



West Midlands Police supporting evidence

PB's

54-57 Key Hill Drive

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PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

Before completing this form please read the guidance notes at the end of the form. If you are completing the form by hand please write legibly in block capitals. In all cases ensure that your answers are inside the boxes and written in black ink. Use additional sheets if necessary

I - Superintendent 7005 Morris

(on behalf of) the chief officer of Police for the West Midlands Police area apply for the review of a premises licence under section 53A of the Licensing Act 2003

1. Premises details: PBs

Postal address of premises, (or if none or not known, ordinance survey map reference or description): **54 - 57 Key Hill, Hockley**

Post Town: **Birmingham**

Post Code (if known): **B18 5NX**

2. Premises Licence details:

Name of premise licence holder (if known): **Ms Nickeshia Reid-Davidson**

Number of premise licence (if known): **2866**

3. Certificate under section 53A (1)(B) of the Licensing Act 2003 (Please read guidance note 1)

I confirm that this is a certificate has been given by a senior member of the police force for the police area above that in his/her opinion the above premises are associated with serious crime or serious disorder or both, and the certificate accompanies this application.

(Please tick the box to confirm)



**4. Details of association of the above premises with serious crime, serious disorder or both:
(Please read guidance note 2)**

In March 2020 the UK Government stated that all licensed premises should close and not allow people inside the premises to drink or eat. This was a result of the pandemic Covid 19 virus that was spreading through the country and was introduced with other measures to stop the spread of the virus.

On the 4th July 2020 the government announced a relaxing of the lock down measures allowing licensed premises to open with strict social distancing guideline's to stop the spread of the virus. The guidelines can be found in the document Keeping workers and customers safe during COVID-19 in restaurants, pubs, bars and takeaway services, <https://assets.publishing.service.gov.uk/media/5eb96e8e86650c278b077616/working-safely-during-covid-19-restaurants-pubs-bars-takeaways-140820i.pdf>.

These measures included no loud music in venues (quiet background music), no standing (expect to go to the bar) all customers should be seated in 'bubbles' with a 2 meter gap between each group or if not viable 1 meter plus with mitigation, no live entertainment indoors, no dancing and a COVID safe risk assessment must be in place. The risk assessment to demonstrate how the premises are mitigating their circumstances and preventing the spread of the disease. Having a risk assessment is mandatory.

On Saturday 15th August 2020 at approximately 01.30 am the premises was served with an ASB closure notice as it was trading and not adhering to the COVID safe trading guidelines issued by the Government. This notice was signed by a senior officer of West Midlands Police due to their concerns about the premises being reckless in the way they were operating and putting the public's health in danger by risking the spread of COVID 19.

The closure notice was deemed necessary as the premises licence holder – Nickeshia Reid Davison - had ignored previous advice and education given to her from West Midlands Police Officers of how to trade safely within the current COVID guidelines contributing to a public nuisance.

PC Reader and two other officers attended the premises around 10 past midnight on 2nd August 2020. The visit was recorded on bodycam.

In a statement PC Reader has noted he could hear the music before he got to the venue. The premises licence holder was standing outside the venue, together with customers when questioned about the volume of the music she stated 'they like it loud' and the premises was hosting a birthday party. She was then questioned about the capacity of the venue and how many customers she had currently got at the venue – she could not give a definitive answer. PC Reader states that inside the venue was dark with disco lights on. He saw people dancing on a raised platform and other customers standing around the inside the premises. He states that he couldn't hear what the premises licence holder was saying to him as the music was so loud.

PC Reader spoke with the premises licence holder again on 6th August 2020 and raised his concerns again, about the lack of COVID safe trading at the premises and gave her advice on how to trade COVID safe and best practices. This was followed with an email sent to her as detailed in his statement. She also confirmed that the premises would be open on the evening.

On the evening of 6th August 2020 PC Reader again visited the venue with other officers and again this was recorded on bodycam. He first visited the premises at about 6.20pm and the premises licence holder was stood in the rear car park. She informed PC Reader that it was a Jamaican Independence event. There was a DJ set up outside with large speakers. The premises licence holder confirmed that she had received the email sent by PC Reader but had not had time to action it. At this time there was no one inside the venue which had no music playing and the lights were on. During this visit PC Reader noted breaches of the premises licence operating conditions (speakers

being outside) and again had a conversation regarding how to address these. She also stated she understood social distancing and if he came back later he would see that the premises was trading safely.

