



West Midlands Police
Supporting Evidence
Review Hearing:
Dhalak Lounge
Hampton Street Birmingham B19 3LS

PAGE(S)	DOCUMENT(S)
1 to 6	Statement of licensing officer Chris Jones
7 to 11	Decision notice from expedited review
12	Licensing plan of premises
13 to 15	Statement of licensing officer Ben Reader
16 to 20	Statement of PC Wheeler from 10th October
21 to 22	Statement of PC Twomey from 10th October
23 to 25	Email to PLH from PC Reader dated 25.08.20
26	Email from PLH to WMP licensing dated 03.09.20
27	Email referral to West Midlands Fire Service dated 15.10.20
28 to 29	Emails from WMP Licensing to PLH for CCTV from 10.10.20

WITNESS STATEMENT

Crime Number:.....

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

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Statement of: 55410 Christopher Jones

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Licensing Officer

This statement (consisting of 6 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: Date 4th November 2020Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am employed by West Midlands Police as a Licensing Officer currently based as Lloyd House, Colmore Circus Birmingham B4 6NQ working within the Central Licensing Team. This team has responsibility for all licenced premises within the Birmingham City Council area.

This statement is in relation to a premise called Dahlak Lounge, Hampton Street, Birmingham B19 3LS – premises licence number 5185.....

The premises itself is a large ex-industrial unit which I believe was a large garage. The building lies back approximately 50 metres from the road. Entry to the car park is gained by large metal gates leading off the road, which when I have visited the premises have been wide open. The building has two floors a large ground floor with bar area and stairs leading to a smaller first floor. The main entrance to the premises is roughly in the centre of the building accessed by a door behind a roller shutter with the door is normally accessible with the roller shutter being up. There are doors either side of the roller shutter, to the left hand side a white UPVC door and to the right a small black door being used as a fire exit. This door has been added to the premises since my visit on 26th August.

Neither of these two doors are normally used as an entrance or exit. On the ground the seating is large bench / sofa style seating with small square tables situated between the seating. There is a long bar to the left hand side of the premises as you walk in. At the rear of the premises there is an enclosed smoking shelter.

The premises licensing plan is now incorrect to the way the premises was set up on my last visit. The seating is now long bench type / sofa seating in rows, the bar is longer, extended more towards where the door is shown.

There is now a small door, the premises state is a fire exit on the right side. Of note the only fire exit shown on the plan is at the rear and leads to an enclosed smoking shelter.. ..

On 16th August 2020 in the early hours of the morning the premises came to attention of officers as they could hear loud music whilst in the street dealing with another incident. Officers traced this music to Dahlak Lounge,

As officers entered the premises they describe very loud music playing, people standing and a complete lack of

social distancing. Officers state that the premises was very full and appeared to be overfull.

The premises should have been trading in a manner to keep the public safe which was detailed in a government document 'Keeping workers and customers safe during Covid 19 in restaurants, pubs, bars and takeaway services. This document was produced to show how premises could reopen from 4th July after the national lockdown in a safe manner to minimise any potential spread of the disease.

This guidance included matters such as risk assessments, social distancing, no shouting, no dancing and cleaning. At the time officers attended they spoke with the DPS who is also the premises licence holder and gave him advice and explained what measures he needed to put in place in order to trade in a covid safe way.

As a result of this incident a meeting was arranged with the premises licence holder and officers from the police licensing team - PC Reader and myself. PC Reader had also been one of the officers that had attended in the venue in the early hours of 16th August. The meeting was arranged for 26th August.

Before the meeting, on 25th August PC Reader emailed the premises licence holder with detailed points of how a licence premises should operate to be covid safe, what should be included in the premises covid safe risk assessment and a link to the government website for the covid safe guidance in pubs and bars.

Several representatives from the premises, including the premises licence holder attended the meeting at the premises with PC Reader and myself.

At this meeting we spent a significant amount of time talking through what should be contained in a covid safe risk assessment and clarifying any points the premises did not understand. A lot of time was spent explaining the social distancing rule of 2 metres or if not viable 1 metre plus mitigation between different groups of a maximum size of 6 people.

At the meeting I also asked for a copy of the premises fire risk assessment as officers had commented on the number of people in the premises and how full it was. In this document it clearly stated that the venue capacity was 60 people on the first floor and 60 people on the ground floor. (When officers were at the premises on 16th August they have stated that there was considerably more people in the premises than legally allowed as stated in the fire risk assessment document.

PC Reader then asked the premises licence holder about the number of people present at the premises on 16th August. Mr Mebrahtu was completely unaware of his legal capacity until it was pointed out to him. He was also informed that any risk assessment should include how he intended to manage capacity levels between the floors to comply with the fire risk assessment.

As the meeting came to an end PC Reader asked the premises licence holder to email a copy of the premises covid safe risk assessment to him.

On 3rd September the premises sent an email to the licensing team which stated 'all the risk assessments are

done and the venue is complying with all fire and risk regulations'. There was an attachment to this email which was the premises risk assessment. Although due to time and workload the actual risk assessment was never viewed.

On Saturday 10th October 2020 at approximately 21.10hrs officers again had cause to attend the premises. This was as a result of a member of the public contacting West Midlands Police concerned by the number of cars on the car park and the volume of music emanating from the building.

Officers attended the location and from the outside the building looked closed with shutters down.

Loud music could be quite clearly heard from within the building as the officers entered the car park, walking past the metal gate from the street. Quite clearly on the officer's bodycam I can see that the main gate to the car park, which is normally open was half closed and a barrier blocking the other side of the entrance. The main entrance shutter to the building was also down. This would give the impression to anyone driving past or even walking past that the venue was closed and appeared to be completely locked up.

The officers noted a significant number of cars on the car park and around 20 people milling around. As officers started to engage with people in the car they told officers that they were waiting to get into the premises as there was loads of people inside and it was a ticket only event. Officers came to the conclusion that there were obviously people inside the premises albeit the premises from the outside looked locked and closed.

Officers tried to gain entry to the premises but all the doors were locked and shutters were down. As officers waited outside the venue they saw someone looking out of an upstairs window and then the volume of the music was lowered.

A door to the premises was eventually opened, officers describe hearing keys and the door being unlocked from the inside by a male would appeared to be working as door staff at the premises.

Officers describe approximately 150 people on the ground floor with bench or sofa style seating. Officer's state there was no social distancing between different groups and mitigation in place.

Officers also noted a DJ booth with 3 men stood behind it none of which were wearing face covering or were socially distanced.

Officers observed a number of people walking around inside the premises who again were not wearing any face covering.

Officers describe person after person sat in a large row with no social distancing and a group of more than 6 people sat within booth style seating clearly breaching covid regulations.

