



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (4)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (4)** held on **Monday 9th January, 2023**, Rooms 18.01 - 18.03 - 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Angela Piddock (Chair), Concia Albert and Caroline Sargent

Also Present: Councillor Paul Fisher in his capacity as Ward Councillor.

1. MEMBERSHIP

1.1 There were no changes to the membership.

2. DECLARATIONS OF INTEREST

2.1 There were no declarations of interest.

1. VANITY BAR AND NIGHTCLUB, BASEMENT TO FIRST FLOOR, 4 CARLISLE STREET, W1D 3BJ

WESTMINSTER CITY COUNCIL LICENSING SUB-COMMITTEE NO.4 ("the Committee")

Licensing Review Decision

Monday 9th January 2023

Membership: Councillor Angela Piddock (Chair), Councillor Concia Albert and Councillor Caroline Sargent

Vanity Bar and Nightclub, Basement to 1st Floor, 4, Carlisle Street W1D 3BJ (the Premises) - 22/11860/LIREVX

The Metropolitan Police Service submitted an application for a Summary Review of

the above Premises pursuant to Section 53A of the Licensing Act 2003 (the "Act") on 13 December 2022 as the Police considered the Premises is associated with serious crime and serious disorder. The Premises Licence Holder (PLH) of the Premises is Vanity License Limited, whose sole director is Manpal Clair

The Interim Steps Hearing took place on 15 December 2022, when the Committee imposed the Interim Steps specified in Schedule 1 attached to this Decision. The purpose of today's hearing is to determine the full Review by deciding whether it is appropriate and proportionate to take any steps to promote the licensing objectives and to review the Interim Steps taken.

Persons attending the hearing:

For the Police (MPS): Mr Gerald Gouriet KC (Counsel)
PC Steve Muldoon
PC Reaz Guerra
PC Dave Morgan

For the Premises Licence Holder (PLH):

Mr Gary Grant (Counsel)
Mr Manpal Clair, Director Vanity License Ltd the PLH
Luke Elford (John Gaunt and Partners)
Andrew Bamber (Licensing Consultant)

Interested Parties:

Cllr Paul Fisher - Local Ward Councillor and Deputy Cabinet Member (Licensing and Public Protection)
Richard Brown representing:
The Soho Society: Tim Lord
The Soho Ward Panel: Jane Doyle
Alice Dugdale: local resident

Other Officers present:

The Presenting Officer – Kevin Jackaman;
The Legal Adviser – Steve Burnett;
The Committee Officer – Tristan Fieldsend

Activities and Hours

The Premises is a venue which provides lap dancing and other regulated entertainment, including music, dancing and the sale of alcohol.

The permitted hours for licensable activities are as stated in the committee report.

The opening hours are Sunday 09:00 to 01:00
Monday to Saturday 09:00 to 03:30

Preliminary Matters

1. At the start of the hearing the Chair introduced the Members of the Committee, identified the parties attending the hearing who wished to speak and outlined the procedure for the hearing. No declarations of interest were made and all parties in attendance were given ample time to present their submissions.
2. The Chair noted that the committee report and additional information pack consisted of the application for Review together with a large bundle of crime data in support of the MPS's case and which totalled over 650 pages; a further bundle of evidence of over 360 pages was submitted by the PLH. There was also video footage in support of both parties' case.
3. The Chair confirmed that the Committee had considered all the written and video evidence.
4. The Committee recognised that the Interim Steps Hearing took place on 15 December 2022. The full decision of that hearing appears at pages 520 - 524 of the committee papers.
5. The Committee was mindful that this hearing was a two stage process, namely:-
 - (1) To take such steps as the Committee considers appropriate and proportionate to promote the licensing objectives.

The steps the licensing authority can take are:

- a. the modification of the conditions of the premises licence;
 - b. the exclusion of a licensable activity from the scope of the licence;
 - c. the removal of the designated premises supervisor from the licence;
 - d. the suspension of the licence for a period not exceeding 3 months; and
 - e. the revocation of the licence.
- (2) To review the Interim steps and to decide whether it considers any of the steps should be modified or remain and whether those steps should have immediate effect.
6. Mr Jackaman, Licensing Officer, introduced the parties in attendance and outlined the Summary Review application which has been brought by the Metropolitan Police Service (MPS) on the grounds that the Premises are associated with serious crime or serious disorder or both. This attracted 11 representations in support and against the application
 7. Mr Grant on behalf of the PLH confirmed the Committee's receipt of document Annex A, a document location list compiled by his instructing solicitor and a list

of essential reading.

Submissions on behalf of the MPS

8. Mr Gouriet advised the Committee that this full Review was not confined to the incidents detailed at the Interim Steps hearing.
9. He informed the Committee that the MPS enquiries had been hampered by a delay in obtaining the CCTV footage from the PLH and public holidays but what had been viewed on CCTV was serious mismanagement of the Premises.
10. The Committee were referred to PC Guerra's statement at page 103 of the Additional Bundle 1 (AB1), pages 66 – 95, 107 – 111, 103, 96 – 102 of the committee papers which Mr Gouriet states, show customers being encouraged by dancers, management, and promotional material to touch dancers and drink excessively. This leads to customers leaving the Premises in a vulnerable state and being taken advantage of usually by criminal pedicab drivers. The MPS have concerns about the quantity of drinks given to customers.
11. The Committee was informed that the victim, in what is referred to as the trigger incident on the 24 November 2022, had drinks given to him when he was drunk and unsteady on his feet. (committee papers pages 98). Mr Gouriet submitted that no customer should be taken to that point of intoxication and then left to fend for himself.
12. Mr Gouriet highlighted certain oddities. Namely that there was a rope barrier across the stairs leading to the basement and that the DPS, Lorraine Foreman, enters the victims' booth on 3 occasions. However, there are only 2 payment transactions shown. There is also a transaction of £1232.00 paid by the victim as a gratuity to the dancer, Danni, which seems unusually substantial.
13. Mr Gouriet highlighted a number of breaches of conditions on the Premises Licence and the Sexual Entertainment Venue Licence (SEV). He advised that the breaches are criminal offences and the MPS does not accept they are marginal. (committee papers pages 44 – 51).
14. The Committee were informed that the statement of Tony Miah identifies that he took a pedicab and was informed by the owner that no payment was required. Leading Counsel asserts that this is odd, as payment would have to come from somewhere and he advanced that payment was made by the premises. This is supported by evidence from representations at page 515 of the Committee papers where a resident saw money being handed to a pedicab driver by a member of the Premises door team.
15. The MPS submitted that this alone, as a package, justifies revocation of the Premises Licence.
16. Leading Counsel then highlighted to the Committee the incidents of spiking. It was submitted that there were too many incidents for them to be dismissed. As

the Premises had not been compliant with the conditions on their licenses, the incidents must be seen as credible.

