



CITY OF WESTMINSTER

# MINUTES

## Licensing Sub-Committee (5)

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (5)** held on **Friday 27th January, 2017**, Rooms 1A, 1B & 1C - 17th Floor, Westminster City Hall, 64 Victoria Street, London, SW1E 6 QP.

**Members Present:** Councillors Angela Harvey (Chairman), Susie Burbridge and Murad Gassanly

#### 1 MEMBERSHIP

There were no changes to the membership.

#### 2 DECLARATIONS OF INTEREST

Councillor Gassanly declared that he had sat as a Member of the Sub-Committee hearing on 6 January to consider whether to impose interim steps. Councillor Harvey and Councillor Burbridge declared that they had sat as Members of the Sub-Committee on 12 January at the hearing to consider the Licence Holder's representation against the interim steps.

It was noted that Mr Kolvin is Chair of the London Mayor's Night Time Commission and is a legal adviser to the Night Time Industries Association.

#### 3 RAH RAH ROOMS, 215-217 PICCADILLY, W1

##### LICENSING SUB-COMMITTEE No. 5

*Friday 27<sup>th</sup> January 2017*

Membership: Councillor Angela Harvey (Chairman), Councillor Susie Burbridge and Councillor Murad Gassanly.

Legal Adviser: Barry Panto  
Policy Adviser: Chris Wroe  
Committee Officer: Jonathan Deacon  
Presenting Officer: Heidi Lawrance

Present: Mr Philip Kolvin QC (representing the Licence Holder), Mr Andrew Woods (Solicitor, on behalf of the Licence Holder), Mr Tony Flynn (Licensee and

Designated Premises Supervisor), Mr Alan Dugard (Chairman of company which owns premises), Mr Arron Curtis (Operations Director), Ms Joanne Ronan (Events Manager), Mr Mark Halton (Licensing Consultant), Sgt Paul Hoppe, PC Adam Deweltz and PC Reaz Guerra (Metropolitan Police).

Declarations: Councillor Gassanly declared that he had sat as a Member of the Sub-Committee hearing on 6 January to consider whether to impose interim steps. Councillor Harvey and Councillor Burbridge declared that they had sat as Members of the Sub-Committee on 12 January at the hearing to consider the Licence Holder's representation against the interim steps.

It was noted that Mr Kolvin is Chair of the London Mayor's Night Time Commission and is a legal adviser to the Night Time Industries Association.

**Full review of the premises licence for Rah Rah Rooms, 215-217 Piccadilly, W1 17/00074/LIREVX**

In the early hours of the morning on New Year's Day, serious crime and disorder took place at the premises. Three males sustained serious stab wounds. An application was made by the Metropolitan Police on 4 January 2017 to review the premises licence. A hearing was scheduled within 48 hours of the Police submitting the application. The Sub-Committee after considering the report and the evidence presented at the hearing was required to consider whether it was necessary to take interim steps in order to promote the licensing objectives. Members decided to suspend the premises licence pending the full hearing. On 10 January the Licence Holder submitted a representation against the interim steps. The hearing was required to take place within 48 hours of the representation. The Sub-Committee considered at the hearing on 12 January that it was appropriate for the suspension to remain in place, pending the full review hearing.

At the beginning of the full review hearing it was pointed out that there was an error in the Sub-Committee report. Various options were set out on page 2 of the report, stating that the Sub-Committee could take such steps as it considered necessary for the promotion of the licensing objective. The correct requirement was for the Sub-Committee to take such steps as it considered appropriate for the promotion of the licensing objectives. The parties were then asked whether they were satisfied that the decision sheet for the hearing held on 12 January was accurate and how they wished to proceed. Sgt Hoppe advised that the Police were content with the decision sheet. They wished to show Members of the Sub-Committee further CCTV footage and make a number of points in relation to the incidents of 3 September 2016 and 1 January 2017. Mr Kolvin, representing the Licence Holder, informed Members that his client was also satisfied that the decision sheet was an accurate account of what had taken place at the hearing on 12 January. His focus would be on potential options for Rah Rah Rooms going forward.

The Metropolitan Police requested that the public and press were excluded as the

Police investigation into the events of the early hours of 1 January was on-going and they were keen that any disclosure of information did not prejudice the investigation. The Sub-Committee asked the Police to explain the need for the public and press to be excluded from the hearing and what information they would be providing which was not already in the public domain. PC Hoppe stated that the Police wished to show CCTV footage of the events of 3 September 2016 which had not previously been shown before at either of the two preceding hearings on 6 and 12 January and provide further information in relation to the CCTV footage of 1 January 2017. The Sub-Committee granted the Police's request that the public and press be excluded whilst the CCTV footage was being shown. The matter would be re-assessed once the Police had concluded showing the footage.

During the discussion as to whether at least part of the hearing should take place in private session, the Police expressed concerns regarding CCTV footage of the 1 January incidents appearing on The Evening Standard's and Daily Mail's websites which they believed may have been leaked by the Licence Holder. The Police were concerned that the releasing of the footage could hinder their investigation. Suspects who were identified on the footage might seek to hide their identity and witnesses might potentially not co-operate with the investigation. The accusation that the footage had been leaked by the Licence Holder was strongly denied by Mr Kolvin who added that his client was appalled by the fact that the CCTV footage had appeared on the newspapers' websites.

