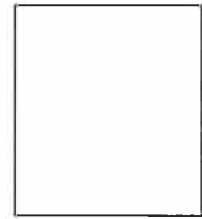




## SHEFFIELD CITY COUNCIL Committee Report



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**Report of:** Chief Licensing Officer, Head of Licensing

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**Date:** 8<sup>th</sup> February 2018

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**Subject:** Licensing Act 2003  
Application for the Review of a premises licence

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**Author of Report:** Clive Stephenson

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**Summary:** To consider an application for the review of a premises licence submitted by South Yorkshire Police, following Closure Order being granted by Magistrates' Court.

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**Recommendations:** That members carefully consider the application for review along with any other representations made and take such steps that the Committee consider necessary for the promotion of the Licensing Objectives

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**Background Papers:** Attached documents

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**Category of Report:** Open

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**LICENSING ACT 2003**

**Review of Premises Licence following Closure Order granted by  
Magistrates' Court**

**Niche 9 – 11 Walker Street Sheffield S3 8GZ**

**1.0 PURPOSE OF REPORT**

1.1 To consider an application for the review of a premises licence due to a Closure Order made under Section 167 of the Licensing Act 2003 in relation NICHE 9-11 Walker Street Sheffield S3 8GZ

**2.0 THE APPLICATION**

2.1 The application was made by the South Yorkshire Police on 11<sup>th</sup> January 2018.

2.2 The grounds for the review are based on the following aspects of the 2003 Licensing Act objectives:-

- The Prevention of Crime and Disorder
- Public Safety

2.3 The application form is attached at Appendix 'A' and details further the grounds for the review application.

2.4 The review was submitted following the Magistrates Court upholding a Closure Order on the premises on the 9<sup>th</sup> January 2018. The Licensing Service were made aware of the Closure Notice being granted on the 11<sup>th</sup> January 2018, therefore leading to this hearing being heard within ten working days of this notification date, in line with Section 11.29 of the Licensing Act Guidance .

2.5 A copy of the current premises licence is attached at Appendix 'B'

2.6 A hearing was held on 25<sup>th</sup> January 2018, the decision was to defer the hearing until today (8<sup>th</sup> February 2018). Copy of the notice is attached at Appendix C.

2.7 Information has been supplied by the Licensees representatives and by South Yorkshire Police. There is an extremely large amount of information laid before the committee and this will be available on the day of the hearing. Both parties and the committee members have had copies of the information prior to the hearing taking place.

2.8 Representations have been made by Interested parties,

Public Health                      Appendix A (A7)

### **3.0 REASONS FOR REFERRAL**

- 3.1 The Licensing Authority must under the Act refer any application for review to the Licensing Committee, unless it is withdrawn, or if representations are made by an interested party that the Licensing Authority are of the opinion that they are frivolous or vexatious.
- 3.2 The applicant and the Premises Licence Holder have been invited to attend the hearing. Copies of the front page of the notices are attached to this report labelled Appendix 'C'.
- 3.3 During the short period for representation the licensing Service have circulated any representations made to the interested parties and if they were received in time they are included at Appendix C.

### **4.0 FINANCIAL IMPLICATIONS**

- 4.1 There are no specific financial implications arising from this application. However additional costs may be incurred should the matter go to appeal. In such an eventuality it may not be possible to recover all these costs. The impact of these additional costs (if any) will be kept under review and may be subject of a further report during the year.

### **5.0 THE LEGAL POSITION**

- 5.1 The Licensing Act 2003 at section 52(3) requires that the Licensing Authority must, having regard to the application and any relevant representations, take such steps mentioned in subsection (4) (if any) as it considers necessary for the promotion of the licensing objectives.

- 5.2 Section 52(4) states:

"The steps are –

- a) To modify the conditions of the licence;
- b) To exclude the licensable activity from the scope of the licence;
- c) To remove the designated premises supervisor;
- d) To suspend the licence for a period not exceeding three months;
- e) To revoke the licence;

and for this purpose the conditions of the licence are modified if any of them is altered or omitted, or any new condition added."

- 5.3 If members decide to take the steps referred to in (a) or (b) above, it may provide that the modification or exclusion is to have effect for only such period (not exceeding three months) as it may specify.
- 5.4 The Licensing Act 2003 at section 52(11) states that:

"A determination under this section does not have effect –

- a) until the end of the period given for appealing against the decision, or
- b) if the decision is appealed against, until the appeal is disposed of."

- 5.5 The Licensing Act 2003 at section 4(1) requires the Licensing Authority to carry out its functions with a view to promoting the Licensing Objectives which section 4(2) sets out as: -
- a) the prevention of crime and disorder,
  - b) public safety,
  - c) the prevention of public nuisance,
  - d) the protection of children from harm.
- 5.6 Section 4(3) of the Licensing Act also requires the Licensing Authority to have regard to the published Statement of Licensing Policy and any guidance issued by the Secretary of State under Section 182.

## **6.0 HEARINGS REGULATIONS**

- 6.1 Regulations governing hearings under the Licensing Act 2003 have been made by the Secretary of State.
- 6.2 The Licensing Authority has provided all parties with the information required in the Regulations to the 2003 Act as set out at Appendix 'C'.
- 6.3 Attached at Appendix 'C' is the following: -
- a) a copy of the Notice of Hearing;
  - b) the rights of a party provided in Regulations 15 and 16;
  - c) the consequences if a party does not attend or is not represented at the hearing
  - d) the procedure to be followed at the hearing.

## **7.0 APPEALS**

- 7.1 The Licensing Act 2003 section 181 and Schedule 5 makes provision for appeals to be made by the applicant; the holder of the premises licence and those making representations against decisions of the Licensing Authority to the Magistrates Court.

## **8.0 RECOMMENDATIONS**

- 8.1 That members carefully consider the application for review along with any other representations made and take such steps as detailed in paragraph 5.2 above that the Committee consider necessary for the promotion of the Licensing Objectives.

## 9.0 OPTIONS OPEN TO THE COMMITTEE

- 9.1
- a) modify the conditions of the licence;
  - b) exclude a licensable activity from the scope of the licence;
  - c) remove the designated premises supervisor;
  - d) suspend the licence for a period not exceeding three months;
  - e) revoke the licence; or
  - f) reject the application for review.



Steve Lonnie,  
Chief Licensing Officer, Head of Licensing  
Business Strategy and Regulation  
Place Portfolio  
Block C, Staniforth Road Depot  
Sheffield  
S9 3HD.