17. Mr Gouriet stated that the victims who have stated that they have been spiked, confirmed that they have never been affected in this way previously. Customers who were seen to have money were targeted, and one victim had two needle pricks on his person.
18. The Committee was requested by the applicant to re-read the following documents.
 - i. PC Guerra statement at page 40 of the committee papers
 - ii. PC Muldoon Statement at page 47 AB1
 - iii. PC Morgan's log of the victims' movements at page 96 of the committee papers.
 - iv. All the statement from the victims
19. In response to questions from the Committee, Mr Gouriet confirmed that the MPS has seen the statement of Mr Bamber starting at page 45 of the additional bundle 2 (AB2) but the MPS case is not impacted by the contents of Mr Bamber's report. The MPS would not be swayed by promises that the PLH will do things differently when the PLH has blatantly breached conditions as shown on video footage.
20. Mr Gouriet confirmed that the name of the Superintendent who had signed the Expedited Review Certificate had been supplied to the PLH.
21. The Committee was told that the MPS could not get the times of the fraudulent transactions as they could not make contact the victim. However, the MPS reminded the Committee that there is CCTV and photographic evidence.
22. Mr Gouriet was asked about the missing footage from the 3 CCTV cameras. PC Guerra had seen footage previously at the premises which he has not seen on any of the footage supplied by the PLH. Mr Gouriet submitted that it can only be assumed that the footage is on one of the missing cameras.
23. The MPS were asked by the Committee about the inaccurate date provided for the trigger incident at the Interim Steps hearing and which had hindered the PLH from making enquiries. PC Muldoon explained that they had missed the correct date which was in the body of the CRIS report but the main date at the head of the report was used incorrectly.
24. In response to a query from the Committee, the MPS stated that they had searched all CRIS reports pertinent to Vanity or the address. It is the MPS case that customers are getting drunk, some victims say the pedicabs are supplied by the Premises but a connection between the Premises and actual spiking could not be made.
25. PC Muldoon confirmed that on the 24 November 2022, the premises was trading under a TEN.

26. Mr Gouriet finalised the MPS submissions by stating that it was not good enough for the PLH to blame it on management and say he is getting rid of management.

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Submissions from Mr Brown

27. Mr Brown represents The Soho Society, Soho Ward Panel and a local resident, Mrs Dugdale.
28. Mr Brown stated that his clients are all very concerned about the allegations and the totality of the MPS case is alarming. They are concerned about the impact of pedicabs although they have no insight about what happens inside the premises.
29. Mr Brown informed the Committee that the Soho Society were concerned that customers will be the victim of crime and that they have submitted a representation in support of the Review because they have concerns about how the Premises is managed and whether the PLH was able to promote the licensing objectives.
30. The Committee was referred to Mr Bamber's report at page 282-286 of AB2, which identifies the sheer volume of alcohol consumed by the victim of the incident which took place on the 24 November 2022.
31. Mr Brown submitted that customers leaving the premises in a state of intoxication were vulnerable to crime being committed against them. There is also evidence that customers are being encouraged to drink excessively.
32. The Committee was informed that there are regular complaints about pedicab and that pedicabs attend Vanity as it is the only late night licensed premises open until 03.00 in the area.
33. Mr Brown stated that customers are so intoxicated that the Premises cannot promote the Licensing Objectives and that the timeline for transactions for the victim on the 24 November is confusing and requires clarity.
34. Mr Brown also raised the point that on the 24 Nov, the Premises traded under a TEN until 05.00 but the SEV only permitted adult entertainment until 03.00.

Submissions by Ms Dugdale

35. Ms Dugdale informed the Committee that she brought her flat above the Premises in 1989, thinking the basement would remain a restaurant. Since the premises became a club, there have been problems with noise in the street and from the Premise. It's located in a quiet area without not much open after midnight.

36. The Committee was informed that staff and customers are very noisy outside, but this has been made worse with pedicabs. A customer leaves the premises and pedicabs swarm to try and get their custom. There is often shouting, laughing, talking and fighting.
37. Ms Dugdale stated that there is some kind of relationship between the club and pedicabs as she has seen money exchanging hands. She is of the opinion that the Premises cannot control the pedicabs as nothing the Premises has done so far has alleviated the matter.

Submissions from Tim Lord - Chair of Soho Society

38. Mr Lord highlighted the following points to the Committee.
 - a. Soho is not only a place for entertainment and drinking but it is also a residential area.
 - b. Over 30% of people living in Soho are in social housing
 - c. There was good CCTV coverage in Soho in 2016 but the MPS were unable to agree on CCTV funding therefore, a number of cameras were removed. Since this event, crime and anti-social behaviour has increased significantly.
 - d. It is sad and now common that people now feel unsafe to visit Soho.
 - e. The Society note the increased noise nuisance in the nights which is making it hard for residents.
 - f. The Society feel police resources in the area are over stretched.
39. Mr Lord concluded and stated to the Committee that as a result of the breaches of conditions the Premises Licence should be revoked.