The Sub-Committee heard from PC Deweltz. He confirmed that the Police were seeking a revocation of the premises licence for Rah Rah Rooms. The Police were seeking to demonstrate from the CCTV footage why the Police had no confidence in the Licence Holder. They were of the view that there had been a lack of co-operation by the Licence Holder towards the Police and the consequence had been the incidents of 1 January. PC Deweltz added that the Licence Holder was required to promote the licensing objectives. Failure to do so lead to customers being injured or worse.

PC Deweltz advised that it was the Police's position that they disputed the claim at previous hearings by the Licence Holder that there had not been any serious incidents at Penthouse, 1 Leicester Square when the staff had previously worked at that premises prior to Mr Dugard purchasing Rah Rah Rooms in 2015. The Police submission in the report included incidents of Grievous Bodily Harm ('GBH').

PC Deweltz explained in relation to the incidents of 3 September 2016 that a man had received a wound to his leg having been stabbed with a sharp object, probably a knife. In the footage showing the main reception area, PC Guerra identified that patrons had been able to enter the premises in September 2016 without being searched. He accepted that this had not been subject to a condition on the premises licence at the time. The footage had also appeared to show people entering the premises after 03:00 when there was a condition on the premises licence that there should be no admissions after 02:30.

Mr Kolvin had concerns that he and his client were being asked to respond to evidence which had not been included in the report. There had been correspondence between the Police and the Licence Holder following the incidents on 3 September and a number of conditions had been agreed resulting in the

Licence Holder submitting an application for a minor variation. It had been his client's view that the Police's concerns had been addressed at that time.

PC Deweltz stated that additional issues which had been raised by the incident on 3 September included that suspects had not been detained and the crime scene had not been maintained with what the Police stated they were certain was blood being mopped up by staff. A forensic opportunity had therefore been lost. The Police also did not believe that they had been called directly by the venue (this was disputed by Mr Kolvin). The Police's reports set out that they had been informed of the male's injury by the London Ambulance Service at 03:44.

PC Deweltz referred to the Police's perception of what had taken place after the incident in September. As set out in PC Guerra's written statement, it was their view that the venue had downplayed the incident. DC Roberts had written of the Police being of the view that they had been obstructed in seeking to obtain evidence of the incident. The Police had then decided on reflection to take a 'stepped approach' in partnership with the Licence Holder. Of the fourteen conditions they had requested the Police considered that seven of them had been agreed by the Licence Holder. They had particular concerns that the proposed conditions relating to the ID scanner and search arch had not been accepted by the Licence Holder. The Licence Holder had then applied for a minor variation with the seven conditions subsequently attached to the premises licence.

The Police then showed CCTV footage in the basement of what they described as three incidents on 3 September. The purpose of showing this, Sgt Hoppe advised, was that the Police believed there was a great similarity between the events of 3 September and 1 January. At 03:09 there had been a disturbance between males which had required a member of security to intervene. It was the Police's position that if security had ejected or separated the groups of males at this stage, then further issues may not have arisen. At 03:30 there had been an altercation where men had picked up bottles. Two security guards could be seen in the vicinity. There were examples shown during the footage of a man with blood on his shirt and another man holding his head. Mr Kolvin stated that he accepted that objects were thrown during the incidents. At 03:36 the victim could be seen limping with his trousers down to his thighs from what appeared to be the wound to his leg (he had been walking normally at 03:32). The Police believed that the pool of blood had been created by this incident (this was not disputed by Mr Kolvin). The Police also showed footage of what was believed to be the blood being cleaned up by staff.

The Police addressed the Sub-Committee on the incidents of 1 January. PC Guerra showed CCTV footage from a different camera of the initial incident where two males from the 'other group' had attempted to dance with a female from the 'celebrity group' which had led to a male throwing a punch in response. It was the Police's position that the footage indicated that the security guard had seen the punch being thrown as there was nothing to obstruct his view. In the event that the security guard had seen it the Police would have expected further action to be taken. Even if he had not seen the punch he would have been aware that there had been a dispute. Mr Curtis responded that he did not believe the footage did provide clarity. It was clear that the security guard was aware there had been a commotion. However, this did not constitute serious assault which was the stage at which it had been agreed between the Police and the Licence Holder in the form of Condition 19 on the existing

premises licence that the Licence Holder would call the Police.

In open session following all the CCTV having been shown, PC Deweltz drew Members' attention to what he believed were other failings by management on 1 January. These included that the Police believed that the initial phone call from the venue had suggested that there had been an incident using a bottle. The Police had arrived twenty minutes later on what is the one of the busiest nights for them during the year. Also, Condition 19 on the existing premises licence referred to a 'serious assault' including 'any assault in which a weapon is used'. It was the Police's view that objects had been used as weapons in the second incident at 00:39 and it had then been approximately eleven minutes before the Police had been called. There had been instances of females entering the premises and not being searched, the door supervisor at the celebrity group's table not wearing a hi-vis jacket and the crime scene becoming contaminated even after staff had received training. Suspects had not been detained and it was the Police's view that if there had been an ID scanner in operation evidence would have been obtained regarding who the suspects were. There had also been footage of a male who had picked up a barrier outside who had not been detained.

The Police stated that despite a significant number of security staff and agreed conditions being implemented after the incidents of September 2016, the operators could not guarantee safety. The Police did not believe the Licence Holder had learned the lessons from September 2016. They advised that there had been no reported stabbings at other licensed premises in the West End in the last three years and yet there had been four at the venue in the space of four months.