Officers saw customers smoking shisha pipes within the premises and could see the glow of the coals.

Officers then became aware of what they believed was a member of staff pulling two men out of a booth area telling them 'there is too many, get out'. Officers also heard other voices from within the premises saying 'move,

move you've got to move.

The premises stated to officers they had 152 people in the whole of the premises.

The fact that the premises was selling shisha / allowing it to be smoked on their premises by its nature increases the fire risk at the premises. In a venue that had limited, at the best or no means of escape due the fact the shutters were down and doors to the premises were locked.

Ventilation is a key element to compliance with the smoking of shisha and in the opinion of West Midlands Police, even if the shutters were open the premises would not be shisha compliant as it would not be 50% open.

It is the opinion of West Midlands Police that the premises licence holder had put profit over public safety and had made a deliberate attempt to conceal the fact the was trading in such a unsafe manner by trying to give the impression the venue was closed. A vast difference in the operation style that the premises stated in their email dated 3rd September that 'the venue is complying with all fire and risk regulations.'

I arranged another meeting with the premises licence holder on 13th October to obtain a copy of their CCTV from 10th October and to view their covid safe and fire risk assessments.

I attended the venue on 13th October and again several representatives from the premises were present including the premises licence holder. The premises was not trading at this time and appeared to be set the same way as when it was trading on 10th October from what I had seen on the officer's bodycam. The premises also indicated the numbers of people allowed in each area which confirmed to me, the venue set up of the seating would be the same as when the premises were trading.

The premises stated that the CCTV could not be downloaded onto a memory stick or DVD as there was no facility on the hard drive. They said that they were saving the footage onto a mobile phone and would email the clips. Unfortunately the clips were too large to email

I left the premises with PC Reader and returned to the office, after discussing the visit I decided to return to the venue as the more I thought and talked about the first visit the more I became concerned with the premises. I returned to the premises about 30 minutes later with a colleague. The same representatives of the premises were still present.

At this meeting it was noted that the seating within the premises was not 2 metres apart. The widest gap between seating was only 1.17 metres with the vast majority of seating closer than that, some with no gaps at all. The rules are clear that to go below 2 metre gap there must be a level of mitigation in place which describes the use of screens. There was no sign of any mitigation measures in place, far from the safe trading environment complying with all risk regulations as they stated.

There were sofas / benches positioned for customers in a place that should have been a sterile fire route for access to the fire exit. It was also noted that emergency lighting and signage was not covering the front fire exit.

Also that the fire exit at the rear of the premises led to a totally enclosed smoking area offering no means of escape.

Concerns were also raised to the premises that the front fire exit (which was blocked by the furniture) appeared to be smaller than a standard size door as there was a trip hazard, a concrete step painted black as you approached the exit.

Both the premises fire risk assessment and covid risk assessment were reviewed.

I noted that the capacity figures on the fire risk assessment for the ground floor had increased from 60 as of the meeting on 26th August to 160 people. The premises stated that the increase in capacity was as a result of installing the new front fire exit (the exit which was blocked with furniture that had the trip hazard.)

The fire risk assessment was still dated July 2020. The same date that I had seen at the meeting on 26th August (where it indicated 60 people) The risk assessment had not been signed or re-dated to show the new capacity figure.

I have emailed West Midlands Fire Service Safety Team with my concerns about the premises, the fire compliance and capacity figure, who have stated that will contact the venue for an inspection.

The premises covid safe risk assessment was nothing more than a 'tick box' sheet which in my opinion was not fit for purpose and did not detail any management, enforcement or capacity for trading a covid safe environment. This was shown by the lack of social distancing between seating at the venue.

The premises then tried to defend themselves not trading covid safe by blaming West Midlands Police Licensing Team as they had sent us their risk assessment and we hadn't commented on it, albeit in the email in which the premises attached their risk assessment they stated 'the venue is complying with all fire and risk regulations.'

The premises licence holder was reminded that the management and operation of his venue was his responsibility and not down to West Midlands Police. He was also reminded of the amount of time we had spent as a department, face to face, offering advice and education for covid safe trading, giving the premises the opportunity to ask any questions or to clarify any points.

West Midlands Police and myself have spent a lot of time engaging with the premises with regard to their responsibilities around covid safe trading.

West Midlands Police are concerned that the premises has not learnt from any advice given to them for covid safe trading. The premises continues to trade in a manner that would have been seen prior to this pandemic, against all the regulations and guidance given by the government in order to trade in a safe manner and stop the spread of the virus. This in turn threatens the safety of their families and the communities they live in.

Since the suspension of the licence I have contacted the premises licence holder on at least 5 occasions by both phone and email to obtain a copy of the premises CCTV in a format which would be viewable by West Midlands Police from 10th October which as yet not been forth coming. I have ask also ask if they had appointed any legal representation and if the premises would prefer me to contact them. Again I am still awaiting a reply from the premises and still have not seen the premises CCTV for the 10th October. On 3rd November Birmingham City Council Licensing have informed me that the premises has legal representation and I have since telephoned them asking for the CCTV. *Ches*

Signature: *Ches* Signature witnessed by:

OFFICIAL (when complete)

Witness contact details

URN : / / /

Name of witness: Mr/Mrs/Ms/Miss/Dr

Former name: *Email address:

*Email address needed for correspondence i.e. support material to be sent

Address: Postcode:

Preferred telephone number: Alternate telephone number:

Agreed means of contact and frequency :

Gender: Date and place of birth: Ethnicity Code (16+1):

DATES OF WITNESS NON-AVAILABILITY: (12 months)



BIRMINGHAM CITY COUNCIL

LICENSING SUB COMMITTEE A

THURSDAY 15 OCTOBER 2020

DAHLAK LOUNGE, HAMPTON STREET, BIRMINGHAM B19 3LS

That having considered the application made and certificate issued by West Midlands Police under Section 53A of the Licensing Act 2003 for an expedited review of the premises licence held by Mr Biniam Yemane Mebrahtu in respect of Dahlak Lounge, Hampton Street, Birmingham B19 3LS, this Sub-Committee determines:

- that the licence be suspended pending a review of the licence, such a review to be held within 28 days of receiving the Chief Officer of Police's application, and
- that Biniam Yemane Mebrahtu be removed as the Designated Premises Supervisor

Before the meeting began the Sub-Committee was aware of the amended *Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020*, the updated version of the Guidance entitled '*Closing Certain Businesses and Venues in England*' originally issued by HM Government on 3rd July 2020, and the Guidance entitled '*Keeping Workers and Customers Safe in Covid-19 in Restaurants, Pubs, Bars and Takeaway Services*' issued originally by HM Government on 12th May 2020 and updated regularly thereafter.