Submissions from Councillor Fisher

40. Councillor Fisher informed the Committee that it is deeply concerning that there is evidence of criminal activity and obvious evidence of excessive alcohol being sold to customers, which is inconsistent with the Licensing Objectives.
41. The Committee was informed that Mr Bamber and Mr Clair statements show a general indifference to the allegations of spiking. (Paragraph 272-273 at page 86 and Page 321 paragraph 160 of AB2)
42. Cllr Fisher submitted to the Committee that Mr Bamber's evidence not entirely an independent expert as he has previously provided consultancy services to the venue. Therefore, limited weight should be given to his comments. In addition, Mr Bamber's approach is that of criminal proceedings, but this is a licensing hearing. Mr Bamber also speculates how money is taken from victims. (Pages 56-57, 64-66 AB2)
43. Cllr Fisher also submitted that Mr Clair general attitude to spiking is lacking as he suggests motivations for customer making these claims and Mr Clair claims widespread dirty tricks. (eg writing negative Google Review). Complaints are managed by the Premises inadequately and complaints about criminal activity are treated with indifference by the Premises.

44. The Committee was advised that the proposed solution from Mr Clair on page 298 of AB2 is that he clears out management, close for a short period of time, recruit a new experienced DPS. Mr Clair's actions are a sign that there was a big issue.
45. Councillor Fisher stated that he supports the Council's initial decision to suspend the Premises Licence and that it is very difficult for him to envisage a case that is more right to revoke an alcohol licence than this one.
46. In response to questions from the Committee, the Committee was informed that Ms Dugdale used to have a noise issue. However, this is a lot better although noise still emanate from the common parts before midnight. Ms Dugdale also stated that the most pedicabs she had seen around the premises is about 11 but is usually around 7. She also believes that the pedicabs have changed since pre COVID. Ms Dugdale confirmed there were 2 occasions where pedicabs went up to doormen at the Premises and cash was handed over to them by door supervisors.
47. Mr Brown informed the Committee that there was mediation which started after a SEV licence renewal, he believes in 2019. The Council offered to host the meeting and it resulted in 3 conditions being added to the SEV licence. Mr Elford verified to the Committee that the mediation group were trying to come up with solutions to minimise the disruption of the pedicabs.
48. The Committee asked MPS whether they asked to check the incident log when they visited the Premises. PC Muldoon confirmed they had but there was very little in the incident log. Recorded were Police and Council visits as an opposed to customer incidents. The PLH confirmed they had the incident logs at the hearing.

Submissions on behalf of the Premises Licence Holder (PLH)

49. Mr Grant on behalf of the Applicant told the Committee that there is a big shift in the MPS's submission today from their arguments at the Interim Steps hearing on the 15 December 2022. The MPS had presented a bold and scary submission that Vanity is being used as some sort of criminal hub organised for customers to have their drinks spiked which would then enable Vanity to defraud customers of money from their credit cards. This is why the Premises Licence was suspended. (See Schedule 1).
50. The Committee was told that today there is very significant shift which has not been done voluntarily by the MPS but as a result of the evidence served by the PLH.
51. Mr Grant accepted things have gone wrong, such as a clear issue of some of customers getting too drunk and clear issues with breaching the conditions on the SEV licence. However, the focus on serious crime and serious disorder has resulted in the MPS withdrawing from their bold position.

52. The Committee were reminded of the Revised Guidance issue under section 182 of the Act (the Guidance) at para 9.12. Namely that it remains incumbent on the police to ensure their representations can stand the scrutiny at the hearing. There should have been a proper scrutiny by the MPS, not the PLH of their own evidence.
53. Mr Grant suggested that if there were revocation of premises licence of late-night venues in Soho due to some people getting too drunk and spending too much, then there are very few late-night venues that would pass the scrutiny of this Committee. Mr Grant felt that the issues can be dealt with in a different way opposed to revocation.
54. The Committee were reminded that a man's livelihood, jobs of those he employs, the self-employed 18 dancers were at stake and that Mr Clair (director and PLH) is a businessman of 39 years old, has not a single criminal conviction (bar one driving offence). He has operated 5 licensed premises over 20 years in London. 3 of these are still operating. He has not faced a single Review of any of his licenses.
55. The Committee were informed that the PLH proposes to employ an experienced DPS, and that Mr Clair is sorry and is trying to turn this around by suspending the Manager and Deputy Manager of the premises. He will need to close the premises in order to bring in new management and the Committee have the power to suspend the licence for up to 3 months in order to do this. Mr Grant stated that this means the premises can reopen in a safer and well managed way.
56. The Committee was informed that MPS were looking at the wrong date which is why they could not identify the victim of the trigger incident and the Summary Review was launched. The PLH have since traced the individual complainant and have documented his journey and his expenditure. CCTV shows details of the 2 allegations within 31-day period where CCTV footage was retained.
57. The Committee were advised that limited Google reviews were 'cherry picked' by the MPS. They failed to fairly share the larger number of positive reviews available. Mr Grant also stated that buyers' remorse is a real proposition and not one made up by the PLH. It is common for customers who have attended lap dancing venues to wake up with buyers' remorse. When girlfriends/partners find out their partners attendance or spend at a lap dancing venue, customers will try to give explanations and have blamed their behaviour on being spiked.
58. In some of the allegations, the investigating Police Officer investigated the reports and decided that complaints are not fit for further investigation, other cases where money is taken after victims have left the venue. There are also allegations where the customer has left the premises, they go, with assistance with pedicabs, to unlawful brothels where they are then "ripped off". Mr Grant informed the Committee that it is wrong for the MPS not to scrutinise their evidence and deliberately blamed the Premises.