The Police had concerns that two of the individuals who had been stabbed were members of a gang and that there was the potential for reprisals should Rah Rah Rooms be reopened. Members of the Sub-Committee were informed that contrary to what had previously been reported, one of the victims was not seventeen years of age. He had lied to the Police and was actually twenty eight years of age.

The Sub-Committee then heard from Mr Kolvin. He explained that he wished to concentrate on whether it was appropriate for the premises licence to be revoked or whether it was appropriate for the business to continue with extensive additional controls being placed on the operation. He advised that Mr Dugard had owned Penthouse, 1 Leicester Square for seven years prior to Rah Rah Rooms. Penthouse had a capacity of up to five thousand people per week. He had also owned Electric nightclub in Brixton for over three years and a number of other diverse premises in the Chilterns, Dulwich village and Milton Keynes. During that time Mr Dugard had never been threatened with a review and never been told he was not a responsible operator. He had always employed good, mature and intelligent staff. It had never been suggested to Mr Dugard that he should not employ TSS for security purposes as they had a good reputation.

Mr Kolvin stated that Mr Dugard had made a conscious decision to have a more rounded entertainment experience at Rah Rah Rooms, including entertainment, food, drink and dance. One of the reasons for this was that patrons were not drinking as much alcohol as they used to. Mr Kolvin described the premises as a dingy nightclub prior to Mr Dugard refurbishing it. Mr Dugard had spent £750,000 to purchase the club and had spent a further £500,000 on refurbishment. Rah Rah Rooms had

cabaret performances and in demand corporate events. It was only open on Fridays, Saturdays and Sundays.

Mr Kolvin wished to bring to the attention of the Sub-Committee that there is not a high degree of intoxication at the premises and there are no alcohol promotions. The venue was never overcrowded, the ticket price was hefty and music was never played which would attract a violent clientele. There were no drug problems at the venue and Mr Dugard had voluntarily introduced polycarbonate drinking vessels before he was asked to do so. On the whole, Mr Kolvin asserted, the venue which catered for dancing and dining was appropriate for the Piccadilly area. It had a reasonable average rating on Facebook of 4/5.

Mr Kolvin commented that from August 2015 when Mr Dugard bought the premises until September 2016 it was not believed that Rah Rah Rooms was on the Police's radar. In response to a query on this point from the Sub-Committee he said that the GBH on 30 April 2016 was when a male suffered a minor cut to his bottom lip and the Police had concluded that no assault had taken place. Mr Kolvin described the incidents of September 2016 as violent and unacceptable. However, no similar incidents had taken place before.

Mr Kolvin disputed the Police's version of events that the Licence Holder had sought to conceal what had taken place in September 2016. He advised that the Duty Manager had seen an altercation taking place and was only aware of the seriousness when he was aware that the victim's leg hurt. He had definitely called the London Ambulance Service. Mr Kolvin stated that he had been instructed that the Duty Manager had also called the Police. He also made the point that five members of staff had given a full account of what had happened on the night in question. He therefore did not believe that there had been a deliberate cover up.

In relation to the dialogue between Mr Dugard and the Police after 3 September, Mr Kolvin stated that his client had provided CCTV footage to the Police. Mr Dugard had agreed a number of the Police's conditions believing these were a proportionate response to one incident having taken place at the venue. The detail of what had been accepted was set out between pages 191 and 197 of the report. It had been suggested that the Police would consider reviewing the premises licence if conditions were not agreed. However, they had chosen not to review even though there had been differences of opinion regarding some of the conditions. Mr Kolvin accepted that in hindsight his client had been wrong in not accepting the ID scanning equipment and search arch conditions and the Police had been right.

Mr Kolvin referred to there being seven security guards employed at the venue on 3 September when there were 100 customers there. Mr Kolvin made the point that this was significantly more than the national standard which was a ratio of 1:75 or 1:100. This he believed demonstrated that his client did not have a devil may care approach to people's safety.

The Sub-Committee was informed by Mr Kolvin that in the event that he was permitted to continue operating at 215-217 Piccadilly, Mr Dugard was looking to establish a 'Supper Club' with a la carte menu, stage show and dancing.

In terms of the events of New Year's Eve / New Year's Day, Mr Kolvin stated that

there had been a minimum ticket price. Champagne, canapés and a one hour stage show had been provided. There had been twelve door staff and five management staff to cater for 300 people in the venue. Gang members had entered the premises and Mr Kolvin asserted that not only had they not been invited but that they would probably have gone to another venue if it had not been Rah Rah Rooms. Mr Kolvin said that following scuffles between the two groups, Mr Curtis had taken the responsible step of turning off the music and turning on the lights. The two groups had been separated. A further group who had not previously been involved had then become violent and then left the premises in short order. Mr Kolvin emphasised that the Police were then called and some suspects had been detained. However, eventually it had been necessary to release them. He added that Mr Curtis had attempted to do the right thing in trying to preserve the scene where victim A had been bleeding. However, there had been a lapse and people had walked through this area. Mr Kolvin believed that the searching of individuals had been inadequate in certain cases and he wished to make it known that this would not happen again.

Mr Kolvin advised that Mr Curtis had spent hours with the Police going through the CCTV footage and had been commended for it. He had delivered copies of the CCTV to the Police and had provided booking details. It was the position of the operators that they would have liked to maintain a dialogue with the Police to try and avert an expedited review.