# Appendix A

The Application

17 JAN 2015

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ANNEX C

FORM FOR APPLYING FOR A SUMMARY LICENCE REVIEW

[Insert name and address of relevant licensing authority and its reference number (optional)]

Sheffield City Council Licensing Department  
Staniforth Road  
Sheffield



**Application for the review of a premises licence under section 53A of the Licensing Act 2003 (premises associated with serious crime or disorder)**

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 Paul McCurry [on behalf of] the chief officer of police for the South Yorkshire police area apply for the review of a premises licence under section 53A of the Licensing Act 2003.

**1. Premises details:**

Postal address of premises, or if none or not known, ordnance survey map reference or description:

**Niche Nightclub  
9-11 Walker Street**

Post town: Sheffield

Post code (if known): **S38GZ**

**2. Premises licence details:**

Name of premises licence holder (if known): Fortuna Events Ltd

Number of premises licence holder (if known): SY002366PR

**3. Certificate under section 53A(1)(b) of the Licensing Act 2003 [Please read**

guidance note 1]:

I confirm that a certificate has been given by a senior member of the police force for the police area above that in his opinion the above premises are associated with serious crime or 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]

**The premises has recently been the location of a serious crime, the circumstances are as follows:-**

**At 04.49 on 23<sup>rd</sup> of December 2017, South Yorkshire Police was notified by South Yorkshire Ambulance service that they were attending a incident of a male being stabbed 5 times.**

**Police officers responded and arrived at 04.50.**

**A person was assaulted inside the premises. Security staff then ejected him. Video evidence shows him being dragged along the floor by security staff. Whilst this is taking place, the offenders are continuing to assault him. A group of males who were involved in the assault are seen to leave the premises and are allowed to re-enter as and when they please. There is no control or supervision by the door attendants in relation to entry or egress of persons at this door. Substantial disorder takes place outside the premises. This results in four persons receiving stab wounds.**

**The Police submit that the grounds for a License review have been made out for the following reasons.**

- (1) Person (s) were engaged in disorderly and criminal behaviour on the premises i.e. assaults on the premises.**
- (2) The use of the premises has resulted in serious nuisance to members of the public i.e. violent offences and crime being committed on or in the vicinity of the premises. Assaults taking place within the premises. Knife stabbings taking place in the vicinity of the premises.**
- (3) Disorder near the premises i.e. outside Niche a melee takes place. As a result, 4 persons receive stab wounds.**

**There is no evidence of any calls made to South Yorkshire Police by any member of doorstaff or any other member of staff of the club to the police, to report this major disorder at the club.**

**One of the conditions on NICHE'S licence are that bodyworn cameras must be worn by a minimum of TWO (2) SIA at all times whilst the premises are operating, these images will be kept for a minimum of thirty(30) days and will be available for Police to copy any images defined for policing purposes. The Bodycams will be worn by doorstaff on the door, If staff are required to deal with any issues they should return to the door as soon as possible, if the staff are unable to return to the door it is a expectation that the cameras should be passed onto staff at the door.**



A3

At no time was the cameras activated to record the major disorder at the club or was there any recordings passed to police of the disorder from the bodycams

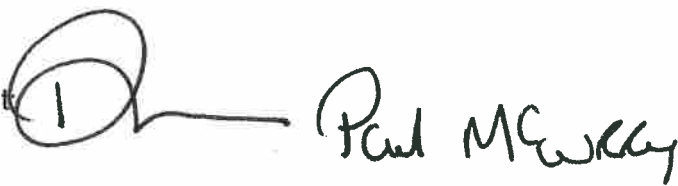
On 23 December 20127 Niche was unable or unwilling to provide proper security and control both inside the and outside the premises. As a result, those who visited Niche intent on causing violence and disorder were allowed to act without restraint.

The consequences of this lack of action were that, 5 persons were the victims of assaults both inside and outside the premises. They received serious injuries including multiple stab wounds. One victim requires reconstructive surgery to his face.

Investigations after the incident have found that the alleged offenders are not recorded on the clubs ID scanner, in fact the evidence proves that all 5 alleged offenders are recorded on the system by photo only. The previous customers details are recorded correctly and also the customers arriving after the alleged offenders details are recorded correctly.

CCTV footage shows one of the main alleged offenders, walking around the club and also outside the club entrance with a large glass bottle, at no time was this male challenged by doorstaff or any attempt made to remove this off him.

Signature of applicant



Date: 10/1/18  
Capacity: Superintendent

**Contact details for matters concerning this application:**

Address: South Yorkshire Police Licensing Department, Force Headquarters, Carbrook House, 5 Carbrook Hall Road, Sheffield, S9 2EH.

Telephone number(s): 0114 2523618

Email: sheffield.liquor-licensing@southyorks.pnn.police.uk

A person was assaulted inside the premises. Security staff then ejected him. Video evidence shows him being dragged along the floor by security staff. Whilst this is taking place, the offenders are continuing to assault him. A group of males who were involved in the assault are seen to leave the premises and are allowed to re-enter as and when they please. There is no control or supervision by the door attendants in relation to entry or egress of persons at this door. Substantial disorder takes place outside the premises. This results in four persons receiving stab wounds.

The Police submit that the grounds for a License review have been made out for the following reasons.

- (1) Person (s) were engaged in disorderly and criminal behaviour on the premises i.e. assaults on the premises.
- (2) The use of the premises has resulted in serious nuisance to members of the public i.e. violent offences and crime being committed on or in the vicinity of the premises. Assaults taking place within the premises. Knife stabbings taking place in the vicinity of the premises.
- (3) Disorder near the premises i.e. outside Niche a melee takes place. As a result, 4 persons receive stab wounds.

There is no evidence of any calls made to South Yorkshire Police by any member of doorstaff or any other member of staff of the club to the police, to report this major disorder at the club.

One of the conditions on NICHE'S licence are that bodyworn cameras must be worn by a minimum of TWO (2) SIA at all times whilst the premises are operating, these images will be kept for a minimum of thirty(30) days and will be available for Police to copy any images defined for policing purposes. The Bodycams will be worn by doorstaff on the door, If staff are required to deal with any issues they should return to the door as soon as possible, if the staff are unable to return to the door it is an expectation that the cameras should be passed onto staff at the door. At no time was the cameras activated to record the major disorder at the club or was there any recordings passed to police of the disorder from the bodycams

On 23 December 20127 Niche was unable or unwilling to provide proper security and control both inside the and outside the premises. As a result, those who visited Niche intent on causing violence and disorder were allowed to act without restraint.

