case was closed by Sussex Police.

16. Sunday 11th October 2015 – 01:05hrs

An emergency call was made to police by a female stating she had been assaulted by a member of door staff at Misty's. The informant explained how she was holding a toilet door closed as her friend was in there and door staff pushed her. She then asked the member of door staff not to push her, causing him to push her again, twice. The informant has then complained to the bar manager who offered her complimentary drinks, which she declined. The doorman was sent over to apologise, but once again became aggressive. Two further emergency calls were received from the informant stating she was concerned for her own safety and three members of door staff were standing at the door, refusing to allow her to leave. Police investigated the incident as a common assault.

17. Saturday 23rd January 2016 – 21:20hrs

PCs Hearth and Southam visited the premises for a licensing check. Mr. Kianifard was present and stated that there were less problems at the premises since they stopped using DJ's. Intelligence had been received by Sussex Police that patrons may be taking Class A drugs in Misty's and Mr. Kianifard agreed that the officers could conduct 'Ion Track' drugs profiling in the toilets to check if there was a drugs problem. The results from these swabs were as follows:-

Female Toilets

Sink - Cocaine 1.28

Sink Door - Cocaine 2.68

Cubicle 1 Seat - Cocaine 1.53

Cubicle 1 Cistern - Cocaine 3.16

Cubicle 1 Toilet Roll Holder - Cocaine 6.05

Cubicle 1 Toilet Lid - Cocaine 5.87

Cubicle 2 Seat - Cocaine 1.96

Cubicle 2 Cistern - Cocaine 4

Cubicle 2 Toilet Lid - Cocaine 5.31

Cubicle 2 Toilet Roll Holder - Cocaine 5.59

Male Toilets

Cubicle 1 Cistern - Cocaine 3.33

Cubicle 1 Boxing - Cocaine 5.05

Cubicle 1 Toilet Roll Holder - Cocaine 6.57

Cubicle 1 Toilet Lid - Cocaine 6.59

Cubicle 2 (Not in operation)

Cubicle 3 Boxing - Cocaine 4.26

Cubicle 3 Cistern - Cocaine 5.27

Cubicle 3 Ledge behind Cistern - Cocaine 5.78

Cubicle 3 Toilet Roll Holder - Cocaine 6.41

Cubicle 3 Toilet Lid - Cocaine 7.12

GE Security, the Ion Track Itemiser manufacturer, in their Technology Statement gives the following guidance about interpreting swab results.

Readings of between 1 & 2 can be classed as 'low, attributed to cross contamination of the surface tested, background contamination or greatly degraded historic contamination.

Between 2 & 3 can be classed as a 'medium' response attributed to cross contamination of The surface tested or recent historic contamination that may have been left a number of days prior to the sample being taken.

Between 3 & 4 can be classed as 'high' that would not be attributed to cross contamination and is indicative of recent and direct contact with measurable quantities of the narcotic identified by the machine.

Readings of 4 and above are estimated to relate to microgram amounts of contamination being transferred to the swab. This level of contamination is not generally experienced in any other environment than somewhere that has been in direct contact with a bulk amount of the source narcotic.

18. Tuesday 26th January 2016

PCs Hearth and Southam attended the premises to discuss the drug profile swabs taken on 23rd January. PC Hearth explained that the readings were alarmingly high and from his experience they indicated the likelihood that a dealer was operating at the premises. Mr. Kianifard confirmed he would remove flat surfaces and would instruct door staff to conduct random searches.

Mr. Kianifard said he would email an action plan to Sussex Police by 1st February 2016. PC Hearth advised that he would soon conduct further drugs profiling at the venue and if these came back as high again he would be inclined to take a different approach to solving the problem.

19. Saturday 6th February 2016 – 20:10hrs

An emergency call was made to police reporting two males fighting outside the location and one of the males was visibly bleeding. The informant stated that both males started fighting inside Misty's and one of them may be in possession of a glass from the venue. One male was located and the incident was subsequently recorded as an assault occasioning actual bodily harm (ABH).

20. Saturday 20th February 2016 – 23:00hrs

Police attended Misty's after receiving an emergency call from a member of the public reporting a

large fight in the beer garden. An emergency call was also made to the ambulance, as a male sustained a facial injury. Police attending the scene noted a considerable amount of smashed glass and blood on the ground within the garden and five males located there refused to give their details or an account of what had occurred. Police were also notified that two of the main perpetrators had been ejected prior to their arrival. In her statement, M.D described the scene, stating: 'there had been a fight between a number of guys in the garden and...lots of glasses had been smashed and strewn across the garden.'

The CCTV showed approximately ten males involved in the fight, however two males appeared to be the main perpetrators as they were throwing chairs, tables and glasses across the garden. CCTV showed that this continued for 2-3 minutes with no security or staff intervening. It was also noted by attended officers that a number of uninvolved customers were seen to be hiding away from the aggressors and glasses and bottles were being thrown at them too.

During the subsequent public order investigation, a member of door staff was uncooperative and would not provide a statement to police regarding the incident. CCTV footage was obtained from the venue, but due to the poor quality, the offenders could not be identified. A male suspect was arrested and interviewed, but due to insufficient evidence the investigation was closed.

21. Thursday 25th February 2016

PC Hearth visited Misty's to discuss the incident at the premises on the 20th February. PC Hearth viewed the CCTV and stated it was one of the worst licensed premises 'brawls' he had seen, noting that door staff did not intervene at any stage. PC Hearth advised Mr. Kianifard that he was not surprised there were still problem patrons at the premises due to the high drug readings in the venue. He also explained that the introduction of an 'identification scanning' machine may have prevented the disorder. Mr. Kianifard stated he would look into this and inform PC Hearth of his decision.

22. Saturday 27th February 2016 – 23:00hrs

Police officers attended Misty's to complete enquiries in relation to an incident at the premises the previous week. Whilst completing a statement from M.D, officers monitored the front of Misty's and witnessed a member of door staff allowing a highly intoxicated female into the premises after she shouted and pushed her way into the venue. Officers challenged the member of door staff who stated, 'what am I supposed to do?'

Shortly afterwards, a highly intoxicated couple left the premises and proceeded to have an altercation in the presence of door staff, who failed to intervene, requiring the police officers to do so. M.D was advised of these occurrences and stated she believed that a particular member of the door staff may be the cause of some of the recent issues at the premises.

Due to what they had observed, the officers conducted a walkthrough of the venue and noted a large amount of highly intoxicated people in the upstairs bar.

23. Friday 11th March 2016

A telephone conversation was held between PC Hearth and Afshin Kianifard to discuss recent changes at the premises. Mr. Kianifard confirmed that he had replaced the member of door staff who allowed a drunk female into the premises on the 27th February 2016. PC Hearth asked if he had thought further about the use of an 'identification scanning' machine. He stated that whilst he was still looking into it, he felt that this was a one-off and that things had vastly improved at the

premises. Mr. Kianifard was reminded by PC Hearth that if things continued the way they had started at the beginning of the year, action would be taken.

24. Monday 21st March 2016 – 18:43hrs

Police received an emergency call from a member of bar staff at Misty's stating that they had a very drunk female outside the premises who was being abusive and threatening. She had attacked another customer in an unprovoked assault within the premises and when staff attempted to intervene, she threw a glass at them, which smashed. Officers arrived to find the female highly intoxicated and crying. She was taken home by officers and the incident was recorded as a 'common assault'.

25. Thursday 2nd June 2016 – 01:47hrs

M.D made an emergency call to the police stating that her door staff were struggling to restrain a male who had been involved in a domestic argument within the premises. Police arrived and spoke to a member of door staff who explained that a male and female began to argue in the bar, causing them to intervene. Attending officers noted that both parties were highly intoxicated. The male was taken home by door staff, who stated they knew him. The female continued drinking alcohol within the venue despite being very drunk.

26. Saturday 2nd July 2016 – 00:00hrs

Sussex Ambulance contacted the police stating they were responding to a report of a 'bottling' incident in the upstairs bar at Misty's. It was apparent that three males had been subjected to an unprovoked attack by a male suspect. CCTV showed the suspect approach the group and punch each of the males with force in quick succession, causing them to fall to the floor. Two of the victims then left the scene, the third, who lost consciousness, was treated by paramedics and subsequently taken to the Royal Sussex County Hospital, where he stayed overnight. It was confirmed that this victim sustained a broken cheekbone, fractures in the sinuses and a probable fractured jaw. He later underwent surgery to insert a metal plate into his cheek. From viewing the CCTV, it was apparent that a second suspect had also thrown a punch at one of the victims.

The main suspect left the scene prior to police arrival and it was established that he was currently on the Brighton & Hove Business Crime Reduction Partnership (BCRP) banned list. As a member of the BCRP, staff at Misty's should not have allowed him access to the premises.

The suspect was later arrested and potential witnesses were contacted. One eyewitness informed police that they had little recollection of the night due to being extremely drunk. On 19th November 2016, after a protracted investigation, the suspect was charged with grievous bodily harm (GBH).

At 00:41hrs on 3rd July 2016, whilst police officers were securing the scene and locating witnesses for the GBH, a drunken patron refused to comply with door staff and tried to enter the crime scene. When ejected, he refused to leave the front of the premises and continued being a nuisance to the door staff. PC Anderson tried to move the male on, but received verbal abuse. This male was arrested for being drunk and disorderly and after becoming obstructive, four officers were required to facilitate his transport to custody during which he attempted to bite and spit at them. At custody, the male was assessed as being 'very drunk and agitated' and required rousing and checking every thirty minutes due to his vulnerable state.

27. Sunday 3rd July 2016 – 02:05hrs

Police Officers visited the premises and spoke to M.D about the serious assault which had occurred earlier at Misty's. They noted approximately fifty patrons inside and specifically a group of six females in the garden who were highly intoxicated. M.D stated she would voluntary close fifteen minutes early due to these issues and was advised by officers that the Licensing Team would be making further contact.

28. Friday 8th July 2016

PCs Hearth and Hobden attended the premises to conduct further drug profiling. Mr. Kianifard was advised of the results on 28th July.