59. Mr Grant informed the Committee that pedicabs are a problem at the venue along with many other venues in Soho.
60. Mr Grant confirmed that the PLH have no financial dealings with pedicabs and have a Marshall outside to deal with them. There is a big sign in the venue saying 'please do not use the pedicabs'. A few years ago, some doormen did ask the pedicabs to go and collect them food and paid them cash. Once Mr Clair found out about this, he placed an end to it.
61. Mr Grant informed the Committee that the MPS cannot point to a single incident with actual evidence of someone being spiked. There is evidence, summarised by Mr Bamber, which is leading Police research, to try find out what is happening nationally with spiking. On the rare occasion it does happen, and it is extremely serious. Mr Clair has said if there is any evidence of his staff or performers spiking customers then he will cooperate with the police to have this person arrested.
62. Mr Grant then stated that there is no direct or reliable evidence that Vanity have taken any unauthorised sums of money. There is strong evidence that customers have had money stolen after they have left the venue. This could be where pedicabs may be associated with organised crime in the area. The large sums of money taken did not go anywhere near Vanity. It went to companies, some of which the PLH know, have been named on the victim's account. Mr Grant questions why haven't the MPS told the Committee about their investigation into the company that took the money? He submits that the MPS finds it is easier to say the customer went to Vanity and blame it on the venue to strengthen this Review and this should not be enough to close down a business.
63. Mr Grant then highlighted inadequacies in the MPS investigation of the incidents and in his submissions, he referred to specific pages in the AB2.
64. In Mr Bamber's report at pages 52 – 84, he highlighted that the large sums of cash went to LJMax Enterprises Limited and not Vanity. The details have been checked on Companies House register at page 144 -146 by the PLH. Mr Grant questions why the MPS, knowing where the transactions had been sent, did not conduct any proper investigations into them.
65. The Committee was told by Mr Grant that what the victims are stating to the MPS are not reflected in the facts.
66. The Committee was shown that in the first incident 22nd November 2022 at page 163 the PLH proves how each transaction, referred to in the complainant's statement as stolen, is made to Vanity. Receipts for the transactions have been located and exhibited. The dancer, Danni on page 349 confirms she danced on her own for this man most of the night and this is reflected in the money he spent. At page 183, CCTV stills also shows him leaving Vanity standing up right.
67. In the Second incident on 24 November 2022 at page 129 -142 the PLH was able to trace the victim and provide details and receipts of his transactions.

CCTV shows the same individual authorising payments himself and walking out and leaving the Premises. A dancer known as Natalie at page 353 states she performed for the male on the 24 November and that this man paid for every dance and performance

68. The trigger incident (24 November) story boards pages 142 - 183 that demonstrates that every payment is legitimate authorised by this individual. This is further supported by the dancers.
69. The Committee was shown that the MPS placed evidential weight on cash being handed to a performer shown in the CCTV. The Applicant said this must have been something dubious. However, PC Morgan at page 104 of AB1, failed to fairly go on to say that in the CCTV he watched, the cash was immediately handed to the bar staff. According to the Applicant, this is another example where the MPS have unfairly cherrypicked evidence against the Premises.
70. Mr Grant stated that the two recent allegations through CCTV can show what the victims state are not supported by facts. The CCTV footage can only be retained for 31 days. The Committee was advised to consider the other incidents with caution.
71. Mr Grant then briefly summarised some of the other complaints by stating at page 175 of the main committee report, the incident on the 3-4 February 2022 is positive evidence of the customer leaving Vanity but who afterwards, ends up having their money taken. At page 231 of the committee report, the initial report from the complainant states the victim left the club and was approached by a guy who invited him back to an after party, where he lost money. Page 233 of the committee report shows a pedicab driver took the customer to an unknown address for a drink and once there he was "fleeced of money".
72. The Committee noted from Mr Grant that the PLH was not complacent about spiking, and he takes this very seriously. The comments about spiking are actually from research conducted by Devon and Cornwall Constabulary who ran local trials. (Page 6 and 7).
73. Mr Grant explained that buyer remorse is supported by evidence from AMEX at page 191 onwards. The complainant has phoned up his credit card company, the credit card company in turn, phoned Vanity for evidence. The PLH supplied both the receipts and CCTV footage showing the transaction took place, and AMEX emails and accepts it's a false claim. In June 2021 the same situation occurs.
74. Counsel for the PLH also highlighted to the Committee that there is an allegation of spiking at page 59 of the main committee report, then at page 60 the same complainant's wife is alerted of the monetary spend.
75. At page 329 to 330 the CRIS report states that this victim complains of vomiting and confusion having attended Vanity. He had a urine test, no drugs were found and the investigating officer reports the victim 'was either misinformed or being untruthful.'

76. The Committee then heard from Mr Bamber who detailed the wealth of his experience. He confirmed to the Committee that there is no direct or reliable evidence of someone being spiked at the Premises nor is there direct or reliable evidence of someone being fraudulently “fleeced” of their money at the Premises.
77. Mr Bamber confirmed he was previously involved with the compliance of Vanity, but his independence is unquestionable and not compromised. He referred to his CV and the jobs he has undertaken and reiterated that he has not been corrupted.
78. Mr Bamber has worked with a number of establishments in Soho. He is familiar with what is going on in the sex trade which operates around London. He operated the Vice unit. The last occasion he visited Soho was on 20th December, when he was touted in the street and was told by a pedicab he could get ‘drinks, parties and sexy ladies’.
79. The Committee was advised that customers take alcohol and sometimes elicit substances and end up spending more money than they originally intend to. They wake up in the morning and realise they have spent an awful lot of money. They then may be challenged by partners and have to explain the spend. This is then usually blamed on spiking and then a subsequent claim against credit card companies.
80. Mr Bamber advised that the removal of the DPS and manager will ensure the premises will be run effectively, but not in the same way as when he was associated with it.
81. The Committee heard from Mr Bamber that the research into the spiking statistics show that out of those who have made allegations of spiking, 1.6-5% had been spiked.
82. Mr Grant explained that out of 22 cameras, 3 didn’t work. 1 shows a storeroom and one is covered by other cameras. They are now all fixed.
83. The Website and social media are controlled by a company in India which means they effectively have stock photos that are not related to the venue and which they use on the website. The PLH should have monitored this but has decided to take control of social media and his website inhouse.
84. The PLH will continue to work with Ms Dugdale in relation to the nuisance caused by his Premises and he is working to try and solve the pedicabs issue.
85. The Committee considered the incident log dated July 2017 to November 2022 and permitted the Applicant to consider and comment on the same. In response to the Committee’s questions, PC Muldoon stated that there were several sheets that referred to visits made by officers and licensing and that there were no records of any incidents relating to customers. Additional notes had now been included. The officer only looked at the incident logs over the

last year. The addition of notes since the MPS viewing was denied by Mr Elford.