The Sub-Committee was also aware of the special local lockdown measures (specifically for Birmingham) which had been announced by HM Government on Friday 11th September 2020, then introduced on Tuesday 15th September 2020. These measures had been an attempt to control the sharp rise in Covid-19 cases in the city.

Furthermore the Sub-Committee was aware of the further national measures to address rising cases of coronavirus in England as a whole, which had been announced by HM Government on 22nd September 2020. These national measures had been published on the "gov.uk" website on that date, and detailed the new requirements for all businesses selling food or drink (including cafes, bars, pubs and restaurants), ordering that all such premises must be closed between 22.00 hours and 05.00 hours. Other requirements for such premises included seated table service, wearing of masks, and participation in the NHS Test and Trace programme. These measures were an attempt by HM Government to control the sharp rise in Covid-19 cases nationally.

The pandemic had continued to be the top story in the national news across the Spring, Summer and now into the Autumn of 2020; the Birmingham lockdown, and also the new national measures announced on 22nd September, had been very widely publicised and discussed both in news reports and on social media. The

Prime Minister, together with HM Government's Chief Medical Officer and Chief Scientific Officer, had resumed the televised 'Coronavirus Briefing' broadcasts which had been a feature of the first few months of the pandemic. In recent days HM Government had also designated a pyramid-style 'Three Tier' system for the nation, to indicate the level of risk for each area. Birmingham had been designated as 'Tier 2', meaning a 'high' level of risk.

The Dahlak Lounge premises had been granted the premises licence on 12th March 2020, less than two weeks before the national lockdown was imposed.

Mr Biniam Yemane Mebrahtu attended the meeting, as the premises licence holder and also as the designated premises supervisor. Two other individuals also notified the Licensing department of their attendance – Mr Olayinka Soremi and Mr Victor Joseph, who described themselves as Mr Mebrahtu's "business partners". Mr Victor Joseph was the person who addressed the Sub-Committee. It was noted however that the premises licence was in the name of Mr Mebrahtu alone, not a partnership.

Members heard the submissions of West Midlands Police, namely that the background to the certificate issued by the Chief Superintendent under s53A(1)(b) of the Act was that, in Birmingham, it had been observed that the death rate, the rate of infection, and the rate of hospital admissions were all steadily increasing; there were more Covid patients in Birmingham hospitals currently than there had been at the start of the March 2020 lockdown.

From the 4th July 2020, when the new arrangements for reopening were being publicised and the lockdown was being eased for licensed premises such as pubs and bars, information on how to trade was readily available to such premises - via the "gov.uk" website, and also the very many news reports, both on television and on general social media. The requirements included no loud music, no dancing, queue management, and 2m social distancing (or 1m with mitigation measures).

On the 16th August 2020, West Midlands Police observed a general failure by the Dahlak Lounge premises to follow the Government Guidance. Whilst dealing with an incident nearby in the early hours of the morning, Police found that loud music was emanating from Dahlak Lounge at a volume which could be heard in the street.

Upon entering, Police observed that there was no social distancing or limitation of numbers of patrons as per the Covid-19 requirements, to allow for safe operation. Police described the premises as "packed" with patrons. Under the fire risk assessment, the capacity limit was 120 patrons - 60 on the ground floor and 60 on the first floor. Far more than these numbers were estimated by Police to have been inside. Loud music was playing, making normal conversation impossible, and therefore requiring raised voices – a known risk for Covid transmission. The Police ascribed these failures to unsatisfactory management by the premises licence holder Mr Mebrahtu, who was also the designated premises supervisor.

Police offered advice and help to the licence holder via email, to assist him in understanding what was required to trade in a Covid-safe manner. Police also held a meeting with him on 26th August, and spent a lot of time explaining the social distancing requirements. Surprisingly, Mr Mebrahtu was not aware that his premises had any capacity limit for numbers of patrons. Police requested that he supply the Covid-19 risk assessment which is a mandatory requirement under the Government Guidance; Mr Mehbratu stated that the risk assessments had been done for both Covid risk and fire risk.

Then from September 2020, the measures imposed by HM Government became stricter – closure at 22.00 hours, music to be limited to 85 decibels, no standing (table service only), wearing of masks, and participation in the NHS Test and Trace programme. This information was readily available to licensed premises via the “gov.uk” website, television and on social media.

On 10th October 2020 Police received a complaint from a member of the public that loud music was emanating from the Dahlak Lounge and that there were numerous cars in the car park. Police attended at around 21.10 hours, which was within the permitted opening hours (closure required at 22.00). Police found that very loud music was indeed emanating from Dahlak Lounge, at a volume which could be heard in the street – despite the shutters to the premises being pulled down and locked, and the premises appearing to all intents and purposes to be ‘closed’. Around twenty people were in the car park. One individual inside the premises was seen to look out of an upstairs window; moments later, the volume of the music reduced significantly. A person, thought to perhaps be a security guard, then unlocked the door from the inside.

Upon entering, Police were astonished to find the situation inside to be even worse than that which had been observed on the 16th August. Around 150 people were found on the ground floor; no social distancing whatsoever was being observed and many patrons were standing or walking about. Others were seated together, either on long benches or in booths, but nobody was keeping a Covid-safe distance from others. The music being played had already been turned down, but the Police found that they still could not hear anything above it. Masks were not being worn by many customers, and even some of the staff, except for the security guards; smoking of shisha by patrons was going on.

Staff hurriedly began pulling patrons out of their seats, exhorting them to “move, move, you’ve got to move”, and ordering those seated in booths to “get out”, on the basis that the premises had exceeded its capacity limit.

Police observed that the door through which they had entered, which had been unlocked for them by somebody inside, was in fact a front fire escape. There was also a rear fire exit, but this was found to lead only to the outdoor smoking area – an entirely enclosed area, with no means of escape beyond that. A second front fire exit was also unsatisfactory to Police, given the small size of the door to it, and the presence of a trip hazard created by the flooring and the irregular-sized door. Emergency lighting and signage was not in place at the front fire exit; indeed sofas and benches had been placed in the path of the main escape route. The shutters had also been pulled down and locked. The premises’ view was that this was to stop people from getting in.

This was all completely unacceptable in terms of fire safety, but was made infinitely more serious by the fact that many patrons inside were smoking shisha, which by its nature increases the risk of fire. Moreover, as the Police explained, ventilation arrangements are key to compliance with the Health Act 2006 when smoking shisha, yet the Dahlak Lounge had the main shutters pulled down and locked. Any outbreak of fire would have been a disaster even with social distancing and a proper limit of numbers - yet Police had observed around 150 people on the ground floor, which had a capacity limit of 60 persons.