The consequences of this lack of action were that, 5 persons were the victims of assaults both inside and outside the premises. They received serious injuries including multiple stab wounds. One victim requires reconstructive surgery to his face.

Investigations after the incident have found that the alleged offenders are not recorded on the clubs ID scanner, in fact the evidence proves that all 5 alleged offenders are recorded on the system by photo only. The previous customers details are recorded correctly and also the customers arriving after the alleged offenders details are recorded correctly.

South Yorkshire Police  
Force HQ  
Carbrook House  
5 Carbrook Hall Road  
Sheffield  
S9 2EH

### **CERTIFICATE UNDER SECTION 53A(1)(b) OF THE LICENSING ACT 2003**

I hereby certify that in my opinion the premises described below are associated with serious crime / serious disorder / both serious crime and serious disorder<sup>1</sup>.

*Premises<sup>2</sup>:*

NICHE Nightclub  
9-11 Walker street  
S3 8GZ

Premises licence number (if known): SY002366PR

Name of premises supervisor (if known): Richard Dyson

I am a Superintendent Paul McCurry <sup>3</sup> in the South Yorkshire police force.

I am giving this certificate because I am of the opinion that other procedures under the Licensing Act are inappropriate in this case, because<sup>4</sup>:

The premises has recently been the location of a serious crime, the circumstances are as follows:-

At 04.49 on 23rd of December 2017, South Yorkshire Police was notified by South Yorkshire Ambulance service that they were attending a incident of a male being stabbed 5 times.

Police officers responded and arrived at 04.50.

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<sup>1</sup> Delete as applicable.

<sup>2</sup> Include business name and address and any other relevant identifying details.

<sup>3</sup> Insert rank of officer giving the certificate, which must be superintendent or above.

<sup>4</sup> Give a brief description of why other procedures such as a standard review process are thought to be inappropriate, e.g. the degree of seriousness of the crime and/or disorder, the past history of compliance in relation to the premises concerned.

16

CCTV footage shows one of the main alleged offenders, walking around the club and also outside the club entrance with a large glass bottle, at no time was this male challenged by doorstaff or any attempt made to remove this off him.


On 23 December 20127 Niche was unable or unwilling to provide proper security and control both inside the and outside the premises. As a result, those who visited Niche intent on causing violence and disorder were allowed to act without restraint.

The consequences of this lack of action were that, 5 persons were the victims of assaults both inside and outside the premises. They received serious injuries including multiple stab wounds. One victim requires reconstructive surgery to his face.

Investigations after the incident have found that the alleged offenders are not recorded on the clubs ID scanner, in fact the evidence proves that all 5 alleged offenders are recorded on the system by photo only. The previous customers details are recorded correctly and also the customers arriving after the alleged offenders details are recorded correctly.

CCTV footage shows one of the main alleged offenders, walking around the club and also outside the club entrance with a large glass bottle, at no time was this male challenged by doorstaff or any attempt made to remove this off him.

The city of Sheffield is seeing an increase in knife crime at present and is being dealt with seriously and robustly by South Yorkshire Police. If these incidents have occurred within Licensed Premises then robust action will be taken by our Licensing Team to ensure these types of incidents are not repeated. We will work tirelessly to ensure the Licensed Premises in Sheffield are safe and ran by responsible operators, ensuring they are promoting the Licensing Objectives to the highest standards.

 ..... Paul Mackay ..... 19/1/18  
(Signed) (Date)

A7

**Office of the Director of Public Health**  
Sheffield Town Hall, Pinstone Street S1 2HH  
Tel: 0114 205 7470  
**Web Site:** [www.sheffield.gov.uk](http://www.sheffield.gov.uk)  
**E-mail:** [Magda.Boo@sheffield.gov.uk](mailto:Magda.Boo@sheffield.gov.uk)



Stephen Lonnia  
Head of Licensing  
Sheffield City Council  
c/o Block C  
Staniforth Road Depot  
Sheffield  
S9 3HD

Dear Stephen,

**Re: Niche Nightclub, 9-11 Walker St, S3 8GZ**

I am writing on behalf of Public Health regarding the Summary License Review for Niche Nightclub.

Public Health would have concerns regarding the statement of Superintendent Paul McCurry, South Yorkshire Police regarding the treatment by door staff of the injured party in an incident of 23<sup>rd</sup> December 2017. The door staff, in this incident, would have been expected to secure the safety of the injured party and secure emergency medical attention for injured patrons whilst protecting other patrons by prompt and robust action towards perpetrators. In the description of the incident by Superintendent Paul McCurry, door staff fell short of this standard and as a minimum, it is recommended that further training is provided to door staff as a condition of the license.

Public Health would have concerns regarding the statement of Superintendent Paul McCurry, South Yorkshire Police regarding a patron walking around with a large glass bottle inside and outside of the venue. There is always a risk that glass bottles and glass drinking vessels can cause injury, whether accidental or deliberate and such injuries can be very serious and costly to the NHS, criminal justice agencies and to the victim. For this reason, Public Health would recommend a condition that only polycarbonate or shatterproof drinking vessels are used in the venue and that any glass bottles are decanted at the bar and then stored securely for safe disposal.

Finally, Public Health would note that the injuries sustained and the reported consequences of facial reconstructive surgery are very costly both to the NHS and to the individual. It is of serious concern that as a city that prides itself of having both Best Bar None and the Purple Flag, which are symbols of a safer night-time economy that such serious injuries have occurred and the utmost should be done to prevent a reoccurrence of incidents of this type at this venue.