PC Reader returned at 9.50pm on the same evening. As he approached the premises he noted that the music was significantly louder than on the earlier visit. Although the venue was not busy. PC Reader ends his statement stating that he is concerned by the poor management of the premises where enhanced measures should be in place to protect customers due to the pandemic and risk of infection per government guidelines.

Sgt Giess who is the Licensing Sergeant for Birmingham attended the premises on two occasions on 14th August 2020. On both of these visits Sgt Giess noted that the music was loud, customers were standing and there was no seating in the main area of the venue. On his second visit at the premises persons from the venue noticed him walking towards the entrance and the music was turned down considerably. On both of these early visits the premises only had a couple of customers present.

Sgt Giess returned to the premises at 01.30am on 15th August and will state that when he attended the venue there were over 30 persons inside all standing and around half that number outside with no social distancing in place at the premises. The music inside was that loud that he had to walk outside with the premises licence holder to hold a conversation. It was at this visit that the premises was served with the closure notice which was rescinded the following day.

Officers have spoken with the premises licence holder who is also the DPS on a number of occasions (at least 7) recently and have offered guidance and explained what the expectations are of a licensed premises to trade safely in the current situation. The premises licence holder has also been sent emails and left voice mails which have not been answered. The most notable request being for a copy of the premises COVID 19 risk assessment which has not been forthcoming.

Covid 19 is a worldwide virus that has unfortunately seen many people die. It is an infectious disease which is spread as a result of activities carried out by people, hence the reason for the social distancing measures that the Government had to introduce.

The risk of spreading infections is deemed a "public nuisance". In the case of *R v Rimmington & Goldstein* (2005) UKHL 63, it quoted the leading modern authority on public nuisance as *Attorney general v PYA Quarries Ltd* (1957) 2 QB 169.

The case quotes "a person is guilty of a public nuisance (also known as a common nuisance) who (a) does an act not warranted by law, or (b) omits to discharge a legal duty, if the effect of the act or omission is to **endanger the life, health, property, morals** or comfort of the public, or to obstruct the public in the exercise or enjoyment of rights common to all Her Majesty's subjects" (*Rimmington* at [3]).

Public nuisance is a common law offence which carries an offence of life imprisonment. It is WMP's stance that a serious crime under the definition in RIPA has been fulfilled on the above facts "Serious crime" is defined by reference to s.81 of the Regulation of Investigatory Powers Act 2000. It includes: An offence for which an adult could reasonably be expected to be sentenced to imprisonment for a period of 3 years or more.

The effects of the virus have been shown across all media outlets for many months, and so West Midlands Police are very concerned that these premises decided to ignore the governments social distancing guidelines and various advice given by officers putting the safety of the people and the wider community at risk as well as their families and the wider communities they live in.

Signature of applicant:



Date:

17/3/20

Rank/Capacity:

Supt 705 Mems

Contact details for matters concerning this application: 55410 Chris Jones

Address: Birmingham Licensing Team, Partnerships Office, Police HQ, Lloyd House
Birmingham. B4 4DG.

Telephone Number(s): 0121 626 6099

E-mail - bw_licensing@west-midlands.police.uk

Notes for guidance:

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.

Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

- conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
- conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious Disorder is not defined in legislation, and so bears its ordinary English meaning.

2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder or both.



**BIRMINGHAM CITY COUNCIL
LICENSING SUB COMMITTEE B**

WEDNESDAY 19 AUGUST 2020

PB'S, 54-57 KEY HILL, HOCKLEY, BIRMINGHAM B18 5NX

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 Nickeshia Reid-Davidson in respect of PB's, 54-57 Key Hill, Hockley, Birmingham B18 5NX, 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 Nickeshia Reid-Davidson 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 Guidance entitled '*Closing Certain Businesses and Venues in England*' 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.

Members heard the submissions of West Midlands Police, namely that on at least seven occasions from the start of August 2020, when the new arrangements for reopening were being publicised and the lockdown was being eased for licensed premises such as pubs and bars, the Police had observed a general failure by PB's to follow the Government Guidance. Upon visiting the premises, Police found that loud music was playing at a volume which made conversation difficult, and also observed that patrons were not seated but were standing (some were in fact dancing). The Police ascribed these failures to unsatisfactory management by the premises licence holder, who is also the designated premises supervisor.

