

APPENDIX B

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2017/100551/LAKEV



BRIGHTON & HOVE CITY COUNCIL ENVIRONMENTAL HEALTH & LICENSING DATE RECEIVED 26 JAN 2017
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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) | <input type="checkbox"/> |
| a) a person living in the vicinity of the premises | <input type="checkbox"/> |
| b) a body representing persons living in the vicinity of the premises | <input type="checkbox"/> |
| c) a person involved in business in the vicinity of the premises | <input type="checkbox"/> |
| d) a body representing persons involved in business in the vicinity of the premises | <input type="checkbox"/> |

2) A responsible authority (please complete (C) below)	<input checked="" type="checkbox"/>
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3) a member of the club to which this application relates (please complete (A) below)	<input type="checkbox"/>
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(A) DETAILS OF INDIVIDUAL APPLICANT (fill in as applicable)

Please mark X for yes

Mr <input type="checkbox"/>	Mrs <input type="checkbox"/>	Miss <input type="checkbox"/>	Ms <input type="checkbox"/>	Other title (for example, Rev)
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Surname

First names

Please mark X for yes

I am 18 years old or over	<input type="checkbox"/>
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Current postal address if different from premises address	
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Daytime contact telephone number	
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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.

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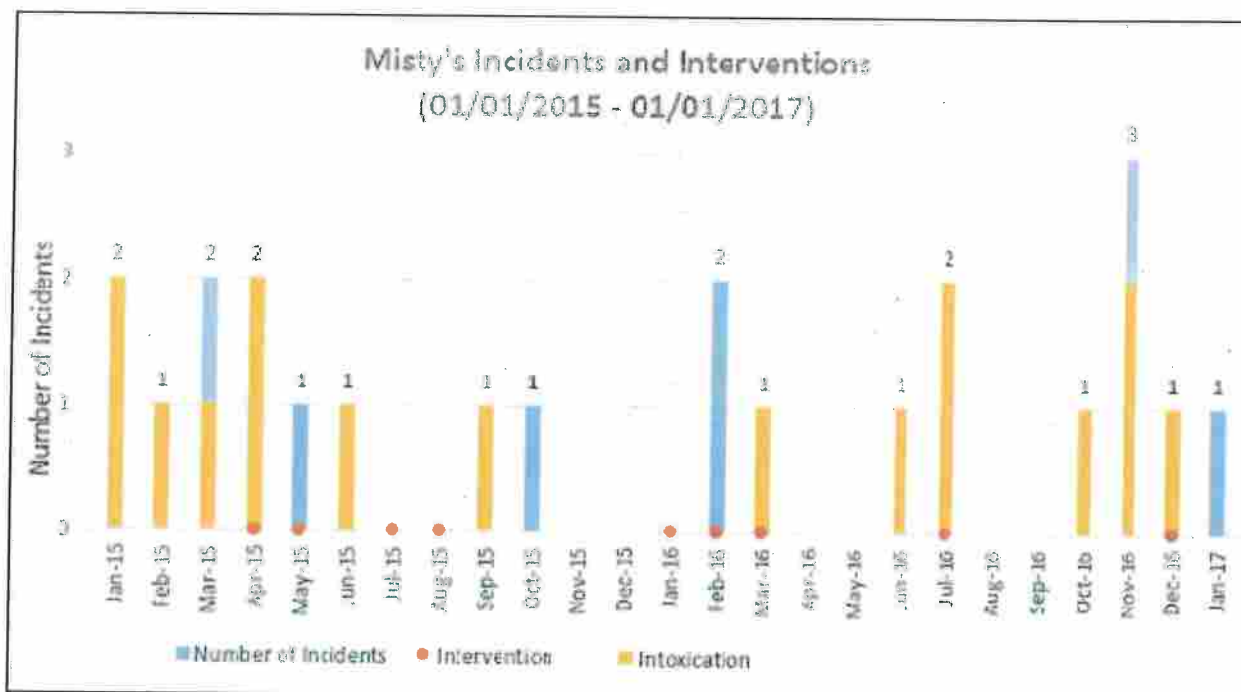
Sussex Police have expended a disproportionate amount of resources and time dealing with this small licensed premises. Larger venues in Hove, with similar licensing hours, have experienced only a small fraction of the problems and incidents which have occurred at Misty's.

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:

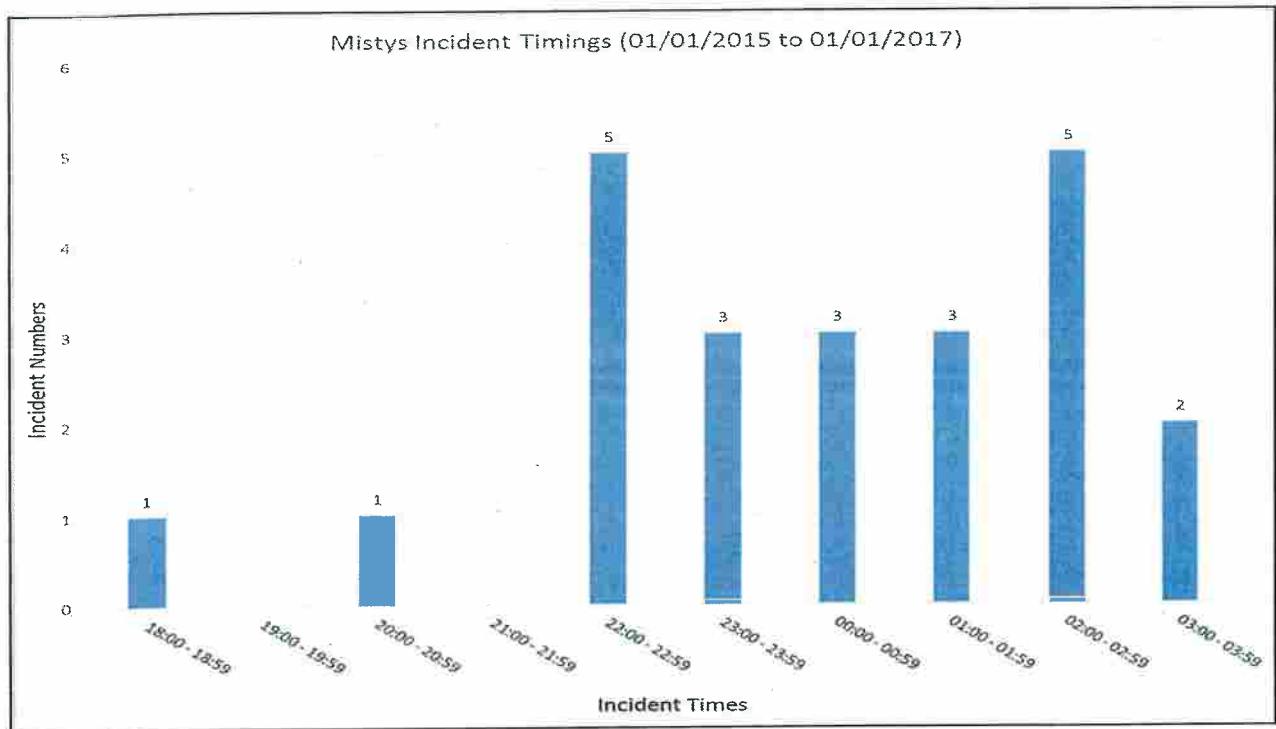
- Removal of the Designated Premises Supervisor

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.

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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	□ □ / □ □ / □ □ □ □
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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.