The licence holder claimed to Police that the fire assessment had confirmed that he “could have more than 250 people inside”; upon examining the fire risk assessment document, Police observed that the capacity had changed to “220” in total for both

floors (not 120 in total), yet the document was still dated July 2020. Also unsatisfactory was the reliance on what was called the "extra fire exit" to justify the increase in the capacity limit; this turned out to be the irregular sized door with the trip hazard.

The Covid risk assessment produced by the licence holder was also found to be wholly unsatisfactory. It was regarded by Police as having been approached by the licence holder as a mere tick-box exercise, rather than a proper consideration of what was required to trade safely during the pandemic. Police had requested CCTV from the premises, but this had not been forthcoming; the licence holder told Police that he had found that the files downloaded to his telephone were of a file size too big to be emailed to Police.

The Police were therefore concerned that the premises licence holder was being reckless in his style of operating, and was endangering public health by risking the spread of Covid-19. All in all, the scene discovered on the 10th October was quite a contrast to his declaration in September that the premises was both fully Covid-compliant and fully fire risk compliant.

The Police explained that the premises' decision to trade in this unsafe manner, which was not compliant with the Government Guidance, was an overt risk to the health of individuals, families and local communities, at a time when the country is experiencing a national emergency. The Covid-19 virus is a pandemic which has required all licensed premises to act responsibly and in accordance with the Government Guidance when trading, in order to save lives. It was therefore a flagrant risk to public health for any licensed premises to breach the Government Guidance by trading in an unsafe manner.

The Police also remarked that in recent dealings it appeared that the licence holder was perhaps trying to place some of the blame for his failings on the Police. The Sub-Committee looked askance at this. It was quite apparent that the Police had given the Dahlak Lounge a great deal of advice and help, including a meeting, in August 2020. However, attempts by the Police to advise those at the premises had not been accepted. The premises was completely unsatisfactory in terms of Covid, in terms of fire safety, and also in terms of compliance with shisha requirements. The recommendation of the Police was therefore that the Sub-Committee should suspend the licence pending the review hearing.

Mr Victor Joseph then addressed the Sub-Committee to state that the licence holder was in the process of instructing a legal representative, and that no submissions would be made until this had been arranged.

In deliberating, the Sub-Committee agreed with the Police that the causes of the serious crime appeared to originate from unsatisfactory internal management procedures at the premises. The Sub-Committee found the Police observations relating to Covid, fire risk and shisha to be alarming, and not something that inspired the slightest confidence in the management arrangements at the premises. All in all, the Sub-Committee considered the licence holder to have failed to take his responsibilities seriously.

The Sub-Committee therefore determined that it was both necessary and reasonable to impose the interim step of suspension to address the immediate problems with the premises, namely the likelihood of further serious crime.

The Sub-Committee considered whether it could impose other interim steps, including modification of licence conditions, but considered that this would offer little to address the real issues, which were the unsatisfactory practices and the irresponsible attitude shown by the licence holder, both of which were a significant risk to public health in Birmingham.

However, the Sub-Committee determined that the removal of the designated premises supervisor was a very important safety feature given that it was this individual who was responsible for the day to day running of the premises, ie the decision to defy the Government Guidance in order to trade as usual. Therefore the risks could only be properly addressed first by the suspension of the Licence, and secondly by the removal of the DPS, pending the full Review hearing.

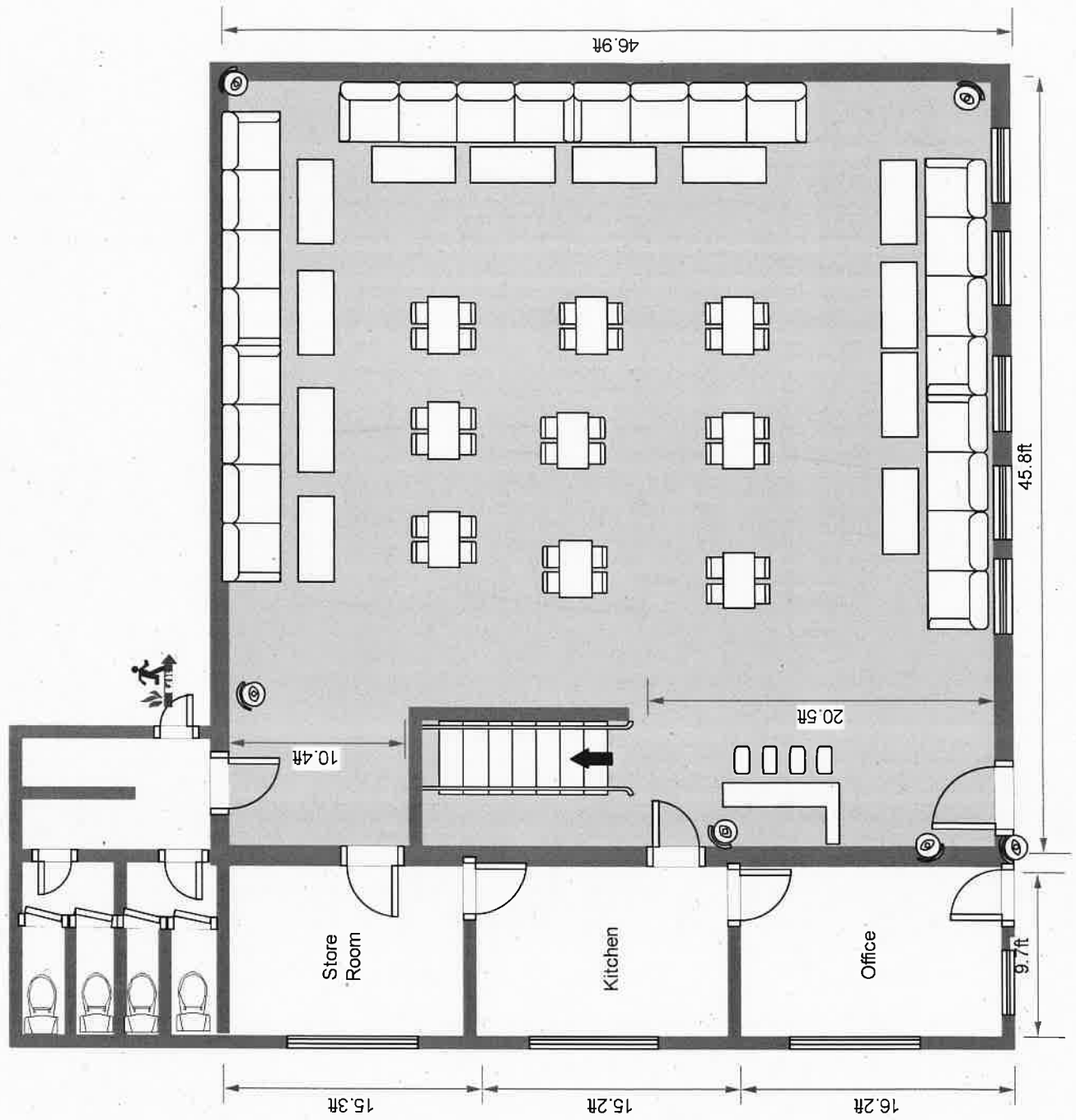
In reaching this decision, the Sub-Committee has given due consideration to the City Council's Statement of Licensing Policy, the Guidance issued by the Home Office in relation to expedited and summary licence reviews, and the submissions made by the Police at the hearing.