The results of the drug swabs were as follows:

Male Toilets

Cubicle 1 Corner Sink - Cocaine 1.41
Cubicle 1 Hand Towel Dispenser - Cocaine 4.95
Cubicle 1 Back of Toilet - Cocaine 1.76
Cubicle 1 Cistern Top - Cocaine 5.30
Cubicle 1 Hand Wash Dispenser Above Sink - Cocaine 6.10

Cubicle 2 Sink - Cocaine 5.36
Cubicle 2 Hand Dryer - Cocaine 5.44
Cubicle 2 Hand Wash Dispenser - Cocaine 1.92
Cubicle 2 Urinal Top - Cocaine 4.93 Ketamine 1.06
Cubicle 2 Low Ledge - Cocaine 3.45

Cubicle 3 Towel Dispenser - Cocaine 4.70 Ketamine 1.03
Cubicle 3 Sink - Cocaine 2.26
Cubicle 3 Hand Wash Dispenser - Cocaine 1.99

Female Toilet

Cubicle 1 Hand Towel Dispenser - Cocaine 5.23
Cubicle 1 Top of Cistern - Cocaine 3.89
Cubicle 1 Back of Toilet - Cocaine 3.60 Ketamine 1.20

Cubicle 2 Hand Towel Dispenser - Cocaine 5.37
Cubicle 2 Top of Cistern - 0
Cubicle 2 Top of Sanitary Bin - Cocaine 2.08
Cubicle 2 Back of Toilet - Cocaine 1.49
Cubicle 2 Bin - Cocaine 1.42

Top of Bin - 0

Upstairs Bar Area

Upstairs Bar Top - Cocaine 2.05
Large Shelf by Stairs Cocaine 1.37
Short Shelf - Cocaine 3.07
Table Top - 0

29. Saturday 23rd July 2016 – 23:55hrs

Police officers attended the premises to conduct a licensing visit. Whilst officers spoke with door staff, a female entering the premises was asked for identification. She explained she had just been inside the premises but left to buy some cigarettes, clarifying that her family and her handbag, were still inside the premises. The female was refused entry as she did not have her identification.

Whilst officers continued their walkthrough of the premises, the female's family started to cause problems with the door staff. One of the family members appeared to be very drunk and the police officers were required to assist ejecting them from the venue.

30. Sunday 16th October 2016 – 03:45hrs

Sussex Police received a call from Sussex Ambulance stating a male who had been assaulted in the near vicinity of Misty's. Police attending the incident established that the aggrieved was drunk and had been ejected from the premises, where he became involved in an argument with a female outside the venue. A number of males accompanying the female then punched the aggrieved in the head, causing him to injure his head and hand when he fell to the ground. The crime was recorded and investigated by Sussex Police as an assault occasioning actual bodily harm (ABH).

31. Saturday 19th November 2016 – 02:49hrs

An emergency call was made to Sussex Police by a friend of the victim stating that the victim had been dragged into bushes and raped by a male. It was established that the victim attended Misty's at 22.30hrs, remained drinking in the premises with two friends until closing time and were the last to leave the premises. The victim's memory in relation to the sequence of events was not clear due to the amount of alcohol she had drunk prior to the incident. However, she could recall walking along Church Road alone when she was attacked. The initial investigating officer noted that she appeared 'very intoxicated'. This is currently being investigated as an attempted rape.

32. Saturday 26th November 2016 – 22:53hrs

Police were called to Misty's in relation to a male who had been refused entry to the premises, alleging that door staff had assaulted him. PCs Hunter and Special Constable (SC) Jackson attended the premises. SC Jackson viewed the CCTV inside whilst PC Hunter remained outside speaking to the male complainant. After a short period of time SC Jackson exited the premises with a female who had been involved in a heated dispute with other customers inside the bar, not connected to the initial allegation. The female was shouting and causing a disturbance outside, which led to a further police unit being called to help deal with the two incidents. The female then left the area and the male from the original call was arrested for being drunk and disorderly after refusing to leave the location on police request.

33. Monday 28th November 2016 – 23:49hrs

An emergency call was made to Sussex Police by a member of door staff stating that two of his colleagues, currently working at Misty's, called for urgent assistance on their 'night-safe' radio. He stated they were trying to eject two males from the venue and he was concerned for their safety. Police arrived on scene and saw two males being restrained on the floor by two members of door

staff. Other members of door staff also began to arrive at the scene. Officers were informed that both males had been fighting in the venue and they were subsequently arrested for affray.

It was established that M.D had called for security staff to attend the premises in order to remove two males from the venue. When the two door staff arrived, both male offenders attacked them. One of the offenders picked up a chair, raised it above his head and swung it in an attempt to hit one of the doormen.

Attending officers described both males to be exceedingly drunk. When transporting the males to custody, they were placed in separate vehicles as one male became agitated and aggressive. This led to further police units being called and it became necessary to utilise a spit-hood and leg-restraints. Six police officers were involved in resolving the incident.

When at custody, one of the males was also found in possession of a white powder believed to be cocaine. The other male admitted to snorting cocaine that evening. Both were assessed as being drunk and required rousing and checking every thirty minutes due to their vulnerable state.

Both of the door staff failed to provide statements despite being repeatedly contacted by the police; consequently the incident was filed without being detected.

34. Saturday 10th December 2016

Due to renewed intelligence of drug use at the premises, police officers attended to carry out a drugs profile of the bar areas in addition to the toilets.

The results of the drug swabs were as follows:

Male Toilets

Cubicle 1 Corner Sink - Cocaine 4.97
Cubicle 1 Hand Towel Dispenser - Cocaine 6.17 MDMA 2.26
Cubicle 1 Handwash Dispenser Above Sink - Cocaine 5.56
Cubicle 1 Back Of Toilet - Cocaine 3.78

Cubicle 2 Sink - Cocaine 6.39
Cubicle 2 Hand Dry - Cocaine 6.42
Cubicle 2 Handwash Dispenser - Cocaine 5.04
Cubicle 2 Urinal Top - Cocaine 4.98
Cubicle 2 Low Ledge - Cocaine 5.82

Cubicle 3 Towel Dispenser - Cocaine 5.19
Cubicle 3 Sink - Cocaine 5.65
Cubicle 3 Handwash Dispenser - Cocaine 6.01

Female Toilet

Cubicle 1 Hand Towel Dispenser - Cocaine 5.83
Cubicle 1 Top of Cistern - Cocaine 2.47
Cubicle 1 Back of Toilet - Cocaine 1.80
Cubicle 1 Bin Top - Cocaine 1.90

Cubicle 2 Hand Towel Dispenser - Cocaine 5.84
Cubicle 2 Sink & Picture Frames - Cocaine 4.90
Cubicle 2 Back of Toilet - Cocaine 2.30
Cubicle 2 Top of Bin - Cocaine 2.74

Main Bar

Window Ledge - Cocaine 3.58
Corner Seating Area - Cocaine 4.81
Bar Top - Cocaine 3.35

Upstairs Bar Area

Short Shelf - Cocaine 4.93
Large Shelf (By Stairs) - Cocaine 5.55
Bar Top - Cocaine 4.97

35. Monday 12th December 2016

A letter was sent to Mr. Kianifard from PS Simon Morgan regarding the unacceptable level of incidents and high drug readings at Misty's. PS Morgan requested for immediate remedial action to be taken at the premises. He stated:

'PS Hearth had mentioned that solutions implemented at Misty's seemed to only have a temporary effect, with problems having a tendency of re-occurring at the venue. I would now like you to effect the necessary lasting measures to address these continuing problems. If the licensing objectives continue to be undermined, Sussex Police will consider taking appropriate measures.'

Mr. Kianifard replied on the 16th December 2016, outlining the steps he had taken to 'eradicate' the issues at the premises. This included increasing door staff provision to cover Tuesdays to Thursdays in addition to weekends; introducing drug deterrents, staff retraining, improving CCTV and installing an 'identification scanning' machine.

36. Thursday 22nd December 2016 – 17:24hrs

An email was received from Mr. Kianifard stating the identification scanning machine was now 'installed and running'. Mr. Kianifard also confirmed they had introduced random searches, 'to deter the public from carrying any illegal substances on them'.

37. Friday 23rd December 2016 – 02:07hrs

Sussex Police received a call from Sussex Ambulance reporting they had been called to Misty's as a male there had suffered a head injury. The police were also alerted through the 'night safe' radio that there had been a disturbance at the premises. On arrival, police saw a male with visible facial injuries being held up by his friend. The victim's friend stated they had been in Misty's and had been speaking with a male who had taken offence to something said and asked the victim to step outside the venue. Once outside, the suspect has swept the victims legs causing him to fall to the floor and hit his head.

A member of door staff was spoken too and stated that as the night went on he was aware that the victim and his friend were clearly goading the suspect. He stated that when the suspect went outside, the victim and his friend followed him and instigated the attack, causing the suspect to sweep the victim's legs.

An independent witness, who had been inside Misty's, stated that the victim appeared drunk. He saw the suspect kick the victim twice to the head, before stamping on his head and leaving the scene. Attending officers noted that this witness also appeared intoxicated.

The victim declined medical attention at the time of the incident, however on the 30th December an update was received by Sussex Police stating that the male had collapsed at home and had been taken to the hospital. It was confirmed that he suffered a fractured skull, a blood clot on the brain and was showing signs of having suffered a stroke.

Once out of hospital the victim provided Sussex Police with a statement in which he explained entering Misty's at approximately 22:00hrs after consuming multiple drinks in a number of venues. He continued to drink more alcohol at Misty's despite having already consumed eight pints of beer. The victim stated there was no queue to get in and he was not asked to show any identification. The suspect's details were also not recorded on the identification scanning machine. Sussex Police are progressing this matter as a grievous bodily harm (GBH) investigation.