The Police spoke directly to the premises licence holder to advise, to offer guidance and to explain what is expected of a licensed premises to trade safely in the ongoing Covid-19 pandemic. These numerous attempts to advise had little effect. It was observed that the premises licence holder was even in breach of some of the existing conditions on the licence, for example by placing large speakers outside the premises. Police had requested that she supply the Covid-19 risk assessment which is a mandatory requirement under the Government Guidance; this had not been forthcoming.

Finally on 15th August 2020 a Police Sergeant served the premises with an ASB Closure Notice at 01.30 hours, as it was trading whilst not adhering to the Government Guidelines. The Police Sergeant was concerned that the premises licence holder was being reckless in the way that she was operating, and was endangering public health by risking the spread of Covid-19. The Closure Notice was rescinded the following day.

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 both the law and the Government Guidance when trading, in order to save lives. It was therefore a flagrant public nuisance for any licensed premises to breach the Government Guidance by trading in an unsafe manner.

The premises licence holder then addressed the Sub-Committee. Having heard her submissions, 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 was not impressed with the licence holder's representations, or her answers to questions. All in all, the Sub-Committee considered her to have failed to take her 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.

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 by the suspension of the Licence but also 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 and by the premises licence holder 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.

OFFICIAL – (when complete)

MG11

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 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: (witness)

Date 12th August 2020

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am PC 2413 Reader and I am a licensing officer based at Lloyd House.

This statement is in relation to PB's, 54 – 57 Key Hill, Hockley, Birmingham B18 5NX. This location has a premises licence from Birmingham City Council, licence number 2866. It is licensed for activity from 15:00 until 02:00 from Thursday until Saturday and 15:00 until 00:00 on Sunday.

The premises have a number of operating conditions on the licence. It also had a number of committee imposed conditions that were added in July 2018 following a review of the application made by environmental health.

The licence holder for the premises is Nickeshia Reid-Davidson. She is also the DPS for the premises.

The premises does not sit within one of the city's night time economy areas, it is a standalone premises on Key Hill. The premises can get very busy, and when it is busy, there are generally a large number of vehicles parked on Hockley Hill and Key Hill.

The venue is accessed by a single unmarked door on Key Hill, or via a door at the rear of the premises which opens onto a small car park on Key Hill Drive.

It is a single storey premises, with a raised area at one end of the premises, which has bench seating around the outside and can act as a small dance floor. The opposite end of the premises is a small hatch style bar area.

Following the national lockdown and the gradual reopening of licensed premises, many premises have significantly amended the way in which they operate to safeguard customers and to promote social distancing.

WMP had concerns that since reopening, PBs was trading in the same way it did pre lockdown and had not amended its operation to take into account the government guidance for licensed premises.

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

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OFFICIAL – (when complete)

MG11

Crime No.

URN

Statement of Ben Reader

On Sunday 2nd August 2020, I visited the premises at around 00:10 hours with two Sgts from the city centre team to see how the venue was being operated. I was using a police issue bodycam during this visit and the visit has been recorded.

I arrived at the location and could hear music before we got to the venue. There were people standing on Key Hill outside of the venue. My colleague introduced himself to Nickeshia Reid-Davidson and commented that the music was loud, she replied "they like it loud" The music was loud and certainly not background music. Nickeshia Reid-Davidson stated that she had got a birthday party on tonight. I asked her about the capacity of the venue, the current number of customers etc and she could not answer me definitively. She said that if it got crowded then people would have to stay outside and they would let a few in when it was less busy. Inside it was dark with disco lights on. It was very loud. There were people dancing on the raised platform and people standing around the outside of the room. I couldn't really hear Nickeshia Reid-Davidson when I was talking to her as the music was so loud so I came outside to speak with security. They had one male member of security and one female, a third member of security was due to start later. Nickeshia Reid-Davidson said that if we came back later we may see a lot of people outside.