All parties are advised that the premises licence holder may make representations against the interim steps taken by the Licensing Authority. On receipt of such representations, the Licensing Authority must hold a hearing within 48 hours.

All parties are advised that there is no right of appeal to a Magistrates' Court against the Licensing Authority's decision at this stage.

Scale 1:100

Dahlak Lounge
91-96 Hampton Street
Birmingham
B19 3LS



Key:

CCTV Camera

Licensable Area

WITNESS STATEMENT

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

Crime No. URN

Statement of Ben Reader

Age if under 18 Over 18 (if over 18 insert "over 18")

Occupation Police Constable 2413

This statement (consisting of 3 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature:

(witness)

Date 3rd November 2020Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am PC 2413 Reader, a specialist licensing officer based at Police Headquarters.

On Saturday 15th August 2020, I was deployed as the Popsa (Public order and public safety tactical advisor) to Insp 29950 Edwards, who was the bronze commander for Operation Reliant.

OP Reliant is a force wide operation which deals with calls to service for potential unlicensed music events and potential covid breaches.

The bulk of the evening was taken up with a large UME which kept moving location. It went to an empty Car Park on the junction of Hampton Street and Henrietta Street.

In the early hours of 16th August this UME was dispersed. We had a drone team (callsign Drone 7) situated nearby. At 00:59 that came on the radio to say that although the crowd had dispersed, they could still hear loud music.

The source of this music was quickly located as being Dahlak Lounge on Hampton Street.

Dahlak Lounge was known to me as it was a relatively new premises and I had dealt with the application for it, which included meeting the applicant with his licensing agent at the premises.

I attended Dahlak Lounge with Bronze 1.

The music was very loud, it was clearly audible from outside of the venue.

I asked to speak with Biniam Mebrahtu, the licence holder and DPS. There was a queue outside of the venue and two door supervisors at the front door, I spoke to them and they were from RG8 security. I looked inside of the venue, it was very busy. I would estimate between 100 and 120 people inside on the ground floor. There was a DJ on the raised stage area. Customers were sat around in booths and on benches, they groups far exceeded the rule of 6. I did not go upstairs.

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

Crime No. URN

Statement of Ben Reader

I was disappointed to see the venue so busy and apparently trading without regard for any covid safe guidance.

I called for Acting Insp Giess to attend the location so that he could see how it was operating. He completed a walkthrough of the venue.

Biniam Mebrahtu seemed to be unaware of what he needed to have in place and did not have a covid safe risk assessment. I explained to him about covid safe measures and social distancing. I took some contact details from him to follow up the visit using the four E approach which was force policy, engage, explain, encourage and enforce.

Myself and Chris Jones arranged a meeting with the venue to go through the risk assessment with them and explain what measures they should have in place.

Before this meeting, I sent them an email (dated 25th August) with a link to the .gov website and I also copied in 16 points of guidance for licensed premises.

On Wednesday 26th August, I attended Dahlak Lounge with Chris Jones. There were several representatives for the venue present at the meeting including Biniam Mebrahtu and also Olu, who is the owner of RG8 security.

In talking with the venue, it was clear that they did not understand the rule of 6. They pointed at a long sofa and stated that they could get 6 people per sofa, and that 4 sofas would be around one table. I explained that this would mean that there could be 24 people around one table which was not compliant with the guidance. It was suggested to them that they should consider moving the furniture within the venue to enable groups of up to 6 to sit together, and be sufficiently apart from other groups to enable social distancing.

Biniam gathered some paperwork and showed them to us. He had a fire risk assessment which gave a fire safe capacity of 60 persons on the lower floor and 60 on the upper floor. Biniam seem surprised by this. He said that he didn't realise it was 60. There were certainly more than 60 people on the ground floor on my visit of 16th August. Chris was explaining about fire exits being used to judge a capacity and not just the size of the room. They asked how they could increase the capacity and we suggested that additional fire exits would be needed but they should seek specialist fire safety advice.

We also discussed the need to keep the limits of 60 upstairs and downstairs, and that this would need some form of counting via a member of door staff at the stairs.

On Friday 28th August, I sent Biniam the following email –

Signature 

Signature witnessed by

03/2016

OFFICIAL – (when complete)

14

Crime No. URN

Statement of Ben Reader

Biniam,

Following our meeting on Wednesday, I am concerned that you are not complying with your premises licence.

The most concerning part of your operation is that you were not aware of the capacity limits as documented in the fire risk assessment which gives a maximum occupancy of 120 people, split as 60 upstairs and 60 downstairs.

There is an event on eventbrite advertised for your venue this evening as below

Please can you confirm that you have all conditions complied with, that the Covid risk assessment is complete and that the venue is compliant for smoking of Shisha.

Thank you

Ben

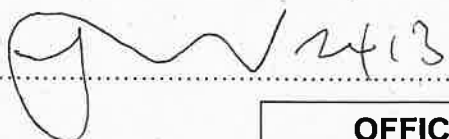
I also pasted in a copy of an eventbrite advert which was advertising an event for that evening including cocktails, Shisha, music, food and games.

On the 3rd September, Biniam sent some documents to myself stating that all of his RA are done and that the venue is now compliant with all fire and risk regulations. He stated he would love for me to go down and see the venue.

Due to work capacity within the department, I was not able to return to the venue or to provide feedback on the RA that was sent through.

The RA that was sent through appears to have come from the security company, as it suggests deploying 4 door supervisors but states that the venue have decided to use 2 instead.

Signature



Signature witnessed by

03/2016

OFFICIAL – (when complete)

15

WITNESS STATEMENT**Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B****Crime No.****URN**

Statement of Simon WHEELER

Age if under 18 Over 18 (if over 18 insert "over 18")

Occupation Police Constable 6329

This statement (consisting of 5 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Signature: S WHEELER (witness)**Date October 13th 2020**Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am Police Constable 6329 WHEELER of the West Midlands Police Force currently based at Digbeth Police Station.

At approximately 21.00 hours on Saturday October 10th 2020 I was on duty in company with PC 6334 TWOMEY, at this time were were part of Operation Reliant. This is part of West Midlands Police's responses to breaches around Covid-19 looking at unlicensed music events and large gatherings.