38. Saturday 24th December 2016 – 02:09hrs

During a city-wide plain-clothes licensing operation, officers attended the premises and noted a male dancing alone by the downstairs bar. He appeared intoxicated and was still drinking alcohol. The officers went through to the outside seating area, which was busier. There was a group of two males and two females standing in the doorway to the garden area, all of which were clearly intoxicated. Two of them were having a verbal altercation and left the premises, later re-entering without being challenged by door staff. Officers noted that there were high levels of intoxication throughout the venue, evidenced again by a female who walked into the door-frame after exiting the toilet.

39. Thursday 19th January 2017 – 02:37hrs

A call was made to Sussex Police by a patron at Misty's, reporting that another customer had pulled him out of the bar by his legs. The victim stated he entered the premises at 00:30hrs with a friend and sat in the main bar area where they were talking and a disagreement occurred with a male at the next table. The victim explained that when he collected his belongings to leave, the suspect grabbed the victim by his legs and pulled him out of the premises. The victim went back into Misty's and spoke with staff, who tried to dissuade him from contacting the police. The victim was not asked to produce any identification on entering the premises and could not see any door staff on duty at the venue.

.....

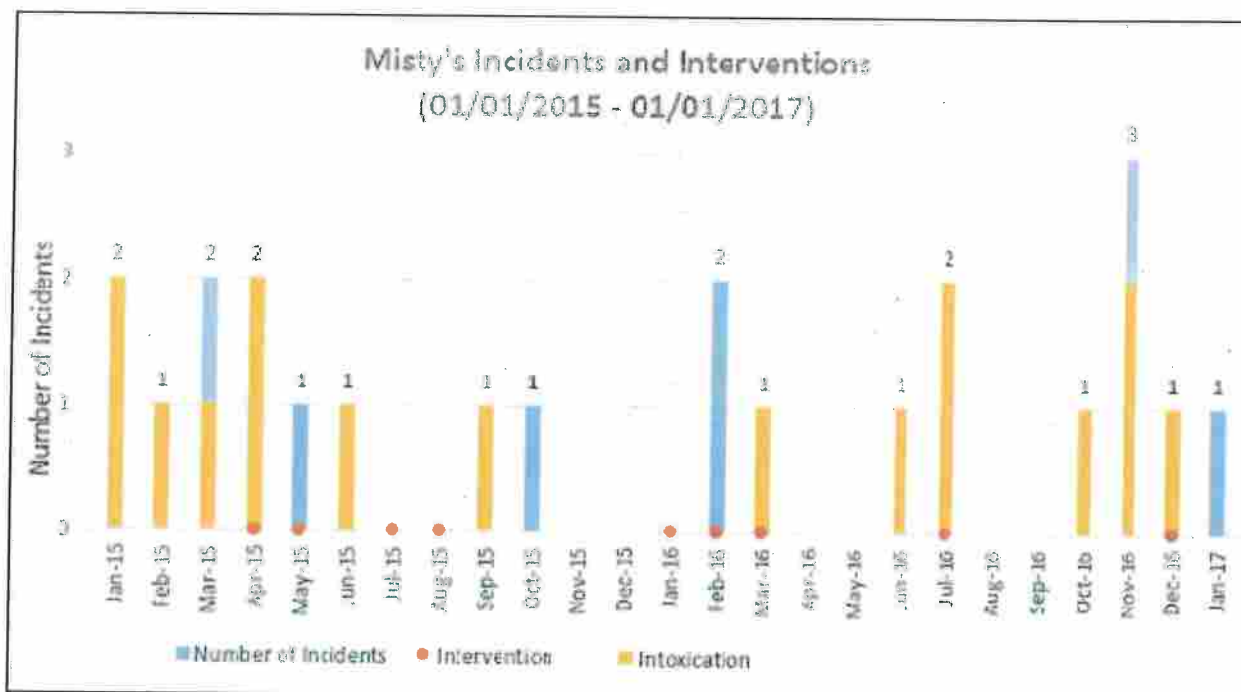
Sussex Police have expended a disproportionate amount of resources and time dealing with this small licensed premises. Larger venues in Hove, with similar licensing hours, have experienced only a small fraction of the problems and incidents which have occurred at Misty's.

On a number of occasions over the past two years, Sussex Police have engaged with the

remises Licence Holder and Designated Premises Supervisor, Mr. Kianifard in an attempt to inform him of the problems at Misty's. On these occasions he has been requested to implement effective measures in order to address them; however there have been no lasting improvements. Misty's current licence lacks the conditions necessary to enable the management to promote the licensing objectives and Sussex Police contend that there is a strong argument to introduce a number of new conditions in order to provide an effective framework and allow the management to reduce incidents and promote the licensing objectives.

Drunkenness is evident in almost all of the incidents listed; this is despite Mr. Kianifard's efforts to train his staff about intoxication awareness.

The graph below displays: (i) incidents at Misty's, (ii) when Sussex Police made interventions and (iii) which incidents involved intoxicated patron(s):



It is also evident that Class A controlled drugs are being taken in the venue and this appears to be a worsening situation. In January 2016, 79% of the surfaces tested indicated a high level of cocaine; in July 2016, 50% of the surfaces tested indicated a high level of cocaine and in December 2016, 81% of the surfaces tested indicated a high level of cocaine. **These** readings are among the highest experienced within licensed premises in Brighton & Hove.

Sussex Police invite the sub-committee to seriously consider taking the following measures and also add the listed conditions below. These, we contend, are both appropriate and proportionate and will ensure the licensing objectives are promoted and the public are kept safe:

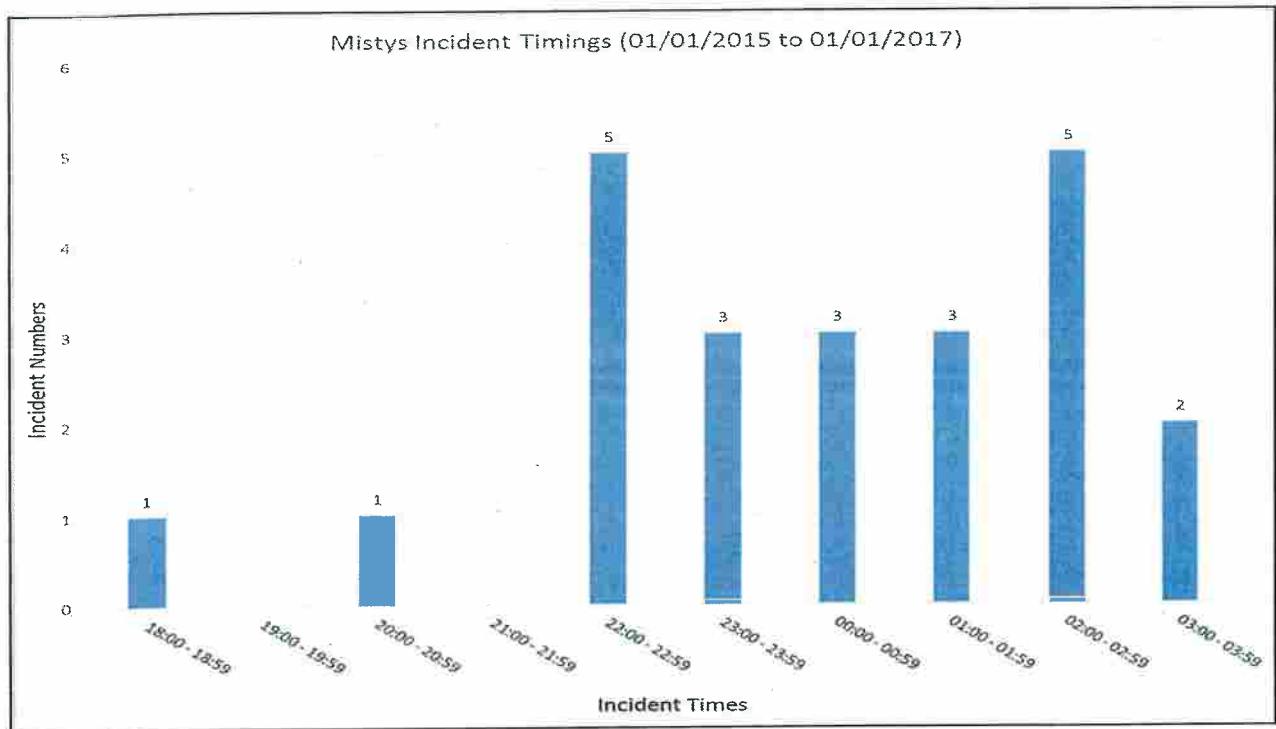
- Removal of the Designated Premises Supervisor

Sussex Police have no confidence in the ability of the Designated Premises Supervisor (DPS) to promote the licensing objectives. We therefore request that Mr. Kianifard is removed as the DPS, with a replacement being subject to Sussex Police approval. It is believed that this is an essential measure to halt the undermining of the licensing objectives

and to re-establish effective day-to-day control of the premises, especially at key times operation.

- Reduction of hours

As indicated in the graph below, over two thirds (16) of the total incidents listed (23) have occurred after 23:00hrs. As such, Sussex Police contend that it is both appropriate and proportionate to change the terminal hour of all licensable activity to 23:00hrs in order that the licensing objectives are properly promoted and people are kept safe.



- Suspension of the Premises Licence

Sussex Police request that the premises licence is suspended for a period of no less than six weeks. This is in order to implement changes that would be brought about by the requested conditions, the change in Designated Premises Supervisor and the subsequent implementation of new policies and procedures. A period of suspension would also send a strong deterrent to the owner of this premises and to other Premises Licence Holders in the area that the undermining of licensing objectives will not be tolerated by the Licensing Authority.

Under the circumstances Sussex Police also invite the sub-committee to consider the addition of the following conditions to the premises licence:-

CCTV

The condition below is appropriate to ensure that CCTV is maintained at the premises in accordance with the Home Office Guidelines. As stated in the Brighton and Hove Statement of Licensing Policy 2016 Appendix A – Licensing Best Practice Measures 'the instillation of a digital CCTV system by liaison with, and to a standard approved by, Sussex Police' would be best practice and 'would normally be expected in operating schedules'.