Yours sincerely

**Magdalena Boo**  
Health Improvement Principal

# Appendix B

Current Premises Licence

# Licensing Act 2003 Premises Licence

Issue No: 4

**SY002366 PR**

## LOCAL AUTHORITY



### Licensing Service

#### Place Portfolio

Block C Staniforth Road Depot  
Staniforth Road  
Sheffield  
S9 3HD

Tel: 0114 2734264

Email: [licensing@sheffield.gov.uk](mailto:licensing@sheffield.gov.uk)

Website: [www.sheffield.gov.uk/licensing](http://www.sheffield.gov.uk/licensing)

The Sheffield City Council being the Licensing Authority under the above Act, hereby grant this licence in accordance with the requirements of the Licensing Act 2003 in respect of and subject to the conditions attached:

## Part 1 - Premises Details

### POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

#### Niche

9-11 Walker Street, Sheffield, Sout Yorkshire, S3 8GZ

### WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

### LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- provision of late night refreshment
- the supply of alcohol

### THE TIMES THE LICENCE AUTHORIZES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity	Day	Time From	Time To
B. Exhibition of films (Indoors)			
	Sunday	9:00am	6:00am
	Monday	9:00am	6:00am
	Tuesday	9:00am	6:00am
	Wednesday	9:00am	6:00am
	Thursday	9:00am	6:00am
	Friday	9:00am	6:00am
	Saturday	9:00am	6:00am
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January.	
	Additional Hours		1 Additional hour when British Summertime begins
C. Indoor sporting event			
	Sunday	9:00am	6:00am
	Monday	9:00am	6:00am
	Tuesday	9:00am	6:00am

# Licensing Act 2003 Premises Licence

Issue No: 4

## SY002366 PR

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity	Day	Time From	Time To	
<b>B2</b>				
C. Indoor sporting event continued ...				
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
E. Performance of live music (Indoors)				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
F. Playing of recorded music (Indoors)				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
G. Performance of dance (Indoors)				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
I. Late night refreshment (Indoors)				
	Sunday	11:00pm	6:00am	
	Monday	11:00pm	6:00am	
	Tuesday	11:00pm	6:00am	
	Wednesday	11:00pm	6:00am	
	Thursday	11:00pm	6:00am	
	Friday	11:00pm	6:00am	
	Saturday	11:00pm	6:00am	
	New Years Eve (31/12)	11:00pm	6:00am	
	Additional Hours			1 Additional hour when British Summertime begins
J. Supply of alcohol for consumption ON and OFF the premises				
	Sunday	9:00am	6:00am	



B3

# Licensing Act 2003 Premises Licence

Issue No: 4

## SY002366 PR

### THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity	Day	Time From	Time To
J. Supply of alcohol for consumption ON and OFF the premises continued ...			
	Monday	9:00am	6:00am
	Tuesday	9:00am	6:00am
	Wednesday	9:00am	6:00am
	Thursday	9:00am	6:00am
	Friday	9:00am	6:00am
	Saturday	9:00am	6:00am
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January	
Additional Hours		1 Additional hour when British Summertime begins	

### THE OPENING HOURS OF THE PREMISES

	Time From	Time To
Sunday	9:00am	6:15am
Monday	9:00am	6:15am
Tuesday	9:00am	6:15am
Wednesday	9:00am	6:15am
Thursday	9:00am	6:15am
Friday	9:00am	6:15am
Saturday	9:00am	6:15am
New Years Eve (31/12)	09:00 to 06:15 hours 2nd January.	
Additional Hours		
The premises shall close 15 minutes after the terminal hour for licensable activities on the commencement of British Summertime.		

#### PLEASE NOTE:

In the event, that the hours permitted on this premises licence differ from those authorised on your planning consent, you **MUST ONLY** operate to which ever is the most restrictive permission.

Both Licensing and Planning carry out enforcement activities and if you are found to be in breach of either your premises licence and / or your planning consent, it may result in legal action being taken against you.

### WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

### Part 2

### NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

**Fortuna Events Limited**  
2 Westbrook Court, Sharrowvale Road, Sheffield, S11 8YZ.

### REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

**Fortuna Events Limited**

**10218882**

### NAME, ADDRESS AND TELEPHONE NUMBER OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

**Richard Graham DYSON**

**6 Springfield Terrace, Elmley Moor, Huddersfield, HD8 9SX.**

B4

# Licensing Act 2003 Premises Licence

Issue No: 4

## SY002366 PR

PERSONAL LICENCE NUMBER AND ISSUING AUTHORITY OF PERSONAL LICENCE HELD BY DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES FOR THE SUPPLY OF ALCOHOL

Licence No: **LEEDS/PERL/05277/10**

Issued by: **Leeds**

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Restricted

### LICENCE DATES

Licence first effective date: **12 October, 2015**

This Premises Licence shall be in force from: **1 August, 2017**

Issue date of this licence: **2 October, 2017**



.....  
**Steve Lonnia**  
Head of Licensing Services  
On behalf of Sheffield City Council (Issuing Licensing Authority)

## ANNEXES

### Annex 1A - Mandatory Conditions

#### **Mandatory Condition 1 (Section 19 ss 2)**

Where a licence authorises the sale of alcohol then no supply of alcohol may be made under the premises licence -

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his personal licence is suspended.

#### **Mandatory Condition 2 (Section 19 ss 3)**

Where a licence authorises the sale of alcohol then every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### **Mandatory Condition 3 (Section 20)**

1. Where a premises licence authorises the exhibition of films, the licence includes the following conditions relating to the admission of children to the exhibition:
  - (a) The admission of children (under 18) to the exhibition of any film must be restricted in accordance with the classification set by the film classification body (currently the BBFC).
  - (b) In a case where there is no classification given by the classification body (the BBFC) the admission of children to the exhibition of any film must be restricted in accordance with any recommendation given by the Licensing Authority.
2. In this section -
  - “children” means persons aged under 18; and
  - “film classification body” means the person or persons designated as the authority under section 4 of the Video Recordings Act 1984 (c.39) (authority to determine suitability of video works for classification).

#### **Mandatory Condition 4 (Section 21)**

Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity each such individual must be licensed by the Security Industry Authority.

### Annex 1B - Mandatory Condition effective from 28<sup>th</sup> May 2014:

1. A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.
2. For the purposes of the condition set out in paragraph 1-
  - (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
  - (b) “permitted price” is the price found by applying the formula-

$$P = D + (D \times V)$$

where-

- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

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# Licensing Act 2003 Premises Licence

Issue No: 4

# SY002366 PR

ANNEXES continued ...

- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence-
  - (i) the holder of the premises licence,
  - (ii) the designated premises supervisor (if any) in respect of such a licence, or
  - (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

## **Annex 1C - Mandatory Conditions effective from 1<sup>st</sup> October 2014:**

- 1.-(1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
  - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises-
    - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to-
      - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
      - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
    - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
    - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
    - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
    - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).
2. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
- 3.-(1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
  - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
  - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either-
    - (a) a holographic mark, or
    - (b) an ultraviolet feature.
4. The responsible person must ensure that-
  - (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures-

## ANNEXES continued ...

- (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
- (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

### Annex 2 - Conditions consistent with the operating schedule

1. A colour C.C.T.V. system shall be installed at the premises to the specification and satisfaction of the South Yorkshire Police to cover internal and external areas. This will be maintained and in use at all times that the premises are open to the public. The C.C.T.V. images will be stored for a minimum of 30 days and must be made available to an authorised officer of the Council or South Yorkshire Police on production of an appropriate written authorisation.
2. The Police will be given access to and take copies of Images in connection with the prevention and detection of crime and disorder.
3. The Police shall be entitled to inspect and approve the C.C.T.V. system prior to commencement of licensable activities at these premises.
4. The premises shall have doorstaff a minimum of 4 members of door staff at any time that the premises are open to members of the public after 21:00hours. During busy periods, numbers of door staff will be set by reference to occupancy levels.
5. The premises licence holder shall maintain at the premises a register containing the following details of all door staff engaged at the premises.
  - (a) Full name
  - (b) Address
  - (c) Date of birth
  - (d) SIA Licence number

Such register shall be available for inspection to South Yorkshire Police and an authorised officer of the Council.
6. There shall be a zero tolerance drugs policy at the premises and there shall be suitably secure drop box for any illegal substances or items confiscated from customers. Seized items will be handed to South Yorkshire Police.
7. No customers apparently carrying open bottles upon entry shall be admitted to the premises at any time the premises are open to the public. There shall be a system for removing those open vessels from customers entering or leaving the premises. Signs shall be displayed at all exits requiring the public respect the needs of local residents and leave the premises quietly.
8. Alcoholic drinks may not be removed from the premises in open containers save for consumption in external areas provided for that purpose.

## ANNEXES continued ...

9. A refusal log and incident log will be maintained and audited by management.
10. All staff to receive induction training, refresher training to be undertaken on an annual basis. Such training to be recorded and made available to the Licensing Authority and South Yorkshire Police for a period of 12 months.
11. The use of plastic drinking vessels will be risk assessed on an event by event basis.
12. No films or videos of any description will be shown so that they can be viewed by persons under the age of any applicable BBFC/Local Authority certification.
13. The Designated Premises Supervisor, or other such responsible person, will be assigned to the role of safeguarding co-ordinator. This person should act in accordance with the training and guidance provided by the Sheffield Safeguarding Children Board.
14. All events or functions involving persons under the age of 18 must be planned with reference to the Sheffield Safeguarding Children Board good practice guidance for events and include a written risk assessment and evidence of staff briefings.
15. Persons under the age of 18 years are not permitted to remain at the premises after 21:00 hours unless they are accompanied by a responsible adult and attending a private pre-booked family style function in a private designated area to which access is controlled.
16. Persons under the age of 18 years are not permitted when the premises operates as an adult night club.
17. All customers, including those using concessionary passes/VIP or guest list access, must be subject to age checks and security checks including customers re-entering the premises.
18. The Designated Premises Supervisor or some such other person will be assigned to act as lead safeguard for children's issues at the premises.
19. The premises shall operate the Challenge 25 proof of age scheme and staff shall be instructed to seek identification from any person who appears to be under the age of 25 years. Appropriate signage and an identification checking system shall be in place. All persons seeking to enter the premises while operating as an adult night club shall be subject to the Challenge 25 policy including those using concessionary passes/VIP or guest list access.
20. Where appropriate, prominent, clear and legible notices shall be displayed at all exits requesting the public respect the needs of local residents and to leave the premises and area quietly.
21. Save for access, egress, and in case of emergency all doors and windows shall remain closed whenever regulated entertainment is taking place on the premises. Doors intended to function as part of an acoustic lobby shall not be propped or fixed open at any time when music is provided above background levels.
22. All ventilation outlets serving or connected to licensed areas are to be acoustically baffled.

## ANNEXES continued ...

23. No amplified sound shall be played in upstairs or downstairs areas except through an in-house amplified sound system fitted with its own sound limiting facility capable of limiting the sound level output of each system to a pre-set level which may then be secured in a tamperproof manner, the design and setting of each limiter shall have received the prior written approval of Sheffield City Council's Environmental Protection Service prior to any regulated entertainment taking place in the relevant section of the premises.
24. A management plan shall be held on site detailing the importance of monitoring and controlling the behaviour of customers in the immediate vicinity of the premises (including smokers), and the dispersion of customers towards the close of trading. Staff shall be suitably trained to implement the management plan and a copy of the plan and any referenced policies shall be made available upon request by the Licensing Authority.
25. Between the night-time hours of 23:00 and 07:00 no seating shall be retained on the outdoor rear terrace and customer access to this area shall be limited and actively managed to be for smoking purposes only, and to a maximum occupancy of 40 persons at any time. No drinks shall be allowed on the terrace during these night-time hours.
26. The capacity of the ground floor shall not exceed 308 people. The capacity of the Chill out area shall not exceed 172 people. The capacity of the VIP area shall not exceed 60 people
27. A Building Regulation Completion Certificate shall be submitted to the Responsible Authority for public safety
28. A permanent fixture residual current device (RCD) must protect the electrical power serving all amplified equipment used for the purposes of live music or similar entertainment.
29. To acquire a suitable number of radio sets for the premises and to take the CCRAC Radio Scheme (City Centre Retailers Against Crime) into use at all times when trading, and continue to be a user whilst this system is in use within Sheffield.
30. There shall be no adult entertainment or services, activities, other entertainment or matters ancillary to the use of the premises except for the use of authorised gaming machines.

Conditions agreed - Premises Licence Variation Granted 30th December 2016

31. Children shall not be permitted to access the premises while operating as an adult nightclub.
32. Whilst the venue is trading an 'identity scanner' approved by South Yorkshire Police will be operated at site subject to clause (a) to (g).
  - a. The 'identity scanner' will be operated in conjunction with challenge 25 policy in relation to assisting in proving persons entering the premises are 18 years or over.
  - b. Where proof of identification document is produced upon request, such identification will be scanned.
  - c. Records of the documentation scanned will be maintained for a period of 14 days and made available to the police officer upon request, and in accordance with the requirements of the Data Protection Act 1998 or such other legislation.