At this time Birmingham also had local restrictions in place making rules on licenced on premises to be closed by 22.00 hours, for no two houses to mix amongst other social distancing measures, inclusive that music within licenced premises should be at ambient level and two persons should be able to talk over it.

At this point we were directed to the junction of Mott Street with Hampton Street the site previously of Jacksons garage, to a report of loud music and numerous cars present. On arrival i could see a large car park with countless cars parked and a number of people in and around the car park.

On entering the car park i could see around 20 people milling around outside the large lock up garage i later discovered it to be called Dhalak Lounge. The lock up garage was around 40-50 metres from the entrance. As i stepped inside by around 2 metres i could hear extremely loud music coming from the garage and PC TWOMEY made reference to it stating "God that's loud" The music clearly being played wasn't in any way ambient.

16

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

Crime No. URN

Statement of Simon WHEELER

We continued to walk towards the premises i could see a solid door to the right hand side two large roller shutters to the centre that were down and to the left there was a white UPVC door with two glass panels.

I made my way to the door on the right hand side and attempted to gain entrance to the premises. This door was clearly highlighted as a 'Fire Escape' but was locked and secured. The music at this time having got next to the building was blaring and extremely loud, i envisage this would be captured on my body worn video. I then informed the radio allocator and dispatcher to what we had come across and that we require some further units to assist requesting two serials.

On the basis that the location appeared to be a disused converted garage the numbers i believed were present inside and the what was deafening music, it was my belief we had attended an unlicensed rave party.

I then had cause to speak to a group of 4 males in a vehicle who made several references to the location being a party to which i informed them sorry you can't have a party. We still could not gain access to the premises.

A short period of time later i attempted to gain access using the UPVC door to the left however this was locked and secured and no entrance could be gained. It was at this point i could hear people inside the establishment, the noise coming from the people inside was extremely loud and they could be heard over the music.

Every door to the premises was locked. It is of my opinion that had there been a fire emergency i believe there would have been an endangerment of life. I could see that above the UPVC door a silhouette of a person appeared who in my opinion could see myself and PC TWOMEY on the ground. It was at this point the level of the music went down.

At this point i could begin to hear the people from inside the premises the noise from the amounts of people and the shouting of voices coming from the otherside of the secured roller shutters. I began to envisage that

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

17

Crime No. URN

Statement of Simon WHEELER

the numbers the other side were excessive of what should be inside with distancing measures in place.

A short period of time later i again was at the door to the right hand side and i managed to speak to a unknown male the other side of the door. He informed me the door was locked and they were getting the key. I later heard the gingling of keys but i had moved away prior to the door being opened. This was marked as a fire escape and clearly was not being used as one and people's safety was at risk.

I spoke to a male at the door who by appearance I was able to identify as a security guard and asked what was going on. The male informed me it was a sheesha Lounge, I informed him that this could not be a sheesha lounge by virtue of the loud music that was being played. I then went on to ask for the DPS or manager. I again attempted to speak to the male who was in a close proximity but could not hear me due to the loud noise from inside the mixture of music and people.

I then looked inside the premises, infront of me to the left on the centre of the wall if i call this the front was a DJ Booth three men stood behind no social distancing no masks were being worn and music being played. To the left hand side of that was a bar dispensing drinks. I could see a number of people walking round not wearing facial coverings other than perople i would describe as securty guards that were wearing facial coverings. I am able to say they are securty from the tabards they were wearing.

The opposite wall to the DJ Booth was a large bench from one side to the other where person after person was sat in a large long row, there were no 2 metre gaps between any people sat on this row. This row of people were all using sheesha pipes and i could see the pipes and the glow from coals. The main centre and to the left there was booth style seating i could see in some there were more than six people and clearly covid restrcitions were being breached, i then clearly observed from one booth two people being pulled out and the male pulling them out saying "there is too many people in there get out" It was my opinion that there was around 150 people present inside and that information i passed over my radio. I could also hear voices saying to others "move move you've got to move" I relayed what i observed to PC TWOMEY as the entrance point was very small.

I again spoke with a further security guard and asked for the manager/ DPS who i later spoke with.

Signature

Signature witnessed by 18

03/2016

OFFICIAL – (when complete)

Crime No. URN

Statement of Simon WHEELER

I was unable to see any QR code signs for track and trace there was no registration point to take details for track and trace either.

I did not walk further into the premises as it was my belief it was unsafe. There was in excess of 150 people present and there was just myself and PC TWOMEY at this time in attendance, in addition for my safety during this pandemic i feel at that time it was unsafe to enter. The premises was not being run in a safe covid secure manner. I had clearly observed people standing around wearing no masks, there was no social distancing and music being played at extreme levels. The doors to the premises were locked and secured from the inside and i observed in excess of 6 people socilasing together in the booths. I was informed that there were 134 people inside the venue by members of staff.

I then spoke with a male who identified himself as the DPS and his own face covering was being worn beneath his chin. He informed me that the music was at an ambient level and i explained to him my findings. I then went onto explain my other concerns regarding what Covid breaches we had observed. He stated that the QR code was present at the door and i explained i had not seen this. There was no signing register for persons present either. I also asked for a copy of his Covid risk assessment. After a short while he re appeared with a few scruffy pieces of paper which he stated was his risk assessment. He went on to say his fire assessment stated he could have in excess of 200 persons present inside.

At this point Sgt Giess and his serial arrived and he entered the building with a number of his officers.

Once had i gained entrance to the venue I found manager/ DPS to be evasive and alouf with regards to the questions presented to him. Some of the questions were not answered or a brief unsatisfactory explanantion was provided. The security at the venue seemed to be friendly however they appeared not to be aware of covid regulations required.

The DPS/ manager were then spoken to by Sgt Giess in relation to his findings and they spoke at length.

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

Crime No. URN

Statement of Simon WHEELER

We remained present as people were exiting the building/car park then we were then informed by a member of security that there were 154 people present at the location. They were leaving through the metal roller shutter on the left which had been raised by this time. In total it took in excess of 7 minutes for us to gain access to the licenced premises as uniformed Police officers.

As the DJ exited with his equipment he approached myself and PC TWOMEY and stated "I remember you from last night". On seeing him, i am able to say we had cause to deal with the same DJ regarding a Covid Breach the previous evening. This occurred inside a private dwelling, where a party had been taking place and we had been requested to attend. As a result of a complaint we had cause to disperse a number of people from the location due to further breaches of local covid restrictions.

I can produce my body worn footage of the incident in court as exhibit ref (SW1) exhibit ()

These are my original notes of the incident and should be treated as such.

Signature

Signature witnessed by 

03/2016

OFFICIAL – (when complete)

WITNESS STATEMENT

Crime Number:.....