The security staff stated that they were self-employed and did not work for a company. I checked both of the SIA badges. I did not have a copy of the licence conditions for the venue so could not check for compliance. I checked the security signing in book. Nickeshia Reid-Davidson said that she would be closed by 02:00. From what I had viewed, the premises were not operating in a Covid safe manner and did not appear to have any control measures in place. It appeared to be operating in the same way it did before Covid.

On Thursday 6th August I spoke to Nickeshia Reid-Davidson about the venue and how it was operating. She told me she would be open this evening. I sent her an email telling her that she needed to comply with her licence conditions. In the email I added a link to the gov.uk website so she could see guidance for licensed premises to operate safely. I also pasted the following guidance taken directly from the website.

Steps that will usually be needed:

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

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

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OFFICIAL – (when complete)

MG11

Crime No.

URN

Statement of Ben Reader

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. Making customers aware of, and encouraging compliance with, limits on gatherings. For example, on arrival or at booking. 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.
10. Encouraging customers to use hand sanitiser or handwashing facilities as they enter the venue.
11. 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.
12. Reminding customers who are accompanied by children that they are responsible for supervising them at all times and should follow social distancing guidelines.
13. 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

Signature

Signature witnessed by

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OFFICIAL – (when complete)

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OFFICIAL – (when complete)

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Crime No.

URN

Statement of Ben Reader

Government.

14. 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.

15. 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.

16. 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.

17. 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.

On the evening of Thursday 6th August 2020 I conducted a further visit to PBs in company with some staff from the force support unit. I attended the venue at around 18:20 hours, again I was wearing my police issue bodycam to record the visit. The entrance on Key Hill was closed so I went around the rear car park where I saw Nickeshia Reid-Davidson. She told me it was a Jamaican Independence event and that she would be having music, jerk chicken and fish. There were not many people around at the venue. A DJ was set up outside with some large stand-alone speakers. The DJ was playing some country music, Kenny Rogers, which is not the usual style of music for this venue. I confirmed with Nickeshia Reid-Davidson that she had received my email from earlier that day. She said that she hadn't had time to action the mail as she was preparing food for tonight's event. She said that it would start getting busy at about 22:00/23:00 and that she had security starting at 22:00.

I went inside the venue, it was empty, the lights were on and there was no music playing inside. I had a printed copy of the licence and started to ask Nickeshia Reid-Davidson about the conditions and the way in which she was operating the venue in compliance with them. The below issues were raised during that conversation -

- I asked about the venue capacity which was not known, Nickeshia Reid-Davidson did not know a covid safe reduced capacity for the venue either.
- There was no visible proof of age signage.
- Nickeshia Reid-Davidson stated that she was first aid trained as was the bar staff although they did not

Signature Signature witnessed by

03/2016

OFFICIAL – (when complete)

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OFFICIAL – (when complete)

MG11

Crime No.

URN

Statement of Ben Reader

have any certification available.

- She did not have a health and safety risk assessment for the premises.
- There was no formal monitoring of sound levels (it was done by her own personal opinion of what was loud)
- There was no noise limiter in place.
- The external speakers were in breach of a committee condition
- There was not a written dispersal policy
- There was no event specific risk assessment
- A risk assessment could not be provided on request
- Only one member of security was wearing a bodycam
- Door staff were not wearing high viz jackets
- The bodycam should be recording all of the time that the venue is trading and the footage should be available on request, but it was not available. Further to this, the bodycam was the property of the member of security and not the venue so the venue did not have control of this.
- No noise management plan was available or had been submitted.

I explained that due to the number of conditions that were being breached, I was concerned that the venue would not safely operate and that people would be put at risk. I did not have confidence that the venue was being operated properly.

Nickeshia Reid-Davidson said that she understood social distancing and that if I came back later I would see that the venue was being operated safely.

I thanked her for being so honest with me, but reinforced that it was her licence and that she should know what the conditions were in order that she could comply with them. She repeated back to me a number of measures that she needed to address.

I left the venue at approx. 18:35 hours, the DJ was still playing country music quite quietly on the outside speakers.

At approximately 21:50 hours I returned back to the venue to see if the premises had got busier and whether the measures discussed earlier were being implemented.

As I approached I could hear that the music was significantly louder than it was earlier and that the music

Signature

Signature witnessed by

03/2016

OFFICIAL – (when complete)

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OFFICIAL – (when complete)

MG11

Crime No.