## ANNEXES continued ...

- d. The 'identity scanner' fitted at the premises will be maintained in accordance with the manufacturers instruction. In the event that the 'identity scanner' malfunctions then the premises licence holder or DPS or other authorised person must notify the police in writing as soon as reasonably practicable.
- e. In the event of malfunction of the 'identity scanner' it will be repaired as soon as reasonably practicable.
- f. For the avoidance of doubt if the 'identity scanner' malfunctions then the premises can continue to offer licensable activities as long as they comply with the notification procedure referred to in this condition.
- g. The 'identity scanner' shall be in use at all times of trading except in circumstances whereby staff responsible for scanning are required to deal with issues relating to public order and/or medical emergency.
33. A minimum of two SIA registered door staff will be fitted with an approved body-cam which shall be worn at all times the premises is operating. The images will be stored for a minimum of 30 days and the police will be given access to the copies of the images for any of the defined policing purposes. It is expected that during operating hours the body cams will be worn by SIA staff on the door. Whereby SIA staff with the body-cams are required to deal with issues relating to public order and/or medical emergency they should do so, but the expectation is for them to return as soon as possible and if unable then for the body-cams to be worn at the door by another member of door staff.
34. The premises shall employ DJ's in accordance with the management's assessment of risk. The premises shall provide the name, address and the date of birth of any DJ who is to perform at the venue to South Yorkshire Police at least 14 days prior to their first performance.
35. Records shall be retained of any DJ's performing at the venue including name, address, date of birth, telephone number and date of performance. Such records shall be retained for 12 months and made available to the Authorities following receipt of a request which accords with relevant data protection legislation (i.e. detection of crime).
36. Any materials published by a third party contracted by the premises to promote an event shall be subject to a contract providing the premises with a right of veto on any material deemed inappropriate.
37. The police will be notified by way of a monthly planner in relation to events which are both internally and externally promoted by a third party not in the employ of the premises licence holder, being held at the premises 14 days ahead of each calendar month.
38. Building Regulation Completion Certificate shall be submitted to the responsible authority for public safety for the terrace area prior to public usage.
39. The Designated Premises Supervisor or a personal licence holder will be present at all times at the premises whilst operating.

### Annex 3 - Conditions attached after a hearing by the licensing authority



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# Licensing Act 2003 Premises Licence

Issue No: 4

## SY002366 PR

ANNEXES continued ...

1. The morning following the premises being open the area spanning 100 metres from the front of the premises will be cleared of litter originating from the use of the premises.

### Annex 4 - Plans

Plan ref: Niche (Walker Street)  
Drawing No: NICHE-GF-01  
Dated: 20/11/2016

Plan ref: Niche (Walker Street)  
Drawing No: NICHE-1STFL-02  
Dated: 20/11/2016

## Licensing Act 2003

Issue No: 4

## Premises Licence Summary SY002366 PR

## LOCAL AUTHORITY



## Licensing Service

## Place Portfolio

Block C Staniforth Road Depot

Staniforth Road

Sheffield

S9 3HD

Tel: 0114 2734264

Email: [licensing@sheffield.gov.uk](mailto:licensing@sheffield.gov.uk)Website: [www.sheffield.gov.uk/licensing](http://www.sheffield.gov.uk/licensing)

The Sheffield City Council being the Licensing Authority under the above Act, hereby grant this licence in accordance with the requirements of the Licensing Act 2003 in respect of and subject to the conditions attached:

## Premises Details

## POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

## Niche

9-11 Walker Street, Sheffield, Sout Yorkshire, S3 8GZ

## WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

## LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- an exhibition of a film
- an indoor sporting event
- a performance of live music
- any playing of recorded music
- a performance of dance
- provision of late night refreshment
- the supply of alcohol

## THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity	Day	Time From	Time To
B. Exhibition of films (Indoors)			
	Sunday	9:00am	6:00am
	Monday	9:00am	6:00am
	Tuesday	9:00am	6:00am
	Wednesday	9:00am	6:00am
	Thursday	9:00am	6:00am
	Friday	9:00am	6:00am
	Saturday	9:00am	6:00am
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January.	
Additional Hours		1 Additional hour when British Summertime begins	
C. Indoor sporting event			
	Sunday	9:00am	6:00am
	Monday	9:00am	6:00am
	Tuesday	9:00am	6:00am

# Licensing Act 2003

# Premises Licence Summary SY002366 PR

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity	Day	Time From	Time To	
<b>C. Indoor sporting event continued ...</b>				
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)			
		09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
<b>E. Performance of live music (Indoors)</b>				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)			
		09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
<b>F. Playing of recorded music (Indoors)</b>				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)			
		09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
<b>G. Performance of dance (Indoors)</b>				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	
	Thursday	9:00am	6:00am	
	Friday	9:00am	6:00am	
	Saturday	9:00am	6:00am	
	New Years Eve (31/12)			
		09:00 to 06:00 hours 2nd January		
	Additional Hours			1 Additional hour when British Summertime begins
<b>I. Late night refreshment (Indoors)</b>				
	Sunday	11:00pm	6:00am	
	Monday	11:00pm	6:00am	
	Tuesday	11:00pm	6:00am	
	Wednesday	11:00pm	6:00am	
	Thursday	11:00pm	6:00am	
	Friday	11:00pm	6:00am	
	Saturday	11:00pm	6:00am	
	New Years Eve (31/12)	11:00pm	6:00am	
	Additional Hours			1 Additional hour when British Summertime begins
<b>J. Supply of alcohol for consumption ON and OFF the premises</b>				
	Sunday	9:00am	6:00am	
	Monday	9:00am	6:00am	
	Tuesday	9:00am	6:00am	
	Wednesday	9:00am	6:00am	

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# Licensing Act 2003 Premises Licence Summary SY002366 PR

Issue No: 4

## THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES continued ...

Activity	Day	Time From	Time To
J. Supply of alcohol for consumption ON and OFF the premises continued ...			
	Thursday	9:00am	6:00am
	Friday	9:00am	6:00am
	Saturday	9:00am	6:00am
	New Years Eve (31/12)	09:00 to 06:00 hours 2nd January	
Additional Hours		1 Additional hour when British Summertime begins	

## THE OPENING HOURS OF THE PREMISES

Day	Time From	Time To
Sunday	9:00am	6:15am
Monday	9:00am	6:15am
Tuesday	9:00am	6:15am
Wednesday	9:00am	6:15am
Thursday	9:00am	6:15am
Friday	9:00am	6:15am
Saturday	9:00am	6:15am
New Years Eve (31/12)	09:00 to 06:15 hours 2nd January.	
Additional Hours		
The premises shall close 15 minutes after the terminal hour for licensable activities on the commencement of British Summertime.		