Criminal Procedure Rules, r 27.2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: Dawn TWOMEY

Age if under 18: 0/18 (if over 18 insert 'over 18') Occupation: Police Constable

This statement (consisting of page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: D TWOMEY

Date 13TH OCTOBER 20Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am PC 6334 TWOMEY of the West Midlands Police, currently based at Digbeth Police Station. On Saturday 10th OCTOBER 20, I was on mobile uniform patrol on Operation Reliant which is the forces response to the Health Protection (Coronavirus Restrictions) 2020 in company with PC 6329 WHEELER.

At about 21.00hrs, via my police radio I was directed towards the junction of Hampton St – Mott St, Birmingham at the Old Jacksons Recovery Yard, as there had been a report of a large gathering of people/cars whereby there were lots of mingling and playing music - no social distancing.

On arrival, I could see that the building was a very large disused garage, with a substantial car park which spanned around the location. As I walked onto the car park, I could hear very loud music coming from the building and I commented to PC WHEELER and this was captured on BWV whilst walking towards the entrance. I observed approximately 20 – 30 people outside the building and around the same amount of cars. As I approached the front of the building, I could see that there was a white single door on the left hand side, then two huge corrugated metal shutters which were down and then another small door to the right hand side. Above the metal shutters, it had a sign which said " DAHLAK LOUNGE" which included a phone number. I walked with PC WHEELER towards all 4 entrances and he tried to open each door which were clearly locked. As PC WHEELER banged on the door to gain access, I spoke to a number of people who were standing by the entrance at the right hand side of the building.

They told me they were waiting to gain access as there were loads of people inside. They also told me that it was a ticket only event. I could hear lots of voices coming from inside the building and also someone using the microphone which I presumed was the DJ, although I couldn't hear what he was saying. Due to what we heard and observed, PC WHEELER requested for 2 serials. At this point the music was still extremely loud and it took about 10 minutes before the right hand door was opened by someone wearing a fluorescent and a mask not covering his face but it was worn under his chin. I presumed was a member of security. PC WHEELER introduced himself and asked to speak to the DPS or the manager. The doorway only had room to squeeze 2 people through so I stood to

the security guard went back into the building to get the DPS/manager I heard a male voice then say " MOVE, MOVE, YOU NEED TO MOVE"

PC WHEELER stood in the doorway and I was aware that he was trying to gain footage via BWV.

After a short time, two males exited the building stating that they were the DPS and the manager. As the males were talking to PC WHEELER, I aware that the music had been turned down from its original volume, however it was still loud.

By this time SGT 1041 GIESS and his serial had arrived and he entered the building through the right hand side door. A few minutes later, SGT GIESS exited the building and started speaking to the DPS and manager.

We made our way towards the left hand side of the building to which the large left hand metal shutter was rolled up and people started to exit. I could now see into that part of the building, where I observed numerous people inside the location, walking around and most were not wearing masks. I could not see any social distancing from where I was standing. I could see a DJ booth with several males behind the structure, and by this time, the music had been turned off. The serial, by now had entered the building to facilitate emptying the location. I would estimate there were about 150 people in the building who then started to congregate in the car park for about 40 minutes.

A male exited the location carrying equipment which was covered. As he past PC WHEELER and I, he said " I RECOGNISE YOU TWO FROM LAST NIGHT " and PC WHEELER replied " YES I RECOGNISE YOU TOO" This was referring to an incident that happened the night before (09th OCTOBER 20) at Apartment 408 Helena St, City Centre, where there was a party and a breach of Covid 19 Restrictions. The male was also the DJ at that location as well.

The whole incident lasted about an hour to which all of this was captured on my BWV which has been uploaded to Evidence. Com which I can produce as Ref No (DT/01) Exh No ()......

The DAHLAK Lounge has clearly breached The Covid Regulations 2020 from what I observed. There was no difference at this location to a venue operating prior to the start of the Covid outbreak. It is the DPS/ managers responsibility to ensure the safety of the persons attending the venue, which also includes the individuals working there. There is no excuse to allow this sort of behaviour especially in a venue as large as the DAHLAK LOUNGE. Clearly the DPS had knowledge regarding his responsibilities around the Covid legislation/ restrictions as he produced a small piece of paper regarding a risk assessment. I was shocked at the total disregard towards the health and safety for all involved and the possible repercussions of such actions can never be measured or known.

2413 PC Ben Reader

Birmingham Central Licensing Team

Force Public Order & Public Safety Tactical Advisor
T: 101 (ext. 801 1669) Direct 0121 626 6099

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From: Ben Reader
Sent: 25 August 2020 14:43
To: 'Biniam Mebrahtu'
Subject: RE: [External]: Re: FW: Contact

Thank you for the confirmation.

Can I highlight the below link and advice from the [gov.uk](https://www.gov.uk) website.

It highlights guidance for operating a venue during this pandemic.

These measures should be implemented and you should have a covid risk assessment in place to keep your customers as safe as possible.

What I witnessed during the visit on 16th August caused me concerns.

When I visit tomorrow I will go through your licence conditions and your risk assessment

Thank you

Ben

1. Calculating the maximum number of customers that can reasonably follow social distancing guidelines (2m, or 1m with risk mitigation where 2m is not viable) at the venue. Taking into account total indoor and outdoor space, specific venue characteristics such as furniture as well as likely pinch points and busy areas.
2. Reconfiguring indoor and outdoor seating and tables to maintain social distancing guidelines (2m, or 1m with risk mitigation where 2m is not viable) between customers of different households or support bubbles. For example, increasing the distance between tables.
3. Working with your local authority or landlord to take into account the impact of your processes, including queues, on public spaces such as high streets and public car parks.
4. Working with neighbouring businesses and local authorities to provide additional parking or facilities such as bike-racks, where possible, to help customers avoid using public transport.
5. Reducing the need for customers to queue, but where this is unavoidable, discouraging customers from queuing indoors and using outside spaces for queueing where available and safe. For example, using some car parks and existing outdoor services areas, excluding disabled car parking bays.
6. Managing outside queues to ensure they do not cause a risk to individuals, other businesses or additional security risks, for example by introducing queuing systems, having staff direct customers and protecting queues from traffic by routing them behind permanent physical structures such as street furniture, bike racks, bollards or putting up barriers.
7. Providing clear guidance on social distancing and hygiene to people on arrival, for example, signage, visual aids and before arrival, such as by phone, on the website or by email.
8. Managing the entry of customers, and the number of customers at a venue, so that all indoor customers are seated with appropriate distancing, and those outdoors have appropriately spaced seating or standing room. This is to ensure that the venue, including areas of congestion does not become overcrowded. Managing entry numbers can be done, for example, through reservation systems, social distancing markings, having customers queue at a safe distance for toilets or bringing payment machines to customers, where possible.
9. Ensure customers are compliant with limits on household gatherings. For example, inform customers of restrictions through signage or notices at the point of booking or on arrival, and ask customers for verbal confirmation of the number of households in their party at the point of arrival. Indoor gatherings are limited to members of any 2 households (or support bubbles), while outdoor gatherings are limited to members of any 2 households (or support bubbles), or a group of at most 6 people from any number of households. Limits on gatherings may vary with local restrictions.
10. Ensuring any changes to entrances, exits and queue management take into account reasonable adjustments for those who need them, including disabled customers. For example, maintaining pedestrian and parking access for disabled customers.
11. Reminding customers who are accompanied by children that they are responsible for supervising them at all times and should follow social distancing guidelines.
12. Keeping indoor and soft play areas closed. For guidance on opening outdoor playgrounds safely, see [guidance for managing playgrounds](#) published by the Ministry of Housing, Communities and Local Government.
13. Looking at how people move through the venue and how you could adjust this to reduce congestion and contact between customers, for example, queue management or one-way flow, where possible.
14. Planning for maintaining social distancing guidelines (2m, or 1m with risk mitigation where 2m is not viable) in the event of adverse weather conditions, being clear that customers cannot seek shelter indoors unless social distancing can be maintained.
15. Working with neighbouring businesses and local authorities to consider how to spread the number of people arriving throughout the day for example by staggering opening hours; this will help reduce demand on public transport at key times and avoid overcrowding.