1. Digital CCTV and appropriate recording equipment to be installed in accordance with Home Office Guidelines relating to UK Police Requirements for Digital CCTV System (PSDB Publication Number 09/05), operated and maintained throughout the premises internally and externally to cover all public areas, including the entrance to the premises. The system shall be on and recording at all times the premises licence is in operation.
 - The CCTV cameras and recording equipment must be of sufficient quality to work in all lighting levels inside the premises at all times.
 - CCTV footage will be stored for a minimum of 31 days.
 - The management will give full and immediate cooperation and technical assistance to the Police in the event that CCTV footage is required for the prevention and detection of suspected or alleged crime.
 - The CCTV images will record and display dates and times, and these times will be checked regularly to ensure their accuracy.
 - Subject to Data Protection guidance and legislation, the management of the premises will ensure that key staff are fully trained in the operation of the CCTV, and will be able to download selected footage onto a disk (or other electronic portable device acceptable to Sussex Police) for the police without difficulty or delay and without charge to Sussex Police.
 - Any breakdown or system failure will be notified to the police immediately & remedied as soon as practicable.

POLYCARBONATES

Since 2015, the premises have experienced 6 glass-related incidents, some of which have caused physical injury and directly shows the undermining of the 'Public Safety' licensing objective. Sussex Police contend that unless the following condition is implemented, patrons and staff could be seriously injured:

2. No drinks shall be served at the premises other than in polycarbonate receptacles. Bottles must also be decanted into polycarbonate receptacles.

PERSONAL LICENCE HOLDER

The condition below will ensure there is always a member of staff present during licensable activities who has a good working knowledge of the Licensing Act 2003. Sussex Police believe this will assist to mitigate the risk of the licensing objectives being undermined.

3. From 20:00 each day, there will be a personal licence holder on duty at the premises until the premises closes to the public.

DRUG SEARCHES

Sussex Police consider the conditions below to be appropriate and proportionate as to ensure that there is zero tolerance towards drug use within the premises. As noted above, the premises have experienced high drug readings since 2015. These results have been continually high even after

drug deterrent measures have been implemented at the premises by Mr. Kianifard. The incident which led to the arrest of two males for affray on the 28th November 2016, which is explained in detail above, clearly evidences that drugs are present at Misty's and shows a clear indication that customers are able to bring drugs into the premises. As stated in the Brighton and Hove Statement of Licensing Policy 2016 Appendix A – Licensing Best Practice Measures 'a policy in relation to searching customers and for drugs, weapons, seized or lost and found property' would normally be expected in the operating schedule. Sussex Police strongly recommend the conditions below are added to the licence to promote the crime and disorder licensing objectives:

4. The management and premises will have an absolute zero tolerance policy towards drugs and drug misuse. The premises will have a drugs policy in place at all times, which must be agreed with Sussex Police and made available to Sussex Police on request. Any illegal drugs seized will be stored in a secure 'drugs box' and periodically the management will request the police to come and remove all drugs in the 'drugs box' for destruction.
5. Individuals found to have drugs in their possession will be banned from the premises.
6. The management will permit the police to use drugs detection process e.g. an 'Ion Track' machine or similar device inside the premises to detect the illegal use of drugs and will sign a police consent form.
7. There will be a written search policy in place when door supervisors are on duty with the number of searches to be carried out set on a risk assessment basis.

INCIDENT REPORTING AND REFUSALS

Due to the number of serious incidents at the premises, Sussex Police believe the condition below is appropriate to ensure that all incidents are recorded in sufficient detail. This condition will also allow managers, the DPS and the Premises Licence Holder to be made aware of all incidents at the premises.

8. An incident log will be maintained by the premises showing a detailed note of incidents that occur in the premises. The incident log will be inspected and signed off the DPS at least once a week. The log book should be kept on the premises and be available for inspection at all times the premises are open by authorised officers of the Licensing Authority or the police. An incident will be defined as being one which involves an allegation of a criminal offence.

TRAINING

As highlighted in the 'Misty's Incidents and Interventions' graph on **PAGE 19**, there is a clear indication that intoxication is a main factor in the incidents which have occurred at the premises. 16 of the 23 incidents listed above involved intoxication; whether this be the victim, suspect or witnesses showing signs of drunkenness.

Sussex Police believe the condition below is appropriate and proportionate to ensure that staff are regularly trained in relation to the sale of alcohol and the refusal of those who are intoxicated.

9. The Premises Licence Holder shall ensure that all staff members engaged or to be engaged, in selling alcohol at the premises shall receive the following induction training. This training will take place prior to the selling of such products:

- *The lawful selling of age restricted products
- *Refusing the sale of alcohol to a person who is drunk

Further verbal reinforcement/refresher training covering the above will be carried out thereafter at intervals not to exceed 12 weeks, with the date and time of the verbal reinforcement/refresher training documented.

All such training undertaken by staff members shall be fully documented and recorded. All training records shall be made available to Sussex Police, officers of the local authority and officers from the Trading Standards team upon request.

SIA DOOR STAFF

Sussex Police have no confidence in the existing door staff team, two of whom are employed 'in-house'. A number of incidents clearly evidence the existing security team as being both incompetent and ineffectual. It is also necessary to define SIA working hours in addition to a written risk assessment and a policy for dispersal.

As such, we strongly recommend the condition below is added to the licence:

10. Security industry Authority (SIA) door supervisors shall be employed through an external contract company.

11. SIA registered door staff will operate at the premises as follows:

- Wednesday and Thursdays (and additionally Sundays when there is a bank holiday Monday the following day): Two door staff from 21:00 until the premises has closed to the public, licensable activity has ceased and the venue is completely clear of patrons. There will be a written Dispersal Policy in place as agreed with Sussex Police to prevent groups gathering, engaging in altercations and persons remaining in the vicinity of the premises.
- Fridays and Saturdays: Three door staff from 20:00 until the premises has closed to the public, licensable activity has ceased and the venue is completely clear of patrons. There will be a written Dispersal Policy in place as agreed with Sussex Police to prevent groups gathering, engaging in altercations and persons remaining in the vicinity of the premises.

12. At all times the premises is open to the public, the management will contract the back-up services of an approved mobile support unit (MSU) 24 hours a day, with a minimum of 2 SIA registered Door Supervisors operating from it. A copy of the MSU contract will be retained at the premises and made available for immediate inspection upon request by Sussex Police or Council Officials. The MSU will be accredited by the Brighton Business Crime Reduction Partnership (BCRP) or other similar organisation approved by Sussex Police should the BCRP not be in existence.

13. SIA trained and licensed door supervisors shall be employed on occasions when a requirement is identified by the licence holder's written risk assessment or requested by Sussex Police.

BCRP

The condition below is appropriate to ensure employees at Misty's attend Business Crime Reduction Partnership (BCRP) events, including door supervisor and premises supervisor meetings. It also allows the management and employees to access BCRP information. The incident on Saturday 2nd July 2016, during which a BCRP nominal was arrested for GBH after being allowed into Misty's, evidences the importance of this condition.

14. The premises will become a member of the Business Crime Reduction Partnership (BCRP) whilst this scheme is in existence or other similar body approved by the Licensing Authority. The premises will support the BCRP and attend scheduled meetings.

CLUBSCAN

Sussex Police are aware that Mr. Kianifard has installed an electronic scanning system. However, as seen from the incident on the Friday 23rd December 2016, individuals entering the premises are not being scanned at all times. We also believe that the use of an electronic scanning system would deter those who frequent the premises and cause crime and disorder inside.

Therefore, Sussex Police recommend that the following condition is added to the licence:

15. The premises shall install a recognised electronic identification scanning system for customers entering the premises. The system shall be operated at all times door staff are on duty and all persons entering the premises will be scanned. The system should have the ability to share alerts with other venues using similar ID scanning equipment, identify the hologram of an ID and read both Passports and ID cards, including PASS cards. The system should be able to conduct tests to determine if a document is genuine or counterfeit. The system must be compliant with the Information Commissioners good practice guidance for ID scanning in clubs and bars.

Please mark X for yes

Have you made an application for review relating to this premises before	<input type="checkbox"/>
--	--------------------------

If yes please state the date of that application	□ □ / □ □ / □ □ □ □
--	---------------------

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

[Empty rectangular box for content]

Please mark X for 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 (on behalf of the applicant)



Sussex Police
Application for review of a premises licence
01/2017

Date: 25/01/2017

Capacity: Head of Licensing & Public Safety, in the absence of the Chief Supt Lisa Bell.

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

Tantara Fox-Stillwell
Brighton & Hove Licensing Unit
Police Station
John Street

Post town Brighton, East Sussex	Post code BN2 0LA
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Telephone number (if any)
101 Ext. 550809