### PLEASE NOTE:

In the event, that the hours permitted on this premises licence differ from those authorised on your planning consent, you MUST ONLY operate to which ever is the most restrictive permission.

Both Licensing and Planning carry out enforcement activities and if you are found to be in breach of either your premises licence and / or your planning consent, it may result in legal action being taken against you.

## WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

- J. Supply of alcohol for consumption ON and OFF the premises

## NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

**Fortuna Events Limited**  
2 Westbrook Court, Sharrowvale Road, Sheffield, S11 8YZ.

## REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

Fortuna Events Limited 10218882

## NAME OF DESIGNATED PREMISES SUPERVISOR WHERE THE PREMISES LICENCE AUTHORISES THE SUPPLY OF ALCOHOL

**Richard Graham DYSON**

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# Licensing Act 2003

Issue No: 4

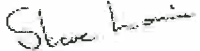
# Premises Licence Summary SY002366 PR

**STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED**

Restricted

**LICENCE DATES**

Licence first effective date: 12 October, 2015  
This premises licence shall be in force from 1 August, 2017  
Issued date of this licence: 2 October, 2017



.....  
Steve Lonnia  
Head of Licensing Services  
On behalf of Sheffield City Council (Issuing licensing authority)

# Appendix C

Hearing Notices / Regulations / Procedures  
Determination notice



## Licensing Sub- Committee Decision

Record of proceedings of Sheffield City Council Licensing Sub-Committee hearing held on 25<sup>th</sup> January 2018

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Full name of Applicant: South Yorkshire Police

Premises Address:

Niche

9-11 Walker Street,

Sheffield,

S3 8GZ

Reason for attendance at Committee

To consider an application for the review of a premises licence made under section 167 of the Licensing Act 2003.

Notice of hearing sent: 15<sup>th</sup> January 2018

Applicant present? Yes

Responsible Authorities present? Yes

Premises Representative present? Yes

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OTHERS PRESENT


Legal Advisor: Samantha Bond

Licensing Officer: Clive Stephenson

Committee Secretary: Jennie Skiba

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<b>Applicant</b>	<b>Premises Representative</b>
Aaron Moss- Counsel for SYP	Leo Charalambides- Counsel for Niche
John Whittaker- Solicitor, SYP	Christopher Grunert- John Gaunt & Partners
	Kate Baxendale- Fortuna Events Ltd.



John O'Malley- Licensing Manager, SYP Ian Armitage- Licensing Officer, SYP DC Katie Clogan, SYP Matt Burdett- City Centre Sergeant, SYP Chief Superintendent Paul McCurry, SYP	(Premises Licence Holder) Richard Dyson- DPS
<b>Other Authorised Persons</b>	
Magdalena Boo- Public Health	


1. Chairman's note of evidence (details of all oral and written evidence put before the Sub-Committee)

- Written report of the Head of Licensing case number 10/18
- Oral representations of Mr Charalambides
- Oral representations of Mr Moss
- Bundle of evidence submitted on behalf of Niche

2. Findings of the Sub-Committee and relevant facts accepted from the evidence available:

- This was a review hearing held under section 167 of the Licensing Act 2003, following a closure order being granted at Sheffield Magistrates' Court on 9<sup>th</sup> January 2018, notice of which was given to the Licensing Authority on 11<sup>th</sup> January 2018.
- The closure order and review application are considered appropriate by the Police in light of incidents which occurred at and/or in relation to the premises known as 'Niche' on 23<sup>rd</sup> December 2017.
- Mr Charalambides initially addressed the Sub-Committee on behalf of the premises as they are not of the opinion that the Police have in fact made 'relevant representations', in light of the (incomplete) review application form relating to s53A (summary review of a premises licence). It was also suggested that they have failed to make the premises fully aware of all the evidence on which they wish to rely, in addition to not having engaged with the premises at all; meetings with the Police have been cancelled and the premises were told "no one would speak to them".
- On this basis and in reference to the s182 Guidance, legislation, case law and Sheffield City Council's Licensing Policy, Mr Charalambides submitted that the Police be excluded from the review process.
- It was stated that the Police have met with other licensed premises which have recently been the site of crime and disorder, and have fully engaged with and supported them. the Sub-Committee heard this has not been the case with Niche, despite previous good working relationships, co-operation and open communication on both sides.
- Mr Charalambides also opposed the Police presenting evidence at the hearing, as none of the parties had had sufficient time to consider it and the premises were in no position in order to be able to provide a response.



- 
- Mr Moss, on behalf of the Police, responded stating that although the form itself may be incorrect, it puts across the relevant points on which the review centres- namely that the premises were the site of a serious crime, which started in the premises, spilled out on to the front and then continued further down the street.
  - Mr Moss submitted that a number of Police Officers were present at the hearing in order to assist him and the Sub-Committee in determining the application for review, as they had specific, technical knowledge in relation to the incidents in question and the ongoing police investigation.
  - Mr Moss also suggested that aspects of the hearing be held in private, due to some of the sensitive material that may be disclosed and therefore potentially prejudicing the ongoing investigation. The CCTV evidence and testimony of Officers may need to be given in private to Members and Officers only as they identify potential perpetrators who may not yet have been interviewed and charged.
  - Mr Charalambides responded that the purpose of the review was not about the criminal proceedings but instead the conduct of the premises and licence holder as a whole. It was suggested that licence reviews are held in the wider public interest of which, in this particular case, there is significant public interest, as was evident at the hearing. He therefore vehemently imposed any evidence being presented without the premises being party to it.
  - Mr Charalambides further submitted that, in terms of the bundle on behalf of Niche, they have included personal/private information, however this has been done in accordance with the Data Protection Act and Information Commissioner's guidance, and do not see why the Police cannot do the same. In terms of professional due diligence and confidentiality, it was strongly disputed that any evidence in respect of the criminal proceedings would be further disclosed, outside the context of the hearings, which Mrs Baxendale and Mr Dyson also agreed.
- 

### 3. Legal advice given

- Advice on the provisions of the Licensing Act 2003 and the Secretary of State's 182 Guidance.
  - Sheffield City Council's Statement of Licensing Policy.
  - Regard was had to the Public Sector Equality Duty as per Section 149 of the Equality Act 2010.
  - Although the form submitted by the Police was incorrect in that it referenced s53A, the legislation states that a review *must* be held once a closure order has been granted by the courts (s167(2)).
  - In line with the s182 guidance, evidence from all parties ought to have been served and circulated within a reasonable time of the hearing being held, with full disclosure on all matters on which they wish to rely.
  - The final determination of the review under s167 must be heard on or before 8<sup>th</sup> February 2018.
  - The premises are the subject of the review and should have the opportunity to be party to and provide a response to all the evidence which has led to a review of the licence being submitted.
  - The bundle submitted by the premises is of significant length and requires full consideration by all parties, including Members and Officers.
-