16. Determining if schedules for essential services and contractor visits can be revised to reduce interaction and overlap between people, for example, carrying out services at night.

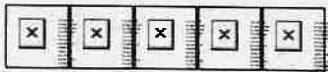
2413 PC Ben Reader

Birmingham Central Licensing Team

Force Public Order & Public Safety Tactical Advisor
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From: Biniam Mebrahtu [mailto:████████████████████]
Sent: 25 August 2020 14:37
To: Ben Reader
Subject: [External]: Re: FW: Contact

CAUTION: This email originated from outside of West Midlands Police. Do not click links or open attachments unless you are sure the content is safe.

Yes thanks

On Tue, 25 Aug 2020, 14:22 Ben Reader, <b.reader@west-midlands.pnn.police.uk> wrote:

Hello,

Have you received my mail?

Are you still available to meet at 6pm tomorrow?

From: Biniam Mebrahtu [mailto:biniam.mebrahtu@west-midlands.pnn.police.uk]
Sent: 03 September 2020 17:19
To: Ben Reader
Subject: [External]: Re: Guidance

CAUTION: This email originated from outside of West Midlands Police. Do not click links or open attachments unless you are sure the content is safe.

Hi there

All the risk assessment is done and submitted the venue is complying with all the fire and risk regulations. We will love you to come down anytime next week to see the venue. Thanks

On Thu, 3 Sep 2020, 13:16 Ben Reader, <b.reader@west-midlands.pnn.police.uk> wrote:

Biniam,

Is there any update on your operations?

Thank you

Ben

2413 PC Ben Reader

Birmingham Central Licensing Team

Force Public Order & Public Safety Tactical Advisor

T: 101 (ext. 801 1669) Direct 0121 626 6099

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From: Ben Reader
Sent: 28 August 2020 13:58
To: 'Biniam Mebrahtu'
Subject: Guidance

Biniam,

Christopher Jones

From: Christopher Jones
Sent: 15 October 2020 07:18
To: WMFS safety (firesafety.admin@wmfs.net)
Cc: Abdool Rohomon
Subject: Saftey referral

Importance: High

Good Morning,

Together with colleagues I visited DAHALK LOUNGE, HAMPTON STREET BIRMINGHAM B19 3LS which is a licenced premises and also sells shisha.

Officers had the following concerns:

- A fire exit to the rear of the premises led out to an enclosed smoking area giving people nowhere to go
- No emergency lighting over the fire exits
- Fire exit and escape route being blocked by large furniture.
- Front fire exit on the right appears to not be a standard size door
- Trip hazards at the above fire exit.
- Capacity levels quoted in their fire risk assessment of 160 downstairs and 60 on the first floor seems high with the amount and size of fire exits.

Of note I have previous seen the premises fire risk assessment in August and it quoted a capacity of 60 both on the ground and first floors. The premises state they have since installed the front fire exit on the right which gives them the extra capacity.

Regards and thanks

Chris Jones 55410

Birmingham Central Licensing Team West Midlands Police
Tel: 101 (ext. 801 1628) - DD: 0121 626 6099

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Christopher Jones

From: Christopher Jones
Sent: 02 November 2020 08:55
To: [REDACTED]
Subject: FW: CCTV
Importance: High

Good Morning,

As per below email chain.

Can you please give a time when your CCTV will be ready for collection in a format that West Midlands Police can view.

Can you please confirm if you have a legal representative for the full hearing as I will need to send them the paper work and you may wish me to contact them rather than yourself if they are acting on your behalf.

Many thanks

Regards

Chris Jones 55410

Birmingham Central Licensing Team West Midlands Police
Tel: 101 (ext. 801 1628) - DD: 0121 626 6099

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From: Christopher Jones
Sent: 27 October 2020 14:36
To: [REDACTED]
Subject: FW: CCTV
Importance: High

Good afternoon,

As per the below email and phone call on 21st October.

Can you please give a time when your CCTV will be ready for collection in a format that West Midlands Police can view.

Can you please confirm if you have a legal representative for the full hearing as I will need to send them the paper work and you may wish me to contact them rather than yourself if they are acting on your behalf.

Many thanks

Regards

Chris Jones 55410

Birmingham Central Licensing Team West Midlands Police
Tel: 101 (ext. 801 1628) - DD: 0121 626 6099

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From: bw licensing

Sent: 19 October 2020 13:54

To: [REDACTED]

Subject: CCTV

Importance: High

Good afternoon,

West Midlands Police still require your premises CCTV as requested at our meeting on 13th October from Saturday 10th October 2020 between 7pm and 9.30pm.

You have previously stated that the CCTV hard drive does not / cannot download onto a DVD or memory stick and you offered to email the images. Unfortunately the size of any such email would be too large to come through West Midlands Police email system.

(If you have emailed the clips then they haven't come through)

At our meeting on the 13th October you were downloading some CCTV onto your phone. This could be downloaded onto a computer / laptop and then stored on a format (DVD or memory) I could collect.

Please reply by return email when the CCTV will be ready for collection.

Many thanks

Regards

Chris Jones 55410

Birmingham Central Licensing Team West Midlands Police
Tel: 101 (ext. 801 1628) - DD: 0121 626 6099

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