86. Mr Clair (PLH) confirmed he only checked the incident log 4 times per year, but he would expect details of drunken customers to be recorded as an incident.
87. Mr Grant finalised his submissions to the Committee by stating there are some issues with some out of 20,000 customers per annum, being drunk, being given more alcohol at the Premises and SEV condition breaches. He advised that the SEV is not before the Committee today, but it will be considered by a separate Committee shortly.
88. The PLH cannot promise that as a late-night venue, customers will not get drunk but there are already steps in place such as WAVE training of all new employees and Annex A is the formal proposal, and this is what is felt to be the proportionate steps to take:
 - a. Suspend the licence to employ new management and to deal with some of the issues
 - b. Formally remove Ms Forman as a DPS.
 - c. To replace CCTV conditions
 - d. To add the new proposed conditions to the licence
89. In response to questions from the Committee, the representatives for the PLH stated that customers paying for an hour may have slightly less than that. If the hour expires, then the performer goes upstairs or downstairs to see another client. The dancer will see if their existing client wants another hour to continue the night. Customers are always charged before the dance takes place.
90. Mr Clair stated that sometimes it is hard to see if clients are intoxicated as they are sitting down. Staff will see if they can walk somewhere, eg to a pay point, to see if they are drunk.
91. The Committee was advised that the way the incident was described by the MPS, about 2 males being separated is incorrect. CCTV shows, one of the males purchases a VIP dance which is downstairs. The other friend purchases a dance upstairs. They both proceed to have further dances and the friend leaves before his friend does. Customers will try and get into the dance area with their friend. Where there is a genuine emergency then the DPS will allow someone into the area. On other occasions a message will be passed on.
92. Cocaine seems to be the drug of choice. Part of the process would be taking it in the toilets. If the PLH suspect someone taking drugs, then they will be asked to leave.
93. There are random searches conducted on customers coming into the venue. They are aware that they are on CCTV and there are notices to say CCTV is in operation.

Conditions discussion

94. Mr Burnett, Legal Adviser to the Committee, sought clarification and agreement from the PLH in relation to the proposed conditions contained in document Annex A served by the PLH.

95. If the Premises Licence is retained, Mr Grant on behalf of the PLH and with reference to the conditions detailed in the Decision below, agreed to:

- a. Condition 3, 5, 9, 18, 20 and 21 being added,
- b. Condition 4(e), 8, 12 and 19 being amended to read as detailed below
- c. The addition of (e) Drugs Policy to Condition 13
- d. All other conditions on Annex A being added to the Premises Licence
- e. All conditions on the existing Premises Licence being retained save for replacing the CCTV conditions 29 and 30 on the Premises Licence with Westminster's Model Conditions MC01 and MC02.

SUMMING UP

1. In summary, Mr Grant stated, that the SEV breaches are a problem and better conditions for the Premises Licence have been proposed which are appropriate and proportionate.
2. Mr Grant advised that out of 20,000 customers who attend the Premises per annum, some get drunk. It is not the first venue to be accused of this and it will not be the last.
3. Compliance is key. It is the first time Mr Clair has been Reviewed in 20 years in the licensing trade.
4. Mr Brown summarised and stated it is not fair to blame the pedicabs. Pedicabs see evidence from social media and the website and see customers leaving the premises drunk, so are attracted there.
5. The statements from the dancers in relation to customers being drunk are inconsistent with Mr Bamber's account. The Dancers say the customers are not drunk whereas the timeline in Mr Bamber's report shows excessive drinking by those same customers.
6. The sum of £1232.00 is a curious amount to be a tip to a dancer who had danced with a customer for a matter of minutes.
7. The Committee have evidence that on the 21 and 22nd November there was excessive drunkenness. The Premises has had an impact on Mrs Dugdale from 1987.
8. Councillor Fisher was unavailable to add to the summaries.
9. Mr Gouriet KC summarised for the Applicant and informed the Committee that this is not a trial. The case of Sharanjeet Lalli v The Commissioner of Police

For The Metropolis (1) The Council of the London Borough of Newham (2) [2015] EWHC 14 (Admin), the only issue is what are the appropriate steps to take to promote the licensing objectives.

10. The MPS case is victims are incapacitated either by drugs or excessive amounts of alcohol, cash rich customers are targeted and then taken where they suffer loss. There is no proof of spiking at the premises but customers leaving the premises have money taken from their accounts.
11. There is also unlawful dancing and breaches of the SEV conditions. The approach is if the Premises did not have an alcohol licence and they applied for a new premises licence with CCTV footage showing illegal dancing, would the Committee grant the Premises Licence?
12. Mr Gouriet advised the Committee that removing the management at a licensed premises is not enough. The public may expect something more to be done as confirmed in the case of Regina v. Knightsbridge Crown Court, Ex Parte International Sporting Club (London) Ltd. and Another [1982] QB 304
13. The Committee adjourned the hearing to make its determination and resumed the hearing to announce its Decision and to summarise its reasons which are more fully set out below.