Mr Kolvin referred to the building and the operating model not being inappropriate. In his view whilst there had been errors, his client was not a bad operator and there had been examples of best practice. In his submission, there had been an improvement in the management of the premises since September 2016. It was very difficult to analyse exactly what had happened by means of the CCTV footage. There were good members of staff who were trying their best in exceptional circumstances. Mr Dugard had invested properly in his venues. The venue had been visited by violent people and Mr Kolvin made the point that it would be a tragedy if this resulted in the closure of the business.

Mr Kolvin expressed the view that it would be excessive if the venue was closed on the basis of Mr Dugard's mistake not to agree Police conditions. The emphasis was on proportionality and remedial action and not on punishment. He added that if Mr Dugard had been wrong, the Sub-Committee had the opportunity to impose the relevant conditions now. Mr Kolvin pointed to Sgt Hoppe's comment that if all the conditions had been agreed the incident would not have happened. This was an opportunity to prevent such incidents in the future.

Mr Kolvin confirmed that his client accepted the Police's conditions from September 2016 which were not currently attached to the premises licence and also would implement all of the conditions put forward by Mr Halton. He referred to Mr Dugard having a huge amount to lose financially if the doors to Rah Rah Rooms closed and that he had an enormous incentive to comply with the conditions.

Mr Kolvin pointed to the fact that this was a first review of the premises licence. The Police's suggested stepped approach had involved one step and there was nothing in the National Guidance which suggested one strike and you're out. He made specific reference to paragraphs 11.20 and 11.23 of the statutory guidance. Other options included suspension as a deterrent although, Mr Kolvin added, suspending

the licence since 6 January had already acted as a deterrent and had cost Mr Dugard approximately £150,000. He also referred to the Sub-Committee's decision sheet of 12 January which had set out that the operators had engaged in some good and responsible practices on 1 January 2017.

The Sub-Committee asked the representatives of the premises a number of questions. The point was made that the Sub-Committee had asked at the hearing on 12 January whether they were willing to accept specific conditions and at that stage the operators had not been keen to consider additional conditions being attached to the premises licence. Mr Kolvin when asked whether his client was willing to accept a dedicated search captain employed at the premises to supervise the searching of customers at all times when the premises are open and real time CCTV monitoring during club nights, replied that he was. In respect of how management intended to handle any future visits by gang members, Mr Kolvin replied that Clubscan and a knife arch would assist. The search arches would be complemented with the use of metal search wands. The Management would welcome a briefing by Police and steps needed to be taken to avoid large groups entering the premises together. A ratio of 1 guard to 30 customers as suggested by Mr Halton would also assist.

The Sub-Committee asked the representatives for the Rah Rah Rooms about the Police's reported crimes at Penthouse, 1 Leicester Square. Mr Curtis replied that the incident listed as GBH/intent on 1 September 2014 had not taken place at Penthouse. Penthouse was one of three nightclubs at 1 Leicester Square and Mr Curtis believed that Penthouse had been unfairly assigned this incident because it was the biggest nightclub at the premises. Mr Kolvin added that there were two other incidents listed on page 35 of the report. The first was where it was alleged that a male had been put in a headlock but CCTV appeared to show that 'reasonable force' was being used. In respect of the second incident where a female had claimed sexual assault, it was believed that this allegation had been withdrawn.

The Sub-Committee expressed concerns that bottles had been carried and used as weapons in both the September 2016 and January 2017 incidents. The representatives were asked how they would prevent this happening in the future. Mr Curtis replied that fewer tables would be provided, there would be waiter or waitress service and customers would not be able to pour their drinks. There would be greater monitoring of customers holding bottles. Risk reduction training would take place after the hearing. Mr Dugard confirmed that he was agreeing the condition proposed by the Police in September that 'all drinking containers used within the premises shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware or polycarbonate glassware carafes, with the exception of champagne and bottles of spirits of a minimum size of 70cl, supplied by waiter/waitress service to tables. Staff will clear all empty champagne and spirit bottles from the tables promptly. Customers will not be permitted to self-serve or remove bottles from the tables. Customers will not be permitted to drink directly from champagne or spirit bottles'. The only exception would be that, with the written agreement of the Police, glass drinking vessels would potentially be used for private or pre-booked events within the lounge/club area.

The representatives of the venue were also asked about whether they were content to agree the conditions proposed by the Police in September that a minimum of two SIA staff would be deployed with Body Worn Video, capable of recording audio and



video and also that there would be no entry or re-entry after 02:00 hours or such time as agreed in writing by the Police. Mr Kolvin replied that his client was content with the body worn video condition. He believed that the 02:00 no entry/re-entry time should only be imposed if the Sub-Committee felt it to be appropriate.

PC Hoppe stated that it was the Police's belief that the incident of 1 September 2014 took place at Penthouse. Mr Kolvin objected to the crime report being submitted by the Police as it was sixty six pages long and he had not seen it prior to the hearing. What he had seen however when shown it by the Police appeared in his view to show some ambiguity as to whether the GBH had taken place at Penthouse or another venue at 1 Leicester Square.

The Police were given an opportunity to respond to Mr Kolvin's submissions. PC Deweltz stated that he did not believe that lessons had been learnt or that management would adhere to the conditions that they had agreed during the current hearing. He referred to conditions not being adhered to during the 1 January incidents including security not wearing hi-vis jackets. The Police had concerns about reprisals if the venue was reopened. They lacked confidence in the operators and were continuing to seek revocation of the premises licence.

PC Guerra responded to a question from the Sub-Committee as to their view on the incident book. He informed Members that the Police had not seen the incident book. However, they did have concerns that the accident and investigation form of 3 September 2016 which had been filled in by Mr Flynn and Mr Curtis underplayed what had taken place as shown on the CCTV footage.