URN

Statement of Ben Reader

style had changed. I spoke with two members of security. One had a tabard on with reflective strips and a bodycam. He did not have a visible SIA badge but got it from his pocket as he was talking to me and put it onto his arm. The other was wearing a black suit jacket and a black hat, he was not identifiable as security and was getting his SIA badge out of his pocket as I was approaching. There were not many people at the venue. They told me that they were having an 'open air thing' for Jamaican Independence but in about 20 minutes it would be moving indoors. They said that the inside of the venue was empty and that they expected the venue to get busy about 01:00/01:30.

Following my visits, I have serious concerns about the capability of the licence holder to promote the licensing objectives at this venue especially as so many of the conditions were being breached. I believe that this poor management is even more dangerous in the current climate where enhanced measures should be in place to protect customers.

Signature Signature witnessed by

03/2016

OFFICIAL – (when complete)

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Christopher Jones

From: Ben Reader
Sent: 06 August 2020 11:43
To: Nickeshia [REDACTED]
Cc: bw licensing
Subject: Risk Assessment

Hi Nickeshia,

Thank you for talking things through with me over the phone and updating me about the event that you have planned for later.

I have had a look through your licence, and there are a number of conditions added by the licensing committee on Wednesday 5th July 2018 that you need to ensure that you are complying with.

I have added a web address below to the gov.uk website, you can copy it into a browser and it will offer advice to venues trading during these times, to best safeguard customers.

I have also pasted in a number of suggested measures from the link that relate to pubs and bars.

<https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19/restaurants-offering-takeaway-or-delivery>

Steps that will usually be needed:

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 queuing 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. Making customers aware of, and encouraging compliance with, limits on gatherings. For example, on arrival or at booking. 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.
10. Encouraging customers to use hand sanitiser or handwashing facilities as they enter the venue.
11. 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.
12. Reminding customers who are accompanied by children that they are responsible for supervising them at all times and should follow social distancing guidelines.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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
T: 101 (ext. 801 1669) Direct 0121 626 6099

Preventing crime, protecting the public and helping those in need.

[If it's not 999, search WMP Online](#)



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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 Nicholas Giess

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

Occupation Police Sergeant 1041

This statement (consisting of 1 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: Nick Giess (witness)

Date 02/09/2020

Tick if witness evidence is visually recorded ☐ (supply witness details on rear)

I am the aboved named Police Sergeant residing at the address overleaf.

I am the Sergeant in charge of the Licensing Team for Birmingham based within the Pan Birmingham Partnerships Team at Lloyd House.

I have been a Police Officer for nearly 28 years and have extensive relevant experience in dealing with Licensed Premises across Birmingham.

Whilst I am routinely deployed as a Police Sergeant on a day to day basis I am qualified by exam to the rank of Police Inspector and and I have a specific authority from Chief Superintendent Graham (the Police officer in charge of Birmingham West Neighbourhood Policing Unit) to perform the role and duties of Acting Inspector when required to do so.

This is recognised and permissible in law because of the qualifications that I hold and when deployed in that capacity (as an acting Inspector) I am able to exercise all of the additional powers that are available to a substantive Police Inspector.

This is relevant in this matter for the following two reasons:

1. I was deployed as an Inspector at the time of this incident.
2. At the time in question I utilised ASB Powers are only available to Police Officers of the rank of Inspector and above.

This statement is in relation to "PB's" which is also known as "Club Del Oreal" (for the benefit of clarity in this statement I will refer to the premises as PB's) located at 54 – 57 Key Hill, Hockley, Birmingham B18 5NX.

This location has a premises licence from Birmingham City Council, licence number 2866. It is licensed for activity from 15:00 until 02:00 from Thursday until Saturday and 15:00 until 00:00 on Sunday.

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The premises have a number of operating conditions on the licence. It also had a number of committee imposed conditions that were added in July 2018 following a review of the licence made by environmental health.

The licence holder for the premises is Nickeshia Reid-Davidson. I am aware that Reid-Davidson also goes by the name of Simone Reid and is also know by the "street" name of Simone Five Star. Reid-Davidson is also the DPS for the premises.

The premises does not sit within one of the city's night time economy areas, it is a standalone premises on Key Hill at the junction with Key Hill Drive.