FULL DECISION OF THE REVIEW OF THE PREMISES LICENCE

1. In reaching its decision the Committee has had regard to the relevant legislation, the Secretary of State's Guidance ("Guidance") particularly in relation to reviews and the Council's Statement of Licensing Policy ("SLP").
2. The Committee considered the Review application, the representations and submissions made by all the parties involved, verbally, in CCTV footage and in writing.
3. The Committee recognised that the proceedings set out in the Act for Reviewing premises licences represent a key protection for the community when problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring. Paragraph 11.1 of the Guidance.
4. The Act provides the Licensing Authority with a range of powers on determining a Review that it may exercise where it considers them appropriate and proportionate for the promotion of the licensing objectives. (Paragraph 11.16 of the Guidance).
5. "In deciding which of these powers to invoke, the Licensing Authority should so far as possible, seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response. Each case has to be determined on its own merits, on the balance of probabilities." (Paragraph 11.20 of the Guidance)

6. The Committee also recognised that paragraph 11.24 of the Guidance advises that:-

When dealing with reviews in connection with crime, “ *Licensing authorities do not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The licensing authority’s role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.*”

7. Pertinent to this case, the Committee also notes that para 9.12 of the Guidance states “*it remains incumbent on all responsible authorities to ensure that their representations can withstand the scrutiny to which they would be subject at a hearing*”
8. There are in summary, four aspects of this matter which causes the Committee concerns. The allegations of spiking and fraudulent acquisition of money from vulnerable customers, drunkenness of some customers on the premises, several breaches of conditions and nuisance caused to neighbours.
9. The Committee notes 9.43 of the Guidance which states “*The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.*”
10. The MPS relies on evidence detailed at pages 25 to 27 of the committee report to support their allegations of spiking and fraudulent acquisition of customers money. In some transactions this involve funds of £20K, £98K, £37.5K and £30K. This evidence was also used to support the MPS request to suspend the Premises Licence at the Interim Steps hearing on the 15 December 2022.
11. The PLH has produced documentary evidence that these substantial amounts have not been transferred to any account belonging or linked to Vanity.
12. However, it was the credible evidence of Mr Bamber at pages 45 – 106 in AB2, who forensically investigated each offence which provided the Committee with key information, and it is right that this evidence is cited in summary at this stage:

13. Incident of 8/9/21

The premises was closed when the theft took place and the police CRIS Report confirms that the money was in fact taken from a cash point. The investigating office states no suspect is identified.

14. Incident of 7/11/21

The premises was closed. No mention of the incident taking place in the Premises or the Premises having anything to do with the pedicab in the CRIS Report. The theft of money took place at a flat in Marylebone.

15. Incident of 3/2/22

The victim has a drink at Vanity then leaves at 21.00. The police CRIS Report states that at a flat on Edgware Road, he has a drink, takes cocaine and his bank cards are taken and photographed by a woman.

16. Incident of 10/2/22

No allegations on the CRIS report of spiking and that the victim went downstairs in the club which suggests he purchased some form of entertainment. The PLH has supplied authorised receipts which matches the amounts of allegedly stolen money which the victim complains of.

17. Incident of 20-22/4/22

Incident reported on the 28/4/22 by the victim's girlfriend after she finds out that money was taken from their account.

18. Incident of 29-30/4 /22

Victim goes to Vanity until early hours of the 30/4 and then meets his wife. He states he was spiked and suffers monetary loss. He is sick and goes to the hospital where he has a urine test. He states that there is cannabis found but the medical report confirms no drugs was found. The money alleged as stolen, correlates to the pricing of dances at the premises.

19. Incident of 14/6/22

The victim states he was at Vanity but leaves and goes voluntarily to a brothel where he suffers loss of money from his account. The financial transactions were made when Vanity was closed. He recalls a woman at the flat slapping him and demanding his bank details which he supplies.

20. Incident of 13/8/22

The CRIS Report states the victim reports loss of his wallet and phone outside a restaurant on Rupert Street. Police are considering an arrest and no mention in the CRIS Report of Vanity.

21. Incident of 21/10/22

The individual was with a friend on the night in question. At the club for around 3 hours with a friend. No action taken by his friend had he been spiked. Money taken covers a period of nearly 2 hours after his initial dance and the consumption of one drink. No evidence of wrongdoing at the venue on the CRIS Report.

22. Incidents of the 22 and 26 November 2022 are covered earlier in this Decision.

23. The Committee has approached the allegation of spiking and fraudulent taking of customers money with caution in the surprising absence of detailed investigations by the MPS, the inaccurate reporting and evidence from the MPS.

24. The Committee has considered the MPS summary of the incidents of spiking detailed on their reports at pages 25 – 27 of the committee papers. The first allegation dates back to September 2021. No action was taken against the Premises until the trigger incident on the 24 November 2022, over a year later.

25. The Committee also notes that the Premises has had the benefit of 10 Temporary Event Notices (TENs) from 21 December **2021** to 18 December **2022**. (Page 527 of the committee papers). The MPS and Environmental Health Service (EHS) have the opportunity to object to each of these, but the notices were granted including a TEN on the 24 November 2022 when the 'trigger event' took place.
26. This Review application has not attracted representations from any of the other Relevant Authorities, including the EHS in relation to nuisance.
27. It is clear from the evidence provided at the hearing that alcohol is being sold to drunk customers at the Premises. Responsibility is often delegated by PLH companies to managers and DPS to control the day to day running of licensed premises. The DPS and her son have not managed the premises to the standards expected by Westminster City Council and the Committee notes that conditions proposed removes the DPS and manager and places more responsibility on the PLH, who is a man of previously good licensing experience and of good character (save for a driving offence).
28. The Committee also notes Mr Grant's assertion that there is drunkenness of some customers and that the Premises has in the region of 20,000 customers attending the Premises annually.
29. It is noted by the Committee that there are breaches of conditions on the Premises Licence and SEV licence. Although this hearing is conducted under the Act, the breaches of the SEV Licence conditions is good evidence of poor management of the Premises and the operation, so it has not been ignored.
30. It is noted that the breaches of the SEV licence will be dealt with under different legislation. The findings of this Committee in relation to the Review of the Premises Licence is not to be binding on any other Committee. Indeed, this Decision should not be used to sway the Decision of any other Committee dealing with the SEV. This Committee has deliberately avoided making any findings in relation to the breach of conditions on the SEV Licence, save to use them as evidence of poor management.
31. The Committee welcomes and appreciates the crucial evidence provided by the interested parties and in particular Mrs Dugdale. The Committee expects that all licensed premises in Westminster have a duty to ensure that nuisance is not caused to residents as a result of their operation whether this be music noise, patrons and staff noise, taxis, or pedicabs. PLHs must and are expected to manage their premises with robust policies to promote the Licensing Objectives.
32. In all the circumstances, in making this Decision, the Committee, so far as possible, sought to identify the issues at the Premises and what remedial action should be taken to ensure these are directed at those issues.
33. The Committee has not sought to establish the guilt or innocence of any party but to ensure the promotion of the crime prevention objective. The MPS

evidence was subject to scrutiny at this hearing and the Committee realises its Decision is to be evidence-based and justified as being appropriate for the promotion of the licensing objectives and proportionate to what it is intended to achieve.