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

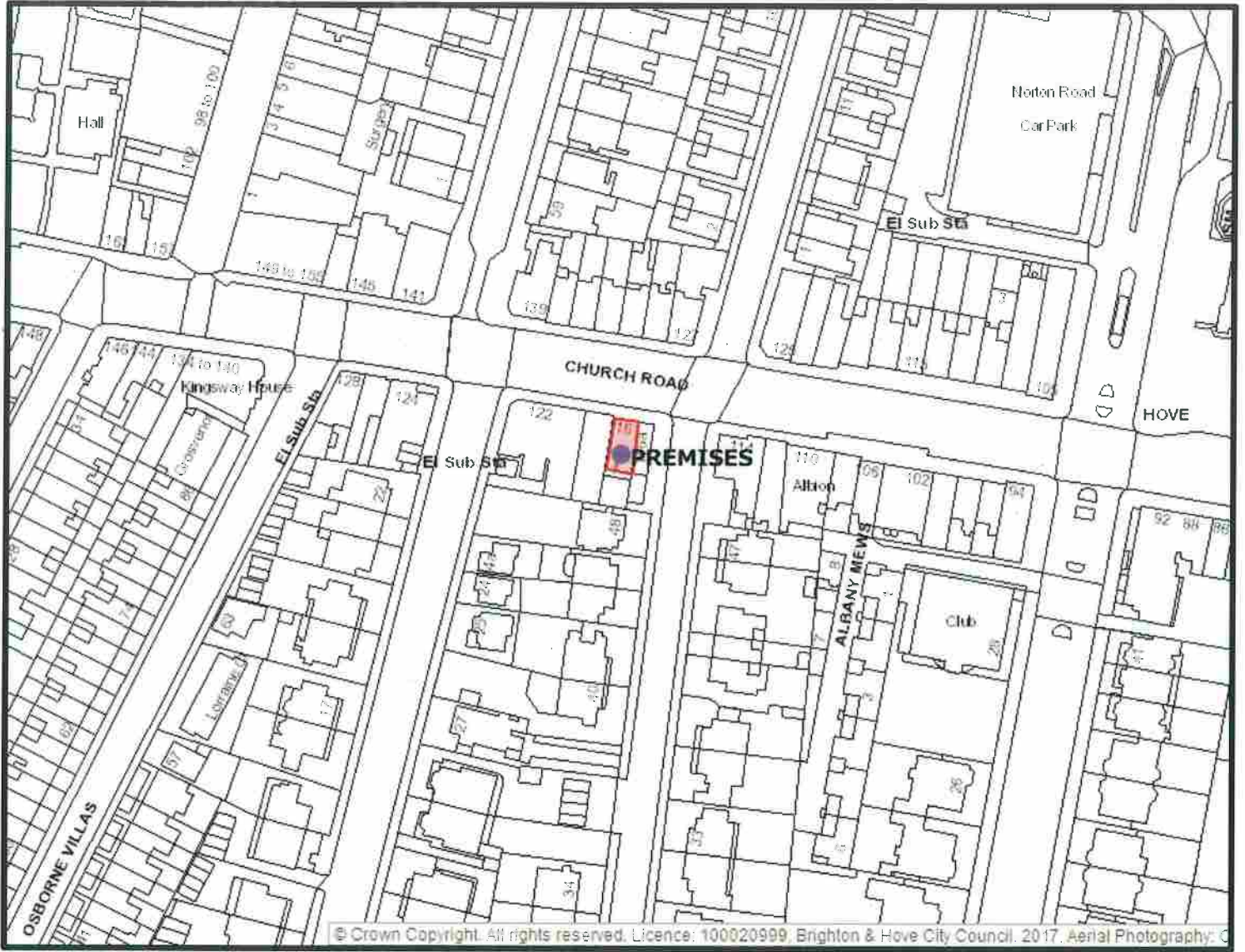
brighton.licensing@sussex.pnn.police.uk

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.

This is the address which we shall use to correspond with you about this application.

APPENDIX C



© Crown Copyright. All rights reserved. Licence: 100020999 Brighton & Hove City Council, 2017. Aerial Photography: C

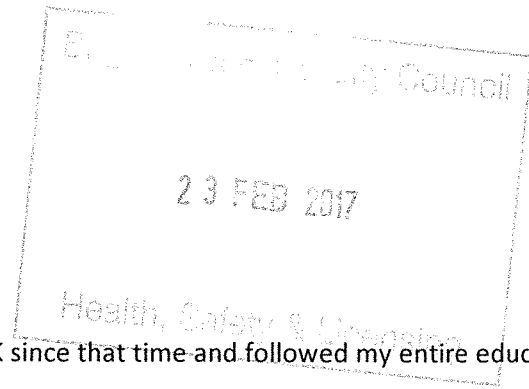
APPENDIX D

A statement by Mr Afshin Kianifard

Date of birth: 10/01/1970

Nationality: British

Place of birth: Iran, Tehran



I moved to the UK with my family in 1978. I remained in the UK since that time and followed my entire educational experience in schools and colleges in the UK.

My working life began as a bar manager for a venue called "Wall Street Brasserie" on Western Road, Hove. After this, I worked at Hove School of English where I was manager and company director from 1990 to 2002. My experience here involved child and adult welfare, offering a 24-hour service to all students (adults and children from age 8 upwards). My role involved a range of activities including marketing and travelling to various destinations around the world to recruit students.

In 2002 I decided to have a change of career and opened my own business which was a small restaurant and take away in Hove. This is when I became a licensee and applied for a premises licence. The business opened until 02:00 hrs at weekends, offering food with a licence to serve alcohol until 23:00 hrs Monday to Friday and 22:30 hrs Sundays.

In 2006 I purchased the lease of 116 Church Road, Hove and turned it from a Chinese restaurant into a cocktail bar. I am a hands on type of person who enjoys and takes great pride in everything I do.

Over the years Misty's developed a good reputation locally and became a venue I was extremely proud of running.

Regular staff meetings have always taken place in Misty's. They have continued to be held on a regular basis over the last two years. Additionally, when there has been an occurrence of any kind, additional meetings may have been held. As an example of the meetings that have been held:

Appendix B:

9th February 2015 meeting regarding better usage of the CCTV system and more "walk throughs"

6th April 2015 meeting regarding the incident where a lady slips down the stairs

22nd February 2016 meeting regarding incident of 20/02/2016 in the garden area

14th March 2016 meeting regarding new CCTV equipment

4th July 2016 meeting regarding the [REDACTED] incident

28th November 2016 meeting regarding barred person who alleged being assaulted by door staff

29th November 2016 Incident involving Mobile Support Unit and their handling of the situation

19th January 2017 Incident caused as a result of Scannet equipment failure

In 2013 we decided to introduce DJ's as there appeared to be a demand for it. This did open Misty's up to a wider range of people and unfortunately with it came trouble that we had never previously experienced. Initially everything went smoothly, however, as time passed it became evident that having DJ's was not appropriate for Misty's. As a result, we stopped DJ's performing indefinitely. This had a short-term positive impact on the types of customers we were welcoming. However, we felt that it would take far longer to totally be clear of the types of people who were causing issues.

On 09/01/2014 we joined BCRP (Business Crime Reduction Partnership) and on 12/05/2014 we contracted the services of Concierge & Security Ltd for MSU (Mobile Support Unit). These two arrangements continue to this day.

Over the years, I continued to try to improve all aspects of Misty's, having several re-fits in order to put the days of DJ's behind us. In 2016, we had an unfortunate incident which led to the discovery that the head door supervisor was not carrying out his duties in the manner he should have been. As a result, within 9 days of this incident, he was relieved of his duties and we contracted the services of Consec Risk Management, a security company that works very closely with all licensing authorities and BCRP (Business Crime Reduction Partnership).

We expected this change to have a very positive impact on how the door was being managed. However, unfortunately, over a period of months, it was realised that this move was not having the substantial impact we were hoping it would have. A process of barring a large number of people began. As a result, we purchased an ID Scanner which is the one used by the majority of larger bars and clubs in Brighton. Unfortunately, the equipment failed shortly after it was installed and several telephone calls and emails later, resulted in 3 replacement machines all of which failed until the most recent one reached us in early February 2017. In addition to this, more recently, a breathalyser was introduced to assist where staff have doubts regarding the state of certain individuals. As is policy, full training has been given to all staff (including door staff) on using this equipment and the training records will illustrate this. A copy of the Breathalyser Training Policy is attached for your attention.

Staff training takes place both as an induction for new staff and as a refresher for existing staff. These take place at regular intervals throughout the year. This is essential in ensuring that all staff members (including door staff) are aware of their responsibilities with regards to the four major licensing objectives and fire risk assessment. All staff training records are held on file in Misty's. Full training records are available for inspection and are signed by staff members who have received the training and signed and dated by the management who have provided the training. These records are held on site in Misty's and are available for inspection.

Misty's has a package of policies available all of which are listed in the appendix. The most recent is the Breathalyser Policy which is attached. Other examples of attached policies are Staff Training Policy, Child Protection Policy, CCTV Policy, Drugs Policy and Dispersal Policy. The Dispersal Policy is a policy that was updated on 15/01/2017 and all staff members including door staff have been updated on this policy. This has been attached for your attention.

Appendix A:

Age Verification Policy
Breathalyser Training Document
CCTV Training Document
Child Policy
Dispersal Policy
Drugs Policy
Drugs Training Policy
Fire Alarm Training Document
Fire Evacuation Procedure
Fire Risk Assessment Annual Review
ID Scanner Training Policy
Incident Log Training Policy
Search Policy
Staff Training Policy

I have recently arranged the purchase of a drugs testing kit and identify this. I am rightly concerned about the indications from the police as to the variety of areas as to where drug traces have been found and on testing the bar area, having cleaned it thoroughly, I was surprised to find that the drugs testing kit was indicating a high cocaine presence. Having cleaned the area again, using the cleaning products we use throughout the premises, there again was an indication on further testing that cocaine was further present. I have therefore come to the conclusion that this particular type of cleaner is giving false readings on a surface which was so thoroughly cleaned.

I am an individual who takes his responsibilities extremely seriously and have always upheld the main licensing objectives to the best of my ability and will always continue to do so. I find it extremely distressing that the most recent changes we have made and implemented since the end of December 2016 are not given the opportunity to illustrate that they are working. We are turning away a substantial number of people if they do not fit into the profile we feel appropriate to enter the venue. Large groups are no longer permitted to enter. The door is secured after 22:30 hrs (which means that persons outside the venue cannot walk in unless a member of staff releases the door from within) during the week which will allow individuals to be hand picked thus reducing any chance of incidents. At weekends the door is secured at 01:30 hrs (again, this allows people to exit but does not allow anyone to enter the venue unless a member of staff releases the door from within).
and the door staff are not allowing anyone to enter beyond 02:00 hrs.
Since the changes have been implemented, we have not had any incidents and I am confident that this will continue to be the case if we are simply given more time to illustrate this.

Thank you for your kind attention.

Afshin Kianifard

Misty's Cocktail & Wine Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created on 11/02/2017

Breathalyser Training

I have been fully trained on operating the breathalyser. I understand when and how to use this piece of equipment and to record any persons whom I breathalyse.

Date:

Name:

Signature:

Misty's Cocktail Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created on 17/04/2006

Last updated on 15/08/2012

STAFF TRAINING POLICY

Every staff member on having been selected to work at Misty's must undergo a full training which must be completed successfully before being permitted to work as a member of the bar staff.