Following the national lockdown and the gradual reopening of licensed premises, many premises have had to significantly amend the way in which they operate to safeguard customers.

Since the reopening of bars following the national lockdown due to the Coronavirus Pandemic on 4th July 2020, I have been made aware of many repeated concerns from assorted members of the public and Police Officers over the way in which PB's was operating.

Effectively PBs was trading in the same way it did pre lockdown and had not amended its operations to take into account the government guidance for licensed premises.

Because of the concerns raised I tasked my licensing staff to contact Reid-Davidson and support her to bring the premises up to standard.

There are over 5000 licensed premises in Birmingham and PB's is not the only licensed premises in Birmingham that my staff have had to do this with. It is of note that nearly all premises my staff have engaged with have made an effort to comply with the legislation and government guidelines.

PC 2413 Ben Reader is one of my staff and I tasked him to attend PB's on Sunday 2nd August 2020. I am aware that he offered advice on how to make the premises a covid-safe environment.

I also tasked a Neighbourhood officer (PS James Rencher) to attend around 0030hrs on the 14th August 2020 (Thurs going into Friday.) As Sgt Rencher is not a specialist licensing officer I tasked him to check the following specific things which were a concern to me from both licensing and covid-safe perspectives.

- Ask the DPS/Manager what the Venue Capacity is (during Covid) and then as how they came about that figure. Ask how many people are at the premises at that time.
- How are they recording visible proof of age? As to see an example.

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- Are any of the staff first aid trained ? If they say yes please ask to see the certificate. They should be able to show you a copy there and then. If they do please get an image of it on body cam.
- Ask to see the health and safety risk assessment for the premises. If they have one please get an image of it on body cam.
- Ask how they are monitoring sound levels for Covid? Premises are allowed background music only background music is something that you can talk over at an normal volume of voice and still be heard without issue.
- Ask to see the noise limiter
- Previously they had External speakers outside – if they do that is a breach of the committee conditions.
- Ask to see the dispersal policy. If they do have one please get an image of it on body cam.
- Ask to see an event specific risk assessment for the event that is taking place they call it "lollipop night". If they do have one please get an image of it on body cam.
- Check that the Door staff are wearing hi vis of some sort and displaying their SIA badges. Ask who the door staff are working for eg is it a security company or are they paid by the Pub and ask who is supervising the SIA Staff.
- Ask who retains the Body cam footage from the door staff.

The replies to my questions above were sent to me via email and those replies are copied below:

Sadly they highlight a number of breaches of the premises licence and Covid guidance and legislation.

Sarge,

Officers attended PB's tonight at 00:30 hours. Log 3871 of 13/08/20 for details of attending officers.

On arrival, the music was extremely loud and officers were forced to shout at staff in order to be heard. The DPS was not at the location on our arrival and was contacted by bar staff to return (they stated that she had gone to get ice but did not have any on her return).

There are no shields erected in the location and no markers on the floor to indicate distance between patrons. They are completing a book for track and trace but only details for 4 persons were listed (at the time of our arrival, there were only 3 people in the premise).

- Ask the DPS/Manager what the Venue Capacity is (during Covid) and then ask how they came about

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that figure. Ask how many people are at the premises at that time.

The DPS had no clue of the venue capacity and had not considered how many patrons should be let in. The door staff did have clickers but again, they did not know how many person were allowed entry.

- How are they recording visible proof of age? As to see an example.

There is signage around the location for challenge 25. A refusals book was finally located (had fell down behind the fridge) but only contained 2 entries, dated back to July 2019. Advise has been given for this book to be situated where all staff have access and for the DPS to check and sign it weekly.

- Are any of the staff first aid trained ? If they say yes please ask to see the certificate. They should be able to show you a copy there and then. If they do please get an image of it on body cam.

Both a staff member and the DPS stated that they were first aid trained. Neither could provide certification but the DPS stated that she was still waiting for it to come through the post

- Ask to see the health and safety risk assessment for the premises. If they have one please get an image of it on body cam.

A lengthy H&S RA had been completed for the premise, however, it was evident that what was written on it, was not being conducted. the most prominent being the staff handbook on COVID procedures was not in existence. The DPS stated that as the staff were her family, they didn't need the training in this.