34. This case has been determined on its own merits and facts, on the balance of probabilities.

35. Having carefully considered the committee papers, the additional evidence the CCTV footage and the oral submissions made by the Metropolitan Police, Interested Parties and the Premises Licence Holder, **the Committee has decided**, after taking into account all of the individual circumstances of this case and the promotion of the four licensing objectives, that it is appropriate and proportionate for **the following steps to be taken in relation to the full Review of the Premises Licence for Vanity Bar and Nightclub, Basement to 1st Floor, 4, Carlisle Street W1D 3BJ, namely:**

a. To suspend the premises licence for a period of up to 3 months.

b. To remove the DPS, Lorraine Forman, with immediate effect.

c To modify the conditions on the premises licence:

To replace current Premises Licence conditions 29 and 30 with:

1. (a) The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team.

(b) All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition.

(c) The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises and shall include the external pavement area outside the premises entrance.

(d) All recordings shall be stored for a minimum period of 31 days with date and time stamping.

(e) Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the entire 31-day period.

2. 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.

To add the following conditions to the existing conditions on the Premises Licence:

3. Neither Lorraine Forman or Shaine Mountier shall have any involvement in:

1. the day to day running of the premises,
2. management of the premises or
3. management of the operation at the premises

4. No Licensable Activities shall take place at the Premises until such time as a site visit has been arranged with the Licensing Authority, The Police Licensing Team,

and the Environmental Health Consultation Team. The purpose of the visit shall be for the above-named Responsible Authorities to:

- a. Confirm that they agree that the layout and appearance of the Premises is such that views in areas where Relevant Entertainment takes place are unobstructed.
- b. Confirm that they agree that the CCTV system at the Premises complies with the CCTV conditions and the locations and angles of CCTV cameras are appropriate to the provision of relevant entertainment.
- c. Confirm that the noise limiter is set at a level determined by and to the satisfaction of an authorised Environmental Health Officer and secured by key or password with access only to persons authorised by the Premises Licence Holder.
- d. Confirm that they have viewed training records for all relevant staff members in accordance with the Premises' training conditions.
- e. Confirm that they have met with the Designated Premises Supervisor (or Designated Premises Supervisor Elect), and if in place, the manager and assistant manager of the Premises.

Following confirmation of items (a) to (e) being satisfactorily completed this condition shall be removed from the Premises Licence by the Licensing Authority.

5. From the date on which licensable activities under the Licensing Act 2003 first commence in 2023, a site visit shall thereafter be arranged annually with the Licensing Authority and the Metropolitan Police Licensing Team. The purpose of the visit shall be for the above-named Responsible Authorities to:

- a. Confirm that they agree that the layout and appearance of the Premises is such that views in areas where Relevant Entertainment takes place are unobstructed.
- b. Confirm that they agree that the CCTV system at the Premises complies with model condition MC01 and the locations and angles of CCTV cameras are appropriate to the provision of relevant entertainment.
- c. Confirm that the noise limiter is set at a level determined by and to the satisfaction of an authorised Environmental Health Officer and secured by key or password with access only to persons authorised by the Premises Licence Holder.
- d. Confirm that they have viewed training records for all relevant staff members in accordance with the Premises' training conditions.
- e. Confirm that they have met with the Designated Premises Supervisor (or Designated Premises Supervisor Elect) and if in place, the manager and assistant manager of the Premises.

6. The Premises Licence Holder shall devise, implement, and maintain a Training regime for:

- a. All staff (including self-employed performers) working in customer facing roles at the Premises; and
- b. All SIA licensed door supervisors engaged by the Premises.

7. The Training Regime shall, as a minimum, cover the following:

- a. The hours and conditions of this Premises Licence
- b. The Licensing Objectives and The Licensing Act 2003
- c. The Premises' Welfare and Safeguarding Policy

d. Identifying intoxicated individuals (alcohol and prohibited substances)

8. Staff (including self-employed performers) and SIA licensed door supervisors shall not be permitted to commence work at the Premises until such time as they have undergone induction training on (a) to (d) above {Namely: a. The hours and conditions of this Premises Licence, b. The Licensing Objectives and The Licensing Act 2003, c. The Premises' Welfare and Safeguarding Policy, d. Identifying intoxicated individuals (alcohol and prohibited substances)}

9. All training at the premises shall be dated and signed off in writing by the Premises Licence Holder.

10. Staff (including self-employed performers) and SIA licensed door supervisors shall be re-trained at least twice annually (January to December).

11. Training Records shall be kept for all members of staff (including self-employed performers) and SIA licensed door supervisors. The Records shall be kept at the Premises and made available for inspection by Responsible Authority Officers. Training records shall be kept for a period of 18 months from the date on which the training was delivered.

12. Prior to licensable activities under the Licensing Act 2003 taking place at the premises, all members of customer facing staff (including self-employed performers) and SIA licensed door supervisors shall be provided with the Metropolitan Police's Welfare and Vulnerability Engagement (WAVE) training (or equivalent training) at least once annually (January to December). Training Records for WAVE training shall be kept for all members of staff (including self-employed performers) and SIA licensed door supervisors. The Records shall be kept at the Premises and made available for inspection by Responsible Authority Officers. Training records shall be kept for a period of 18 months from the date on which the training was delivered.

13. The Premises Licence holder shall devise, implement, and maintain the following policies in relation to Licensable Activities at the Premises:

- a. Customer Complaints Policy
- b. Welfare and Safeguarding Policy
- c. Noise Management Policy
- d. Pedicab Policy
- e. Drugs Policy

Copies of these policies shall be kept at the Premises and made available for inspection by Responsible Authority Officers. The Customer Complaints Policy shall also be made available to members of the public on request.