PC Guerra also had concerns that the Police had set out the rationale for their proposed conditions such as the ID scan equipment and body worn video and the Licence Holder had not agreed them in September 2016.

Mr Kolvin made some final submissions. He believed that the Police were saying that the proposed conditions were a good set of conditions, particularly as they were largely ones the Police had put forward in September. However they did not believe that management at the venue would comply with the conditions. Mr Kolvin made the point that non-compliance could lead to prosecution. Also, the Police could seek a closure order and if another review hearing took place his clients would be in a hopeless position.

Mr Kolvin expressed the view that it was really sad that Mr Dugard had been responsible for a group of companies which had never been prosecuted or in a review situation and yet the Police were saying that he would proceed in the future with a cavalier manner and not comply with conditions. He had worked with different authorities over a number of years.

Mr Kolvin questioned the Police's concept of reprisals at the venue. Firstly, there was the issue of how undesirables would enter the premises if the conditions were adhered to. Secondly, there was no reason to suppose that the same groups would choose to return to Rah Rah Rooms to settle any differences.

Mr Kolvin stated that the accident and investigation form which had been filled in by his clients on 3 September had been written at a very early stage. He re-iterated the

points that his clients had given serious consideration to the Police's proposed conditions and the Police had not brought a review or objected to the minor variation when Mr Dugard had agreed to some of these conditions. The review process was not intended to be a punishment for his client being wrong in not agreeing all of the conditions.

The Sub-Committee noted that the incidents had not taken place whilst the cabaret show was being held. Had the representatives of the venue reflected on how that atmosphere could last later into the evening? Mr Kolvin replied that what Members of the Sub-Committee had seen was two atypical nights at the club because unpleasant people entered the premises. The Supper Club model was being developed which involved an a la carte menu with restaurant food and a cabaret. It was intended to roll this out during 2017.

The Sub-Committee noted that some of the issues at the January incidents had been caused by the celebrity group who had been seated at a table. Was the celebrity group the kind of clientele or culture the venue was encouraging? Mr Kolvin replied that problems were not caused purely because of how well known the clientele is. Of more importance was the atmosphere, whether food was being offered, the type of music being played and the controls the venue had. It was important that patrons knew there would be consequences if they stepped out of line.

The Sub-Committee also asked whether any tickets were purchased at the door of the venue on 31 December/1 January 2017. Mr Curtis replied that no tickets were purchased at the door. There had been approximately 120 table bookings and 300 pre-booked tickets were sold in total.

Having previously considered the evidence relating to the events that took place during the early hours of New Year's Day 2017 on two separate occasions, the Licensing Sub-Committee was now required to determine the final steps that were considered to be appropriate for the promotion of the licensing objectives. The previous decisions had concluded that it was appropriate to suspend the licence as an interim step but the Sub-Committee now had a range of options open to it from taking no steps at all to the revocation of the licence.

Once again, the Licensing Sub-Committee had listened carefully and at length to the detailed representations and evidence given. The Police were asking for the licence to be revoked on the grounds of prevention of crime and disorder and public safety as they had no faith or confidence in the operators of the premises. The licensee urged the Sub-Committee not to revoke the licence and had instead proposed some additional conditions which they said would be more than appropriate for the promotion of the licensing objectives.

The main question arising for Members of the Sub-Committee was whether the additional conditions now offered by the Licence Holder were appropriate to promote the licensing objectives given the fact that they had been rejected by those running the business following the previous stabbing incident on 3 September 2016. There was also the concern raised by the Police suggesting that the premises might be the subject of further gang-related incidents in view of the fact that those responsible for the potentially life-threatening stabbings had not been apprehended or even identified on the CCTV footage. Could those concerns be properly addressed by the

imposition of the further conditions proposed and did the Licensing Sub-Committee have confidence that the licensee and operator of the premises would actually be able to properly manage the premises so as to avoid any repeat of the incidents that took place on 3 September 2016 and 1 January 2017.

The Licensing Sub-Committee accepted that no premises can guarantee that incidents of crime and disorder will not take place on their licensed premises. However, a responsible licensee must obviously implement measures to reduce the likelihood of such incidents taking place and also for properly dealing with them when they do. Bearing in mind there had been a previous stabbing at the premises, the Licensing Sub-Committee does think that a responsible licensee would have implemented more if not all of the additional conditions proposed by the Police at the time. It is easy to learn from hindsight but the additional conditions would certainly have reduced the risk and might well have avoided the incidents that took place on New Year's Day. It was now accepted by all the parties present that the use of a search arch and the implementation of ID scanning would have potentially deterred the unknown assailants from entering the premises.

The Sub-Committee had been shown extensive CCTV footage of the incidents on New Year's Day which also gave Members cause for concern and which put into question whether the licensee and operators would actually comply with any additional conditions that the Licensing Sub-Committee might choose to impose on the licence. Once again, it is appreciated that those in charge on the night did not have the opportunity to view the CCTV images at the time of the incidents and had to deal with the situation as it developed. However, it is of considerable concern that a number of patrons were able to carry glass bottles throughout the disturbance and that some of them were seen to be using them or threatening to use them as weapons. If patrons have such easy access to glass bottles when a major incidence of disorder takes place it makes a mockery of any conditions that are designed to prevent weapons being brought into the premises. In addition, it was very clear that the search wands were not being effectively used and customers in the external smoking area were not being properly searched when they re-entered the premises on the basis that management regarded the external smoking area to be a part of the premises, although items could easily have been passed from the other side of the barriers.