- Ask how they are monitoring sound levels for Covid? Premises are allowed background music only background music is something that you can talk over at an normal volume of voice and still be heard without issue.

The music was at full blast on arrival and the DPS was advised to keep the music reduced to background music only.

- Ask to see the noise limiter

A noise limiter has been installed in the DJ area although clearly the levels have not been set. DPS

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advised to set the limit at a lower level

- Previously they had External speakers outside – if they do that is a breach of the committee conditions.

No speakers or external music.

- Ask to see the dispersal policy. If they do have one please get an image of it on body cam.

There was no dispersal plan and DPS has been advised to obtain one.

- Ask to see an event specific risk assessment for the event that is taking place they call it "lollipop night". If they do have one please get an image of it on body cam.

No RA for specific event (not on bodycam)

- Check that the Door staff are wearing hi vis of some sort and displaying their SIA badges. Ask who the door staff are working for eg is it a security company or are they paid by the Pub and ask who is supervising the SIA Staff.

Two door staff on duty. One in high vis, one with reflective lines on jacket. Both displaying SIA badges. Both staff are freelance and being payed directly by the venue. Neither of them had seen the RA and neither knew the capacity. Details of the doot staff had been documented and listed behind the bar.

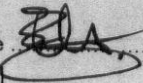
- Ask who retains the Body cam footage from the door staff.

One of the door staff was wearing bodycam but it is not known where this footage is loaded to.

Unfortunately, my bodycam had stopped recording on entry to the venue but was restarted half way through (PC 0965 Evans cam was on throughout visit). I attempted to re cover all questions in a bid to have the replies recorded.

DPS was advised that a member of staff should be seated near the entrance to ensure that the details of all

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patrons could be logged.

She states that she does have CCTV but believes that it only records for 8 days.

There was no list of staff who were authorised to sell alcohol and DPS was advised to get one written up.

It was very dark in the venue and I could not see if a summary of the licence was on display, however, a copy of the licence was kept in the box behind the bar.

DPS was given advice regarding screens, floor markings to indicate social distancing (especially around the bar area), and the use of the same door for patrons to go in and out (advice given to using opposite doors for way in/out).

Please do not hesitate to contact me should you require any further information or clarification of any point. Some of your staff members do have my mobile number but please don't call too early unless its urgent!

Kind regards,

Sarah Siggins 8723

Northfield Neighbourhood Policing Team

Northfield Fire Station

BW NPU

PC 8723 Sarah Siggins conducted the above enquiries and replied to me by email the text of which is copied above. If required to do so I can produce a copy of that email as an exhibit.

However as explained PC Siggins' bodycam ran flat during this, luckily the replies to those enquires were all also recorded on PC 0965 Evans bodycam which was also on throughout visit. I have not included that bodycam footage as the above is an exact copy of the email submitted to me by PC Siggins.

Clearly the above replies added to my concerns over the operation of PB's.

On Friday 14th August 2020 between 1800hrs and 0330hrs I was deployed in uniform as the Inspector in charge of the Police Support Unit (PSU) YM19 on Operation Reliant (which is the police response to Unlicensed Music Events and Parties during the Pandemic.)

Because of my concerns over the way in which PB's was operating I decided to visit the premises myself.

PB's is accessed by a single unmarked white metal door off a bit of rough ground which may serve as a car park off Key Hill Drive

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It is a small single storey premises, with a smaller raised area at the far left hand side of the premises which is next to the DJ Booth. This raised area has bench seating around the outside. There is a serving hatch style bar area opposite this or immediately on the left as you enter the bar.

I first visited PB's at 1941hrs. The purpose of that visit was to enquire regarding any events planned for that weekend as I had been made aware that a Birthday party was being advertised over social media for the venue that night. There were two men sat on bar stools at the bar drinking at that time and no other customers were present. I spoke to the DPS Reid-Davidson who explained that she had cancelled the birthday party. I was a little concerned that there was no seating apart from the two bar stools and the small seating area next to the DJ Booth (as I described earlier.) I could not see how the venue could operate with so few seats available and decided that I would revisit later when the premises were more busy to see that any additional seating which could be brought in was positioned in an appropriate manner and to check that the planned party was not going ahead.

This visit was audio and video recorded on Police BodyCam.