14. The Premises Licence Holder shall appoint an Independent Compliance Auditor, to be instructed and paid for by the Premises Licence Holder, and who must carry out a minimum of (4) Compliance Audits per year (January to December) to assess the promotion of the Licensing Objectives and compliance with the conditions of this Premises Licence.

15. The Compliance Audits must not be pre-arranged/booked with the Premises Licence Holder, or any employee of the Premises Licence Holder (including self-employed Performers or SIA Licensed Door Supervisors).

16. A copy of the Compliance Audit, signed and dated by the Compliance Auditor, must be kept at the Premises for a period of 18 months from the date of completion of the Compliance Audit and be made available to Responsible Authority Officers on request.

17. The Premises Licence Holder shall designate a member of staff a responsible for customer welfare at all times that the Premises are open for Licensable Activities and for a period of 30 minutes after the Premises closes to customers. The designated staff member shall be identifiable at all times when on duty and shall wear a high-visibility tabard or a t-shirt (or similar) saying "Customer Welfare Officer."

18. The premises licence holder shall organise quarterly residents' meetings and shall provide 28 days' notice in writing by:

1. Displaying an A4 notice at the premises; and
2. Email to any address given to the premises licence holder requesting notice

The premises licence holder shall take a minute of the meeting and circulate attendees.

The premises licence holder shall keep records of meetings for 18 months from the date of last meeting and those records shall be made available to responsible authority officers on request.

19. The Premises Licence Holder shall provide a Customer Pay Point (or Pay Points) at locations agreed with the Metropolitan Police Service within the Premises and shown marked XXXXXXXX on the approved Premises Licence Plan. The Pay Point(s) shall be covered by a specific camera or cameras capturing payments taking place. All payments shall only be taken at those Pay Point(s).

20. 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. It must be completed within 24 hours of the incident and shall record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder
- (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any refusal of the sale of alcohol
- (h) any visit by a relevant authority or emergency service
- (i) any reports of lost property (including money)

The incident logs shall be reviewed and assessed, then signed off by Premises Licence Holder if he is satisfied with the entries, management of the incident and conclusion.

21. All door supervisors shall wear reflective armbands which shall be clearly visible when on duty at the premises.

The Committee's determination in relation to the full Review does not have effect until the end of the period given for appealing against **the reasoned decision**, or if the decision is appealed against, until the appeal is disposed of.

This Decision is in no way intended to sway or influence any future Decision in relation to the renewal of the premises SEV Licence. The Committee recognises that on determining the SEV Licence renewal the Authority would assess the merits of the SEV application and any breaches which were relevant to that application.

SUBMISSIONS IN RELATION TO THE REVIEW OF THE INTERIM STEPS

Mr Gouriet on behalf of the MPS submitted to the Committee that the interim step to suspend the Premises Licence should continue until end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is disposed of.

Mr Brown had no observations

Councillor Fisher was unavailable.

Mr Grant confirmed to the Committee that the PLH does not resist the Applicant's request.

The Committee adjourned the hearing to make its determination and resumed the hearing to announce its Decision and to summarise its reasons which are more fully as set out below.

Interim Step Review Decision

The Committee recognised that the purpose of today's hearing is twofold: -

- (1) Firstly, to consider what appropriate and proportionate steps should be taken for the promotion of the licensing objectives in respect of the review and
- (2) Secondly, to review the interim steps taken on 15 December 2022 at the Interim Steps hearing and decide whether it is appropriate for any of the steps to remain in place or to be modified and if so, whether such steps should continue to have immediate effect.

The Committee has reviewed the Interim Steps and heard the submissions by the parties and has determined that **the suspension of the Premises Licence imposed at the Interim Steps hearing on the 15 December 2022 shall continue.**

The Committee further decided that the reviewed Interim Step shall take **immediate effect** and the suspension of the Premises Licence shall continue until end of the period given for appealing against the reasoned decision, or if the decision is appealed against, until the appeal is disposed of.

Informative:

- i. It is expected that the approved Premises Licence plans compliant with the condition 19 shall be appropriately supplied to the Licensing Authority before the Premises trades under the Premises Licence.

- ii. This Decision is in no way intended to sway or influence any future Decision in relation to the renewal of the Premises SEV Licence. The Committee recognised that on determining the SEV Licence renewal the Authority would assess the merits of the SEV application and any breaches which were relevant to that application.

**Licensing Sub-Committee
9 January 2023**

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Schedule 1 – details of the Interim Steps taken on 15th December 2022

INTERIM STEPS DECISION

The Committee concluded that the incident on the 26th November 2022, which has been reported to the MPS, has raised concerns about the Licensing Objectives, in particular protection of the public and the prevention of crime.

The Committee noted that there are a number of similar incidents linked to the Premises to be investigated, which causes extreme concern.

It is the PLH's duty to promote the licensing objectives and to be aware of what is taking place at his/her Premises. The DPS authorises the sale of alcohol and has day to day control of the Premises. The Committee is satisfied that customers' safety is at risk and that serious criminal activities have taken place against customers who have attended the Premises.

The Committee considered that the condition proposed by Mr Grant would not be sufficient to protect customers. Namely that *"All credit card transactions shall take place in full view of CCTV cameras."*

The Licensing Objectives of public safety and the prevention of crime and disorder are not being promoted and the Committee has not been convinced that the Premises is taking sufficient measures to promote the Licensing Objectives.

Having carefully considered the application for an expedited review and the evidence presented by the MPS and the Premises Licence Holder, both verbally and in writing, the Committee has concluded that the Premises is associated with serious crime and serious disorder and it is necessary and proportionate to take the following step, namely to suspend the premises licence.

In view of the seriousness of this case, it is necessary and proportionate for the Interim Step and for this Interim Decision to take **immediate effect**.

The Meeting ended at 5.30 pm

CHAIRMAN: _____

DATE _____