As mentioned at the previous hearing, the Sub-Committee recognised that the operators of the premises did engage in some good and responsible practices as would be expected from such experienced individuals. Members did think that Mr Curtis acted responsibly in turning on the lights, turning off the music and ultimately closing the premises. The Sub-Committee also accepted that the operators might not have appreciated that gangs were involved at the time. The main concern was that they had not fully learned from the previous and relatively recent stabbing incident and, in view of the fact that other measures proposed by the Police had not been implemented they did not have as much control on New Year's Day as was required. That was even taking into account the number of registered door supervisors and experienced managers who were on duty that night.

The operators made the point that the venue was operated as a cabaret but it was also clear that the use did change as the night progressed such that the premises appeared to be operating primarily as a nightclub when the three incidents took

place. That will presumably be a key part of the operation even though Mr Kolvin referred during the hearing to his clients moving towards a 'Supper Club' model. In the final analysis, the Licensing Sub-Committee has to make a judgment that is proportionate and appropriate in the circumstances. The steps which have to be taken must promote the licensing objectives in the interests of the wider community and not those of the individual licence holder.

There is another factor to bear in mind when considering the review of the licence held by Mr Tony Flynn. The Sub-Committee had not heard anything from Mr Flynn himself, even though he is both the premises licence holder and the Designated Premises Supervisor for the premises. Members were aware that Mr Flynn was not present at the premises on New Year's Day. No criticism was made of this fact. He was not obliged to be present and it is assumed that he was satisfied that effective arrangements were in place to manage the premises in his absence. Indeed, most of the evidence Members had heard has come from the owners of the business who are very experienced operators of these types of premises. The proposal that had been put to the Sub-Committee was to actually remove Mr Flynn as the Designated Premises Supervisor, though Members were not really sure as to why that proposal has been forthcoming in the circumstances as most of the discussions regarding the operation of the premises between the incidents in September 2016 and January 2017 had been between the police and Mr Dugard.

The Sub-Committee was also aware that even if this premises licence was revoked, there is an alternative shadow licence in place for the premises that is held by the Crown Estate Commissioners. That is a licence that can be immediately used in respect of the premises on terms that do not include the additional conditions that were added to Mr Flynn's licence last year (though it is noted that the licence does include conditions relating to CCTV and the keeping of an incident log). The Sub-Committee is concerned that the use of that licence might undermine any decision that it takes in respect of this review application. Despite the existence of that alternative licence, the Sub-Committee did not think that it should have any influence on its decision on the merits regarding this application.

The Sub-Committee wished to commend the Police for bringing the summary review which Members strongly agreed was the correct action to take. This had been an extremely difficult case for the Sub-Committee and Members had exercised a very fine judgement.

Having regard to all of these points, the Sub-Committee determined that it was appropriate to impose stringent additional conditions to the premises licence. The Sub-Committee recognised that the management did engage in some good and responsible practices as set out in the decision sheet of 12 January. Members considered however that there were serious concerns relating to the premises which ultimately could be addressed through compliance with the stringent conditions being imposed. These conditions went beyond those proposed by the Police in September or offered by the Licence Holder at the current hearing. The Sub-Committee wished to make it known to the Licence Holder that these conditions must be complied with and that Rah Rah Rooms was very much in the last chance saloon.

The conditions attached by the Sub-Committee included the conditions which had been proposed by the Police including the requirement for the search arch, ID

scanner, body worn video and polycarbonate drinking containers with waiter/waitress service to tables. Of key significance to the Sub-Committee, however, was that the no-entry or re-entry time should commence at 00:30 (excluding persons from the smoking area) or such time as agreed in writing with the Police rather than the 02:00 suggested by the Police back in September. The cabaret clientele would already be in attendance by 00:30 and at this hour it was less likely that the premises would attract the type of clientele who might engage in the type of criminal activity that had led to the summary review application being made. The condition would also be appropriate for the supper club model that was described by Mr Kolvin and which it was intended to roll out later this year. It was noted that some of the patrons who had caused the issues in September had arrived significantly after this time. Whilst the serious incidents that took place on New Year's Eve had taken place much earlier in the evening, that was still after 00.30 and probably reflected the type of drink-led event that was taking place on that night. It was considered that the combination of all the additional conditions that were being imposed by the Sub-Committee would impact on the type of operation that could be carried out at the premises and thereby prevent any further incidents of disorder from taking place in the future. The Sub-Committee came very close to revoking the licence. In deciding not to take that course of action, the Sub-Committee had no doubt that the imposition of these stringent conditions was not only an appropriate but also a necessary response so as to properly protect the public and to fully promote the licensing objectives.

The Sub-Committee also attached two conditions suggested by Mr Halton. Firstly, risk reduction training inclusive of crime scene preservation would be carried out within 3 days of the hearing and refresher training would take place every six months thereafter. Secondly, there would be impartial unannounced compliance visits on a monthly basis. The Sub-Committee amended some of Mr Halton's conditions so that security would be increased to a ratio of 1 to 25 customers rather than his suggested 1 to 30 customers. Also, the premises would provide an attended cloakroom and all coats and outdoor jackets would be placed in the cloakroom in order to try and prevent individuals carrying around knives or other such weapons.