I produce the recording of this visit as exhibit (), reference (NPG1).

I revisited PB's at about 1am during the same tour of duty. Clearly the date had changed to Saturday 15th August 2020.

I produce the recording of this visit as exhibit (), reference (NPG2).

There is a technical 'glitch' on the Time, Day, Date of my Bodycam footage .

The Time Day Date on the computer record for the footage shows it was recorded at 0059hrs 15/08/2020 but the Time Day Date on the actual video footage shows 0004hrs 15/08/2020. I cannot offer an explanation for this and it has been raised as an issue with Police IT who have experienced this issue with other people bodycam footage as well.


When I arrived at the location and could hear very loud music before I even got to the venue.

There were about 12 people standing on Key Hill Drive carpark area outside of the venue and there was a very strong smell of herbal cannabis. I deployed my serial of officer to engage with this group and entered the premises with the van's Sergeant. There were about 30-40 people stood drinking inside the premises which was unlit except for "disco lighting."

None of the persons inside that I could see were sat down and there was no evidence of social distancing being in place. I asked to speak to Reid-Davidson and had to ask her to come outside as the music was so loud that we were unable to have a conversation about how the dangerous the environment was in terms of

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covid infections.

During the conversation I had with Reid-Davidson I explained that she could not operate with loud music, with no social distancing and with customers stood up as that was against the covid legislation and guidance.

She replied "it's not a bar has seating." She went on to explain that social distancing was in place I took her back inside so that she could show me the social distancing.

A number of people had left and there were now 27 people inside (I actually counted them.) I could see no evidence of 2metre social distancing taking place between individuals or groups and because of the small size of the venue, with just 27 people inside even if they were in groups of two or three I do not believe it would be possible to position seating to comply with the social distancing rules.

To clarify my point of reference and thought process at this time. The covid infection rate for Birmingham was around 20 per 100,000 people at this point and Birmingham was about to be placed on the government's watch list for areas of the country that may need to be subject of a local lockdown which would be devastating to the regional economy.

I was acutely aware that venues running events of this nature were quite literally the breeding ground and cause of the spread of coronavirus, and my team as well as other officers had invested significant time and effort in attempting to encourage Reid-Davidson to run the premises in a manner that was not a threat to public health.

Having actually seen the premises operate myself, I have very serious concerns about the capability of Reid-Davidson to promote the licensing objectives at this (or any other) venue especially as so many of the licensing conditions were being breached on top of the flagrant disregard for the covid legislation and guidance on control of the disease. The operation showed no consideration for the health and well being of her customers, her staff or for that of my officers who were being placed in a dangerous situation by having to attend and deal with the venue. I am disappointed to admit that this was infact at the time the worst licensed premises in Birmingham.

I sought advice from the Bronze Commander (Inspector Edwards) and recommended that I require the premises to close using the Anti Social Behaviour legislation. The Bronze Commander agreed with my recommendation and so in line with the legislative requirement I contacted Rob James (the Birmingham Council lead) via mobile phone to explain the situation to him and consult with him as to whether he agreed on behalf of the council for me to use this legislation to close the premises. Rob James also agreed that we could not allow the venue to continue to operate and that it required an immediate intervention.

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I reactivated my bodycam at about 0130hrs. The Time Day Date on the computer record for the footage shows it was recorded at 0028hrs 15/08/2020 but the Time Day Date on the actual video footage shows 0127hrs 15/08/2020.

I produce the recording of this visit as exhibit (), reference (NPG3). At this time I served a Closure notice on Reid-Davidson and required her to stop serving and close the venue I also stuck a copy of the closure notice to the door to the premises.

I took a photo of one of the notices which I produce as exhibit (), Ref (NPG4).

I remained on site with my officers to assist in the safe closure of the premises and dispersal of the customers afterwards.

It is of note that whilst I was inside the premises despite being told by Reid-Davidson that she had cancelled the birthday party event, I was approached by a woman who appeared to be with a large group of the customers who told me I was fat, bald and that I had ruined her birthday party.

I am aware that at my request the ASB closure order was rescinded by one of my peers at 8am on 15th August 2020.

Because of the above I felt that my team were left with no option other than to commence an expedited review of the premises.

Nick Giess PS 1041



Signature



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