This means completing all aspects of training with a strong emphasis on licensing law with a focus on the four main licensing objectives.

There is a 1 month period which is allocated to staff induction after which it is expected that the new employee is confident with respect to their responsibilities as bar staff.

Refresher training takes place at regular intervals.

ADMINISTRATION

MISTY'S COCKTAIL & WINE BAR

Misty's Cocktail & Wine Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created 17/04/2006

CHILD POLICY

From opening up to 21:00 hrs, the premises licence allows children to enter the venue provided they are accompanied by an adult.

However, it is Misty's policy to allow children to enter the venue with an adult up to 20:00 hrs provided they are accompanied by an adult over the age of 21.

ADMINISTRATION
MISTY'S COCKTAIL & WINE BAR

Misty's Cocktail & Wine Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created on 20/03/2016

CCTV Training Document

I, have been fully trained on all aspects of using the CCTV equipment. In the event that footage is required, I am able to download the relevant footage and transfer it onto a USB stick.

Name:

Trained by:

Date:

Misty's Cocktail & Wine Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created on 17/04/2006

Last updated on 16/12/2016

DRUGS POLICY

Misty's has a **ZERO TOLERANCE** drugs policy. Any individuals found carrying or attempting to consume what appears to be illegal drugs will have the illegal drugs confiscated from them and they will be barred for a minimum of 2 years (repeat offenders will be barred for life). This is carried out by the staff member notifying door staff who then proceed to eject the individual(s) concerned. Should the incident occur when there are no door staff present, the mobile support unit is contacted and the individual(s) concerned is/are monitored closely until the mobile support unit arrive and take charge of the situation. A repeat offender is someone who has already been caught and after a 2-year ban has reoffended.

All feasible steps are taken to ensure that no one attempts to enter Misty's either whilst under the influence of alleged illegal substances or, whilst in possession of alleged illegal substances.

An ultraviolet light has been position at the main entrance which will assist in detecting if someone has consumed any illegal white powder.

Door staff will carry out random searches on a minimum set number of people whilst on duty. This number is a minimum, should they feel that more people need to be searched, they have the authority to search larger numbers. The minimum number is as follows:

Wednesdays: 6

Thursdays: 8

Fridays: 10

Saturdays: 10

Bank Holiday Weekends: 14 per night

Misty's Cocktail & Wine Bar

116 Church Road, Hove, East Sussex BN3 2EA

Telephone: 01273 220302

Email: mistysbar@gmail.com

First created 17/04/2007

Last updated 15/01/2017

DISPERSAL POLICY

Other days of the week: The garden is closed 10 minutes before last orders are called. Once last orders are called, all members of the public are gradually encouraged to drink up and quietly leave the premises. Any people intending to leave the premises on their own are encouraged to ask a member of bar staff to call a taxi. Door supervisors ensure that members of the public do not loiter in front of the premises in order to prevent a noise nuisance and to prevent crime and disorder.

Fridays & Saturdays: 30 minutes before last orders are called, 1 door supervisor begins to close the garden down ensuring that the public move into the main bar area in an orderly fashion. When last orders are called, the public are encouraged to drink up and leave in a quiet and orderly manner. Any people intending to leave the premises on their own are encouraged to ask a member of bar staff to call a taxi. Door supervisors ensure that members of the public do not loiter in front of the premises in order to prevent a noise nuisance and to prevent crime and disorder.

In general, the music is switched off at 23:00 hrs in the garden to avoid any noise nuisance issues.

In the bar areas, the music is changed to a more mellow kind in order to allow the public to relax and avoid any "high energy" movements. This helps to prevent crime and disorder and ensures public safety.

ADMINISTRATION

MISTY'S COCKTAIL & WINE BAR

Minutes of meeting of 09/02/2015 17:00 hrs

Attendees: Farzan Asadi, Maria Dato, Afshin Kianifard, Maxi Gonzalez, Akos Leidl, Nikola Kiraplova, Monica Gomez

An extraordinary staff meeting took place as a result of the incident of 07/02/2015.

It was decided that more regular supervision of the cameras monitoring the garden is necessary and bar staff and door staff will more regularly do "walk throughs" in order to keep an eye on the areas that are less visible.

The meeting was ended.

Minutes of meeting of 06/04/2015 17:00 hrs

Attendees: Farzan Asadi, Maria Dato, Afshin Kianifard, Maxi Gonzalez, Akos Leidl, Monica Gomez

An extraordinary staff meeting was held as a result of an incident that took place on 04/04/2015. A lady fell down the stairs and was laying down and being cared for by her friend. Some man who appeared drunk attempted to enter Misty's stating that he was a paramedic. The door supervisor asked him to leave and stated that paramedics were on their way. He felt that the individual was drunk and in no condition to be permitted to enter. He was later commended for taking the correct actions by the police. The lady who was injured was treated by paramedics and walked away from the incident with no lasting injuries. She was also kind enough to phone Misty's the following day to thank us for looking after her.

Door staff were commended for their professional conduct. End of meeting.

Minutes of meeting of 22/02/2016 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Silvia Orunda

A general staff meeting was held to discuss the events that took place on 20/02/2016 in the garden.

The door staff did not act quick enough and as a result the head door supervisor was reprimanded with a view to further action being taken in due course. Had the door staff intervened immediately, the resulting escalation would not have taken place.

We spent a great deal of time helping police with their enquiries and providing them with evidence to assist in the capture of the guilty parties.

The CCTV system was immediately upgraded and additional cameras were installed. A 6-monthly review of cameras now takes place in order to see how we can further improve coverage and quality of footage.

End of staff meeting.

Minutes of meeting of 14/03/2016 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Silvia Orunda and Rocio Sanchez

A general staff meeting was held with all staff present. The updated CCTV hardware and cameras were discussed and all staff members were trained on how to use the CCTV equipment.

End of staff meeting.

Minutes of meeting of 04/07/2016 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Charles Axtell and Martin Prelec, Akos Leidl

A general staff meeting was held with all staff present. It was concluded that none of the Dawes family would be permitted to enter Misty's and that all procedures were carried out in the correct manner. It was also concluded that this was a premeditated event and was impossible to predict under the circumstances. According to our records, [REDACTED] was not on the BCRP list on the day in question which means it would not have been possible for us to be aware of him.

End of staff meeting.

Minutes of meeting of 28/11/2016 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Alex Peacock, Martin Prelec, Akos Leidl

A general staff meeting was held. The alleged incident of assault by a barred member of public was discussed. It was evident that he was lying to police about being assaulted by door staff. The police did come and it was a waste of their time. This individual is a problematic person and it was emphasised that under no circumstances was he to be permitted to enter the venue.

End of staff meeting.

Minutes of meeting of 29/11/2016 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Alex Peacock, Martin Prelec, Akos Leidl

A general staff meeting was held with all staff present and it was reemphasised that it is essential to ensure that members of the public entering the venue are screened if there is any doubt about their suitability to be served they are not to be permitted to enter.

It is our opinion that MSU on this occasion could have handled the situation better as it appears that they did not take all possible measures to ensure the 2 males leave the premises peacefully.

This was passed onto the head door supervisor in order for him to discuss it with his company.

End of staff meeting.

Minutes of meeting of 19/01/2017 17:00 hrs

Attendees: Maria Dato, Afshin Kianifard, Niky Kiraplova, Alex Peacock, Martin Prelec, Akos Leidl

The Scannet equipment failed yet again. Again, the company was contacted and they apologised for the inconvenience caused and stated that another replacement system would be sent out.

The persons involved in the incident were both not behaving appropriately. The gentleman who was manhandled out of the premises was done so because of talking in an inappropriate manner to another male who was sat down having a quiet pint of beer. The reaction was extreme but as the CCTV footage illustrates, the gentleman in question was taken by his upper body and carried out of the premises where he was left and the other male proceeded to re-enter the premises behaving in a very calm manner throughout the incident.

When the police arrived and saw the cctv footage, they did feel that their time was being wasted by the individual who called them. Bar staff did try to discourage him from calling the police, however, he was insistent.

End of staff meeting.

From: <steve.amner@sussex.pnn.police.uk>
Date: 30 December 2016 at 15:44:40 GMT
To: <Brighton.Licensing@sussex.pnn.police.uk>
Cc: <mistysbar@gmail.com>
Subject: Misty's Bar, Church Road, Hove

Hello Licensing Unit,

Myself and DC DUFFY attended Misty's Bar on Church Road, Hove this afternoon in relation to a GBH that took place outside Misty's on 23/12/2016 – NICHE 47160177587 refers.

Our intention was to obtain CCTV from Misty's. We were met by the owner 'Ash' (Afshin KIANIFARD) who was extremely helpful.

It is rare to attend a business and find that the owner is so co-operative and knowledgeable. Ash has full working knowledge of the CCTV system and further to that had just purchased a USB stick to assist with our CCTV enquiry.

Ash will also be providing a copy of a written log made by his security staff in relation to the incident.

Misty's have also installed a new ID scanner that may assist greatly with any further police enquiries and Ash happily showed us what it can do.

I was so impressed with the level of co-operation and standard of security systems (including also clear CCTV) that I told Ash I would write to you to pass on my thanks.

Regards
DC Steve AMNER CA314
Brighton CID
Sussex Police

Sussex Police - Serving Sussex

You can report crime and incidents online at www.sussex.police.uk/reportonline

We want to know your views - see what's new and give us your feedback and suggestions at www.sussex.police.uk

If you have received this message in error, please contact the sender as soon as possible - you may not copy it, or make use of any information contained in it for any purpose, or disclose its contents to any other person. Messages sent and received by Sussex Police are not private and may be the subject of monitoring.

8th February 2017

To Whom It May Concern

Regarding: Misty's Cocktail and Wine Bar, 116 Church Road, Hove

I am writing in support of the above venue. I have frequently held my law firm's staff Christmas parties and entertained clients there. I have always had a positive experience with very friendly staff and a relaxed atmosphere.

I can confirm that I have never witnessed any issues whilst frequenting this establishment.