The Sub-Committee imposed the condition that there would be real time CCTV monitoring during club nights which are not pre-booked. This was specifically required for after the time when the cabaret had finished and the nightclub became operational. The concept of monitoring live CCTV coverage had been accepted by the operators during the hearing as had another condition which was attached to the licence that there would be a dedicated search captain employed at the premises to supervise the searching of customers at all times when the premises are open.

PC Guerra advised that if the condition on the existing premises licence (condition 16) requiring all persons entering or re-entering the premises after 23:00 to be searched was deleted in its entirety when replaced by the condition that all customers entering the premises shall have their ID scanned on entry, it would not refer to the persons being searched by an SIA trained member of staff and monitored and recorded by the premises CCTV system. This amendment was agreed by the Sub-Committee (see condition 53 below). The Sub-Committee also amended condition 54 below to take into account updated Police wording referring to the details the ID scanner would record.

## Conditions attached to the Licence

### **Mandatory Conditions**

1. No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2. No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3. Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.
4.
  - (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, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol 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).

5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
  - (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.
7. The responsible person must ensure that—
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
    - (i) beer or cider: ½ pint;
    - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
    - (iii) still wine in a glass: 125 ml;
  - (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
  - (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

- 8(i) 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.
- 8(ii) For the purposes of the condition set out in paragraph 8(i) above -
- (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
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.
- 8(iii). Where the permitted price given by Paragraph 8(ii)(b) above 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.
- 8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above 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.

9. All persons guarding premises against unauthorised access or occupation or against outbreaks of disorder or against damage (door supervisors) must be licensed by the Security Industry Authority.

**Additional Conditions**

10. From 21:00 until 30 minutes after close of business, a minimum of 2 SIA licensed door staff to be stationed at the entrance on Piccadilly whose tasks will include:
- Reminding customers that this is a residential area and to respect the needs of neighbours
  - To maintain an orderly queue where necessary
  - To ask customers leaving the premises to do so quickly and quietly.
11. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
12. The number of persons accommodated at any one time (excluding staff) shall not exceed the following: Mezzanine - 100 Basement Auditorium - 300. With a maximum capacity of 400.
13. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
14. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
- (a) all crimes reported to the venue
  - (b) any complaints received regarding crime and disorder
  - (c) any incidents of disorder
  - (d) any faults in the CCTV system
  - (e) any refusal of the sale of alcohol
  - (f) any visit by a relevant authority or emergency service.
15. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
16. After 23.00hrs all security employed at the premises shall wear high viz jackets or tabards.

17. Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.
18. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that: (a) The Police (and where appropriate, the London Ambulance Service) are called without delay, using emergency telephone number 999; (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the Police; (c) As is reasonably practicable, the crime scene is preserved so as to enable a full forensic investigation to be carried out by the Police; and (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises. " Serious assault" includes (but is not limited to) any assault in which emergency medical treatment is required and any assault in which a weapon is used.
19. No children under the age of 16 shall be permitted on the premises after 21:00 hours.
20. No children under the age of 14 shall be admitted on the premises.
21. No striptease, no nudity and all persons to be decently attired at all times.
22. The highway in the vicinity of the premises shall be swept at regular intervals and also at the close of business. Litter and sweepings collected shall be stored in accordance with the approved refuse storage arrangement.
23. No unauthorised advertisements of any kind shall be inscribed or affixed upon the surface of the highway, or upon any building, structure, works, street furniture, tree or any other property, or is distributed to the public, that advertises or promotes the establishment, its premises or any of its events, facilities, goods and services.
24. No payment shall be made by or on behalf of the premises for distribution of flyers or tickets within public areas in the Licensing District of Westminster.
25. A daily log is to be maintained to ensure that any capacity limit set for the various floors and the overall capacity of the premises is recorded hourly and can be properly monitored. Information regarding the capacity will be given to an authorised officer or Police Officer on request.
26. On any evening where the premises or part of the premises are open for public music, dance and entertainment, alcohol may not be sold or supplied to persons admitted after 23:00 other than to:
  - (a) Persons taking a table meal; or
  - (b) Persons who have paid a minimum admission fee of at least £5 for music, dancing and entertainment (not to be credited against consumables)
  - (c) Persons who have paid a minimum annual membership fee of at least £150 payable in advance for music, dancing and entertainment (not to be credited against consumables) and their bona fide guests. A list of all people who have paid an annual membership fee and their guests will be held at reception for

inspection by relevant authority; or  
(d) Persons given free membership and their bona fide guests where there has been an interval of at least 24 hours between application for membership. A list of all persons who have free membership will be held at reception for inspection by the relevant authority; or  
(e) Persons who are bona fide guests of the license holder or management, a list of whom shall be kept at reception for inspection by the relevant authorities; or  
(f) Artistes and persons employed by the premises; or  
(g) Persons attending at private function; the function organiser's name and address to be kept at reception for inspection by the relevant authorities.