As a customer, I can state that it is a well run, organised establishment which has been there for many years.

If you require any further information, please do not hesitate to contact me.

Yours faithfully



Alex Sherwood



127 CHURCH ROAD

HOUSE

DN3 2AE

04.02.17

To whom it may concern,

I confirm that we at Timpson use Mistys as a venue for both social and work related staff meetings, we fully support Mistys in relation to the review process that they are going through.

We have never had any negative experiences at this venue and have always found thee to be a relaxed, friendly atmosphere.

Thank you for your kind attention.

Yours faithfully

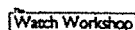
Adam Coombe (manager)



Timpson Limited Established 1903

Registered Office: Timpson House, Claverton Road, Wythenshawe, Manchester, M23 9TT. Registered No. 00675216 England

Telephone: 0161 946 6200 Facsimile: 0161 946 0135 www.timpson.com



Tandoori

175 Church Road
Hove, East Sussex, BN3 2AB
Tel. 01273 737188
01273 202795

02/02/2017

To Whom It May Concern

Regarding: Misty's Cocktail & Wine Bar

I am a local business owner and I run a restaurant called Hove Tandoori on Church Road, Hove. Me and my staff regularly go to Misty's after we have closed in order to relax and have a couple of drinks and talk about the day's events.

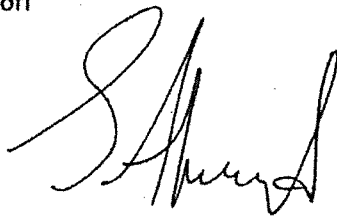
We have always found Misty's to be a nice friendly place with a lovely local community feel. Although we frequent this venue 2 - 3 times a week, we have never experienced any issues to speak of. All the staff are friendly and alert and always check that we are ok when we are in there.

Please treat this letter accordingly.

Yours faithfully

Shahed Ahmad - Proprietor

Hove Tandoori



Awarded the certificate
for the Taj Good Curry
Restaurant guide

Montefiore Fisheries

23 Montefiore Road

Hove

BN31RD

03 Feb 2017

Dear Sirs

Misty's Bar

I am the owner of Montefiore Fisheries. We are a fish and chips shop. We go to Misty's to have a drink or two after work and we enjoy it very much. It is open late enough to allow us to go there after work and relax together with friends.

We have never known of any problems there and have been using the place for over 2 years.

Please contact me if you want to discuss anything.

Best wishes

Montefiore Fisheries



5th February 2017

Dear Sir/Madame

Reference Misty's

I am the owner of a fish and chips shop on Portland Road in Hove. It is called Chip Basket. We often visit Misty's after we have finished cleaning and closing up processes.

We really enjoy going there as it is open late which means me and my colleagues can go there and relax together.

We have been going there for at least the past 8 years and have never witnessed any problems. The atmosphere is lovely and friendly.

Thank you for your attention.

Yours truly

Maged Safar

A handwritten signature in black ink, appearing to be 'Maged Safar', written in a cursive style.

APPENDIX E

LICENSING ENFORCEMENT POLICY

1.0 STATEMENT OF OBJECTIVES

The Council as licensing authority and responsible authority is committed to the Council's priorities..
and will inform the enforcement actions taken. Amendments to priorities will be embedded automatically.

- 1.1 This service policy promotes efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.
- 1.2 In certain instances the service may conclude that a provision in the code is either not relevant or is outweighed by another provision. It will ensure that any decision to depart from the code will be properly reasoned, based on material evidence and documented.
- 1.3 The service pursues a positive and proactive approach towards ensuring compliance by:
- Supporting the better regulation agenda;
 - Helping make prosperity and protection a reality for the city's community;
 - Helping and encouraging regulated entities to understand and meet regulatory requirements more easily;
 - Responding proportionately to regulatory breaches; and
 - Protecting and improving public health and the environment.
- 1.4 This policy is based on the seven 'Hampton Principles' of:

Economic Progress: Regulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection;

Risk Assessment: Regulators, and the regulatory system as a whole, should use comprehensive risk assessment to concentrate resources in the areas that need them most;

Advice and Guidance: Regulators should provide authoritative, accessible advice easily and cheaply;

Inspections and other visits: No inspection should take place without a reason;

Information requirements: Businesses should not have to give unnecessary information or give the same information twice;

Compliance and enforcement actions: The few businesses that persistently break regulations should be identified quickly and face proportionate and meaningful sanctions; and

Accountability: Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take.

- 1.6 The rights and freedoms given under the Human Rights Act, particularly Article 6 and 8, will be observed, as will the provisions of the Regulation of Investigatory Powers Act.

2.0 SCOPE OF THE POLICY

- 2.1 This policy supports and supplements specific guidance on enforcement action contained in the Statutory Code of Practice for Regulators, Brighton & Hove City Council's Corporate Enforcement Policy, Statutory Codes of Practice and relevant guidance documents and guidelines issued by government departments and co-ordinating bodies.
- 2.2 This policy relates to actions taken to educate and enforce legislation where non-compliances have been identified or have a realistic potential to occur.
- 2.3 The policy is limited to those enforcement activities lead by the Head of Environmental Health & Licensing.

3.0 TRAINING

- 3.1 Officers undertaking enforcement duties will be suitably trained and qualified so as to ensure they are fully competent to undertake their enforcement activities.

4.0 MANAGEMENT SYSTEMS

- 4.1 The service will maintain management systems to monitor the quality and nature of enforcement activities undertaken, so as to ensure, so far as is reasonably practicable, uniformity and consistency.

5.0 ENFORCEMENT OPTIONS

- 5.1 The service recognises the importance of achieving and maintaining consistency in its approach to enforcement. Statutory Codes of Practice and guidance issued by government departments, other relevant enforcement agencies or professional bodies will therefore be considered and followed where appropriate.
- 5.2 Sanctions and penalties will be consistent, balanced, fairly implemented and relate to common standards that ensure individual's, public safety or the

environment is adequately protected. The aim of sanctions and penalties are to:

- Change the behaviour of the offender;
- Eliminate any financial gain or benefit from non-compliance;
- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- Proportionate to the nature of the offence and the harm caused; and
- Aim to deter future non-compliance.

5.3 Criteria to be taken into account when considering the most appropriate enforcement option include:

- the potential of the offence to cause harm;
- confidence in the offender;
- consequences of non compliance;
- likely effectiveness of the various enforcement options.

5.4 Having considered all the relevant options the choices for action are:

- **Informal Warning:** All advice issued will be given in writing and specify the nature of the breach or offence, and the actions required to remedy the issue. An informal warning may be included with the advice, and may accompany higher-level actions, such as Enforcement Notices or Voluntary Surrender:
- **Licence review:** Licence review power will be used where an application for review relates to one or more of the licensing objectives.
- **Taxi licence:** Taxi licence suspension or revocation will be used to protect public safety. Other sanctions such as DSA testing will be used to protect public safety and in accordance with the taxi licensing policy (Blue book).
- **Simple Caution:** The issue of a Simple Caution by an authorised officer may be undertaken as an alternative to prosecution where it is considered unnecessary to involve the courts, and the offender's response to the problem makes repeat offending unlikely, or the offender's age or health make it appropriate. Cautions may only be issued where the offender makes a clear and reliable admission of guilt and understands the significance of acceptance.
- **Prosecution:** A prosecution is appropriate where there is a breach of a legal requirement, such that public safety, health, economic or physical well-being or the environment or environmental amenity is adversely affected.

The Crown Prosecutor's Code of Evidential and Public Interests tests must be met in all cases. However, certain circumstances will normally justify prosecution to prevent the undermining of the service's enforcement responsibilities.

- Failure to comply with an Enforcement Notice
- Declining a Simple Caution
- Continued, reckless, negligent or pre-meditated non-compliance.
- Failure to pay a fixed penalty.
- Non-cooperation, acts of obstruction or threats of physical harm or abuse.

- **Injunctions:** Injunctive action as a means of preventing an activity or course of action likely to result in significant risk to public or community safety or economic wellbeing of consumers and businesses.

5.5 If the department is considering taking enforcement action which it believes may be inconsistent with that adopted by other authorities, the matter will be referred to the appropriate local co-ordinating body.

6.0 INFORMAL WARNING

6.1 Informal action may be taken when:

- the act or omission is not serious enough to warrant formal action, or
- from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve compliance, or
- confidence in the individual/enterprise's management or ability to resolve the matter is high, or
- the consequences of non-compliance will not pose a significant risk to public health, public safety, animal welfare or the environment.

6.2 When an informal approach is used to secure compliance with regulations, written documentation issued will:

- contain all the information necessary to understand what is required and why;
- indicate the regulations contravened, measures which will enable compliance with legal requirements and that other means of achieving the same effect may be chosen;
- clearly differentiate between legal requirements and recommendations of good practice. Such a differentiation will also be made when verbal advice is given.

7.0 SIMPLE CAUTIONS

7.1 A Simple Caution may be issued as an alternative to a prosecution. Cautions may be issued to:

- deal quickly and simply with less serious offences;
- divert less serious offences away from the courts;
- reduce the chances of repeat offences.

7.2 The following factors will be considered when deciding whether a caution is appropriate:-

- evidence of the suspect's guilt
- has a clear and reliable admission of the offence been made either verbally or in writing
- is it in the public interest to use a caution as the appropriate means of disposal when taking into account the public interest principles set out in the Code for Crown Prosecutors.

- the suspected offender must understand the significance of a simple caution and give an informed consent to being cautioned.

7.3 No pressure will be applied to a person to accept a Simple Caution.

7.4 The 'cautioning officer' will be the most appropriate officer from Service Director, Service Assistant Director, Head of Service Environmental Health Manager or Licensing Manager. The Cautioning Officer must not have taken an active part in investigating the case.