27. Substantial food and non-intoxicating beverages, including water, shall be available throughout the permitted hours in all parts of the premises where intoxicating liquor is sold and supplied for consumption on the premises.
28. The sale of intoxicating liquor must be ancillary to the use of the premises for music and dancing and substantial refreshment.
29. No payment shall be made by or on behalf of the licensees to any persons bringing customers into the premises.
30. A noise limiter located in a separate and remote lockable cabinet from the volume control must be fitted to the musical amplification system set at a level determined by and to the satisfaction of an authorised officer of the Environmental Health Service's Community Protection Department so as to ensure that no noise nuisance is caused to local residents or businesses. The operational panel of the noise limiter shall then be secured to the satisfaction of officers from the Environmental Health Service. The keys securing the noise limiter cabinet shall be held by the applicant only, and shall not be accessed by any other person. The limiter shall not be altered without prior agreement with the Environmental Health Service.
31. No alteration or modification to any existing sound system(s) should be effected without prior knowledge of an authorised Officer of the Environmental Health Service.
32. Any additional sound generating equipment shall not be used on the premises without being routed through the sound limiter device.
33. All entrance doors to be kept closed except for people's immediate access and egress.
34. No speakers shall be located in the entrance area.
35. All refuse will be paid, properly presented and placed on the street 30 minutes before any agreed collection time. Every endeavour will be made to prevent refuse being left on the street for more than 2.5 hours.
36. No bottles will be moved, removed or placed in outside areas between 23:00 and 08:00.

37. No persons shall give at the premises any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which susceptibility of the mind of that person to suggestion or direction is increased or intended to be increased.

NOTE: This rule does not apply to exhibitions given under the provisions of Section 2(1A) and 5 of the Hypnotism Act 1952.

38. The approved arrangements at the premises, including means of escape provisions, fire warning and fire fighting equipment, the electrical installation and mechanical equipment, shall at all material times be maintained in good condition and full working order.
39. The certificates listed below shall be submitted to the Licensing Authority annually. (a) Any emergency lighting battery or system (b) Any electrical installation (c) Any fire alarm system.
40. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
41. All exit doors shall be available at all times without the use of a key, code, card or similar means.
42. All fire doors shall be maintained effectively self-closing and not half open other than by an approved device.
43. Fire doors to ducts, service shafts and cupboards shall be kept locked shut.
44. The edges of the treads and steps and stairways shall be maintained so as to be conspicuous.
45. Only hanging, curtains, upholstery and temporary decorations, complying with the relevant British Standard shall be used. Where necessary these shall be periodically tested for flame resistance and re-treated as necessary.
46. Curtains and hangings shall be arranged so as not to obstruct fire safety signs, fire extinguishers or other fire fighting equipment.
47. Staff with specific responsibilities in the event of fire or other emergency, together with deputies, shall receive training and written instruction appropriate to their role.
48. Any special effects or mechanical installations shall be arranged and sorted so as to minimise any risk to the safety of those using the premises. The following special effects will only be used on 10 days prior notice being given to the Licensing Authority where consent has not previously been given.
- dry ice and cryogenic fog
  - smoke machines and generators

- pyrotechnics and fog generators
- firearms
- lasers
- explosives and highly flammable substances
- real flame
- strobe lighting.

49. Flashing or particularly bright lights on or outside the premises will not be permitted to cause a nuisance to nearby properties (save insofar as they are necessary for the prevention or crime).
50. After 23:00, at least one Personal License Holder shall be on duty on the premises while intoxicating liquor is being sold or supplied.

**Conditions attached to the premises licence by the Licensing Sub-Committee at the hearing on 27 January 2017**

51. A minimum of two SIA staff shall be deployed with Body Worn Video, capable of recording audio and video in any light condition. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
52. There shall be an electronic search arch installed at the premises and every patron entering or re-entering the premises when in use under this licence (including from the smoking area) shall pass through the search arch with searching supplemented by the use of two functional metal detecting wands. Patrons shall be searched by an SIA-trained member of staff and monitored and recorded by the premises CCTV system.
53. All customers entering the premises shall have their ID scanned on entry, save for when a biometric scanning system is in place (when fingerprint scanning will be required for all customers who have previously shown identification at the premises). The details recorded shall include a live facial image capture of the customer and capture the photographic identification produced. The details recorded by the ID scanner system shall be made available to the Police upon request.
54. All drinking containers used within the premises shall be polycarbonate. All glass bottles to be decanted into polycarbonate glassware or polycarbonate glassware carafes, with the exception of champagne and bottles of spirits of a minimum size of 70cl, supplied by waiter/waitress service to tables. Staff will clear all empty champagne and spirit bottles from the tables promptly. Customers will not be permitted to self-serve or remove bottles from the tables. Customers will not be permitted to drink directly from champagne or spirit bottles.

Notwithstanding this condition, with the written agreement of the Westminster Police Licensing Team, a copy of which will be held at the premises reception, glass drinking vessels may be used for private or pre-booked events within the lounge/club area.

55. There shall be no entry or re-entry (excluding persons from the smoking area) to the premises after 00:30 or such time as agreed in writing by the Westminster Police Licensing Unit (and a copy of any agreement to be held at reception).
56. Risk reduction training inclusive of crime scene preservation shall be carried out by 2 February 2017 and refresher training every 6 months thereafter.
57. A minimum of one SIA licensed door supervisor to twenty five customers shall be on duty at the premises whenever it is open for business.
58. Impartial unannounced compliance visits shall take place at the premises on a monthly basis. A written record of each visit shall be kept at the premises and produced for immediate inspection by a police officer or authorised officer of the licensing authority.
59. The premises shall provide a cloakroom and all coats and outdoor jackets shall be placed in the cloakroom by handing them to an attendant who shall be constantly on duty at the cloakroom during the whole time that the premises are open.
60. There shall be live, real-time CCTV monitoring of the premises at all times the premises is open for business except when the premises is being used exclusively for a private pre-booked event.
61. There shall be a dedicated search captain employed at the premises to supervise the searching of customers at all times when the premises are open.

The Meeting ended at Time Not Specified

**CHAIRMAN:** \_\_\_\_\_

**DATE** \_\_\_\_\_