7.5 Should a person decline the offer of a simple caution a prosecution will be recommended.

8.0 PROSECUTION

8.1 The department recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.

8.2 The decision to undertake a prosecution will be taken after proper consultation in accordance with the Scheme of Delegation for the council's functions. The decision to proceed with a prosecution will normally be taken following legal advice. The matters to be taken into account when deciding if the issue of proceedings is proportionate include:

- the seriousness and nature of the alleged offence;
- the role of the suspect in the commission of the offence;
- any explanation by the suspect or any agent or third party acting on their behalf;
- was the suspect in a position of trust, responsibility or authority in relation to the commission of the offence;
- is there evidence of premeditation or disregard of a legal requirement for financial reward;
- risk of harm to the public, an individual or the environment;
- relevant previous history of compliance;
- reliability of evidence and witnesses
- any mitigating or aggravating circumstances or the likelihood that the suspect will be able to establish a defence;
- suspect's willingness to prevent a recurrence of the offence;
- the need to influence future behaviour of the suspect;
- the likely penalty to be imposed; and
- a prosecution is in the public interest, there is realistic prospect of conviction and sufficient evidence to support proceedings.

8.3 All relevant evidence and information will be considered before deciding whether to instigate proceedings in order to enable a consistent, fair and objective decision to be made.

8.4 Where an act or omission is capable of constituting both a summary and either way offence, when deciding which offence to charge the following will be considered:

- the gravity of the offence;
- the adequacy or otherwise of the powers of the summary court to punish the offence;
- the record of the suspect;
- the suspect's previous response to advice or other enforcement action;
- the magnitude of the hazard;
- any circumstances causing particularly great public alarm;
- comments from the council's Solicitor's Office.

8.5 As a general rule an individual or business will be given a reasonable opportunity to comply with the law although in some circumstances prosecution may be undertaken without giving prior warning, e.g.

- the contravention is a particularly serious one;
- the integrity of the licensing framework is threatened.

9.0 Home Office and Government Advice: Problem premises on probation

9.1 The licensing authority supports the strategies of interventions and tough conditions to be assembled into packages released on 2008. The current version is appended (appendix A).

10. APPEALS

If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant team manager, Head of Service or Assistant Director.

Any such appeal does not preclude any aggrieved person from making a formal complaint about the service or any officers. Any such complaint will be dealt with in accordance with corporate procedures and guidance.

Complaints that are not dealt with by the council's complaints procedure are listed in corporate policy and include:

- Complaints where the complainant or another person has commenced or intends to commence legal proceedings against the council.
- Complaints where the council has commenced or intends to commence legal proceedings against the complainant or another person relating to the matter of complaint.

11. SHARED ENFORCEMENT ROLES

Lead agency status between Sussex Police, East Sussex Fire and Rescue Service and the council's trading standards, environmental health and

licensing officers are determined between the agencies at county level. The current position is appended (appendix H).

ANNEX A

“PROBLEM PREMISES ON PROBATION” – RED AND YELLOW CARDS : HOW IT WOULD WORK

The problem

1. In many cases, revocation of a premises licence effectively kills any business which is focussed on retailing alcohol. This means that not only the business owner suffers, but most people working there will lose their livelihoods. Many of these workers will be entirely innocent of any wrong-doing. There is also an impact on those who rely indirectly on income from the premises – such as local food suppliers or cleaning contractors, and the closure of a premises can deprive some communities of their local shop or restrict local consumer choice. Enforcement agencies that apply for reviews and local councillors sitting on licensing committees are well aware of this potential impact and it can lead to a reluctance to use the powers in the act to revoke the licence instantly for any failure to promote the licensing objectives. This risks patchy enforcement and uneven solutions to alcohol-related problems around the country.
2. In addition, in many cases, enforcement agencies will prefer to negotiate additional voluntary conditions with problem premises against the threat of review as an immediate, pragmatic and less bureaucratic solution. While this may be a reasonable approach in many cases, there is a risk that some premises are not being dealt with as firmly as necessary, particularly given the level of test purchase failures. Nor are voluntary agreements particularly visible, lessening the deterrent effect on other premises.
3. Government wishes to support the enforcement agencies and licensing authorities by providing clear guidance on a “yellow card / red card” system, which would ensure a firm response to problems, but which give premises an opportunity to reform. The intention is that such a system would be highly visible and send a clear message to alcohol retailers, and the public, that action will be taken against those who act contrary to the licensing objectives and the law.
4. The proposed interventions below would not prevent the giving of an instant red card in an appropriately serious case. It should be realised that a “test purchase” failure often masks multiple offences that have gone undetected.

Supporting enforcement agencies

5. The government will encourage enforcement agencies – mainly the police, trading standards officers and environmental health officers – to seek more reviews in the knowledge of the yellow card/red card system described below.

This will mean not giving formal warnings. It will mean that on identifying problem premises, the licensing authority will be engaged faster than it might have been in the past.

6. Enforcement agencies would be encouraged to seek reviews when local intelligence suggests that individual premises are selling to children or causing other crime problems or causing noise nuisance.
7. Under the law, the licensing authority must then hold a hearing so long as the application relates to one of the four licensing objectives and is made by a responsible authority or by other persons like a local resident or another local business.

First intervention

8. Responsible authorities will be encouraged to propose a package of touch new conditions to be added to the existing conditions which are designed to combat the identified problem. The kinds of conditions that we have in mind are set out in Annex A. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises. Such action should be supplemented where appropriate by:
 - Removal of the designated premises supervisor and his/her replacement (the manager is removed);
 - Suspension of the licence for between one day and three months according to the circumstances.
 - Restriction on trading hours – cutting hours of trading in alcohol.
 - Clear warning that a further appearance will give rise to a presumption of revocation.
9. If appropriate following review, the licensing authority should consider these packages of conditions and actions to challenge problem premises more aggressively.
10. For example, requiring a major supermarket to make all alcohol sales through a single till manned by a person aged 25 years or older in order to tackle sales to underage. Over a year, this would potentially cost such a supermarket £millions. It would also make them reflect on their levels of supervision at other stores.
11. In addition, enforcement agencies should make the premises in question a priority for test purchases and more regular inspections.
12. The aim would be to put the premises on probation. Effectively, they are given a yellow card. They are put on notice that the next offence or breach would mean an automatic second intervention – a red card.

Second intervention

13. In the absence of improvement, enforcement agencies should seek another review. The licensing authority again must grant a hearing.
14. If satisfied on the issue of the lack of improvement, the licensing authority should look to **revoke the licence**. The action should be publicised in the area as an example to other retailers.

Implementation

15. Requires:
 - Development with the Home Office of a toolkit and guidance for police, trading standards and ethos;
 - Initial letters to Leaders of local authorities and Chief Executives;
 - Ultimately, stronger statutory Guidance to be laid in Parliament for licensing authorities themselves.
16. Central Government cannot tell licensing authorities what to do. The review powers are devolved to them. Similarly, central government cannot direct enforcement agencies how to enforce the law. It would remain their judgement when and how to act.

ANNEX B

POSSIBLE TOUGH CONDITIONS TO BE ASSEMBLED INTO PACKAGES

n.b. These would not be appropriate for every premises and need to be tailored to the nature of the problem and the type of premises.

GREATER CONTROL OVER SALE

1. Designated checkout(s) for alcohol sales (supermarket). Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
2. Personal licence holder/DPS to be on site at all times during sales of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
3. Personal licence holder/DPS to supervise and authorise every individual sale of alcohol. Impact on protection of children from harm and new costs if additional staff have to qualify as personal licence holder.
4. SIA registered security staff to be present at points of sales to support staff refusing sales to u-18s and drunks.

5. Alcohol sales only to be made only by person aged not less than 25 years. Impact on protection of children from harm, but also impact on sales and goodwill (probable loss of trade to competitors).
6. CCTV installed at all points of sale and recorded. Recordings can be examined by a constable or trading standards officer to determine sales to minors or drunks.
7. The licensed premises shall join the Business Crime Reduction Partnership scheme.

TRAINING

8. All staff to read and sign a declaration that they understand the law every time they start a shift.
9. Train all staff engaged in selling alcohol in alcohol awareness (not just personal licence holders). All new staff to be trained within two weeks of commencing employment. Evidence of training to be retained in writing and to be available for inspection by any authorised person and training standards officers. Impact on all licensing objectives.

ALCOHOL SALE BANNED AT CERTAIN HOURS

10. No alcohol sales Mon – Fri between 4pm and 8.30pm. Impact on protection of children from harm or targeted hours reflecting times when local intelligence indicates under 18s may be purchasing alcohol.
11. No alcohol sales – Friday to Sunday. Impact on all four licensing objectives.

ALCOHOL DISPLAYS

12. No displays of alcohol or advertising of alcohol promotions that can be seen from outside the premises.
13. No alcohol stocks promoted alongside goods likely to appeal to children (eg confectionary, toys).

CUTTING DOWN ON SHOPLIFTING

14. SIA registered security staff to be present at alcohol aisles during opening times to prevent attempted under age sales or theft.
15. Location of alcohol stocks/displays not to be sited near the entrance/exit to deter shoplifting.
16. No direct public access to alcohol products – like tobacco, alcohol to be kept behind a dedicated kiosk.

NAMING AND SHAMING

17. Display an external sign/yellow card to state which of the licensing act objectives they have breached and what action has been taken against them.

OTHERS

18. Maintain a log of all under attempted purchases from those who appear to be under 18 or drunk.
19. Children aged under [18 years] not to be present or (not more than one child at any one time) on premises (other than children living on the premises or of the people working on the premises); or only children under 18 accompanied by an adult to be permitted on the premises during retailing hours. Impact on protection of children from harm.
20. Products to be labelled (a label stuck to the bottle or can) to show the details of the shop from which it was bought. Purpose would be to provide evidence of unlawful sales if product found commonly in possession of persons under 18.
21. Designated single items – beer, alcopops and cider – not to be sold to any person. Impact on protection of children from harm. Purpose would be to reduce sales to children and drunks. Alternative would be to prescribe sales of beer, alcopops and cider in quantities of less than four.
22. CCTV installed, monitored and 24 hour recordings kept for a week and made available to constables and persons authorised under the 2003 Act to help identify attempted proxy purchasing.
23. Where there is no designated smoking area, readmission after midnight should normally be prohibited.