#### 4. Decision

- To adjourn the hearing and full determination to 8<sup>th</sup> February 2018 in order to allow all parties to share the evidence on which they wish to rely, and for the parties to meet in order to discuss the matters now raised and in contention.
  - The hearing on 8<sup>th</sup> February 2018 will be advertised as being held in public. Submissions will be heard on the day as to whether this applies to the entirety of the hearing and what materials can and cannot be considered in open session. Members will then determine the outcome of this having taken legal advice.
- 

#### 5. Reasons for the decision

- Members considered the issue of 'basic fairness' as raised by Mr Charalambides and felt all parties ought to have the opportunity to hear all the evidence, and provide a response.
  - The Police are considered 'experts' under the Licensing Act in relation to crime and disorder and to exclude them from the review process would be disproportionate and not in the interests of natural justice.
  - Although the form submitted by the Police made reference to an incorrect section of the legislation, the essence of their representations still pertained to the prevention of crime and disorder and prevention of public safety licensing objectives.
  - The Sub-Committee were disappointed that meetings had not taken place prior to the hearing and stressed that the spirit of the Licensing Act is to encourage co-operation and open discussions. Members hoped that before the next hearing, meetings will have been held and information shared between the relevant parties.
  - Members wished to fully read and consider the bundle from the premises, and any future documentation submitted by the Police, in order to make a fully informed decision. It was not considered appropriate or sufficient to only be drawn to the pertinent points.
- 

DATE...25<sup>th</sup> January 2018

Licensing Sub-Committee

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**Notice of hearing to consider an  
application for review of premises  
licence and any relevant representations**

Fortuna Events Limited  
2 Westbrook Court  
Sharrowvale Road  
Sheffield.  
S11 8YZ

Emailed to [Grunert@john-gaunt.co.uk](mailto:Grunert@john-gaunt.co.uk)

The Sheffield City Council being the licensing authority, on the 11<sup>th</sup> January 2018 received an application for the Review of a Premises Licence following a closure order in respect of premise known as Niche 9 – 11 Walker Street Sheffield, S3 8GZ.

The Council now GIVES YOU NOTICE that the review will be considered at a hearing to be held in a meeting room at Sheffield City Council, The Town Hall, Pinstone Street, Sheffield S1 2HH, on **Thursday 8<sup>th</sup> February 2018; at 10.00am** following which the Council will issue a Notice of Determination of the Application for Review. The documents which accompany this notice are the relevant representations which have been made, as defined in Section 52(7) of the Act.

The particular points on which the Council considers that it will want clarification at the hearing from a party are as follows:

- 1) Your response to the application for review, upon which you may ask and be asked questions by the parties to the hearing.
- 2) You may also be asked questions by the parties to the hearing, relating to the application made for review the Premises Licence.

**You should complete form LAR1 and return it to: The Licensing Service, Business Strategy and Regulation, Place Portfolio, Block C, Staniforth Road Depot, Staniforth Road, Sheffield, S9 3HD, within five (5) working days before the day or the first day on which the hearing is to be held.**

Dated: 31<sup>st</sup> January 2018

Signed: Clive Stephenson  
The officer appointed for this purpose

Please address any communications to:  
The Licensing Service  
Business Strategy and Regulation  
Place Portfolio  
Block C, Staniforth Road Depot,  
Staniforth Road,  
Sheffield,  
S9 3HD.  
Email - [LicensingService@sheffield.ov.uk](mailto:LicensingService@sheffield.ov.uk)

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## **Notice of hearing to consider an application for review of premises licence and any relevant representations**

South Yorkshire Police Licensing

Sheffield.liquor-licensing@southyorks.pnn.police.uk

The Sheffield City Council being the licensing authority, on the 11<sup>th</sup> January 2018 received an application for the Review of a Premises Licence following a closure order in respect of premise known as Niche 9 – 11 Walker Street Sheffield, S3 8GZ.

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The Licensing Service  
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Block C, Staniforth Road Depot,  
Staniforth Road,  
Sheffield,  
S9 3HD.  
Email - [LicensingService@sheffield.ov.uk](mailto:LicensingService@sheffield.ov.uk)

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## **Notice of hearing to consider an application for review of premises licence and any relevant representations**

Magda Boo  
Office of the Director of Public Health  
Town Hall  
Sheffield  
S1 2HH

Emailed- [magda.boo@sheffield.gov.uk](mailto:magda.boo@sheffield.gov.uk)

The Sheffield City Council being the licensing authority, on the 11<sup>th</sup> January 2018 received an application for the Review of a Premises Licence following a closure order in respect of premise known as Niche 9 – 11 Walker Street Sheffield, S3 8GZ.

The Council now GIVES YOU NOTICE that the review will be considered at a hearing to be held in a meeting room at Sheffield City Council, The Town Hall, Pinstone Street, Sheffield S1 2HH, on **Thursday 8<sup>th</sup> February 2018**; at 10.00am following which the Council will issue a Notice of Determination of the Application for Review. The documents which accompany this notice are the relevant representations which have been made, as defined in Section 52(7) of the Act.

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Please address any communications to:  
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S9 3HD.  
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**NOTES****Right of attendance, assistance and representation**

15. Subject to regulations 14(2) and 25, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified.

**Representations and supporting information**

16. At the hearing a party shall be entitled to –
- (a) in response to a point upon which the authority has given notice to a party that it will want clarification under regulation 7(1)(d), give further information in support of their application, representations or notice (as applicable),
  - (b) if given permission by the authority, question any other party; and
  - (c) address the authority

**Failure of parties to attend the hearing**

20. – (1) If a party has informed the authority that he does not intend to attend or be represented at a hearing, the hearing may proceed in his absence.
- (2) If a party who has not so indicated fails to attend or be represented at a hearing the authority may:–
- (a) where it considers it to be necessary in the public interest, adjourn the hearing to a specified date, or
  - (b) hold the hearing in the party's absence.
- (3) Where the authority holds the hearing in the absence of a party, the authority shall consider at the hearing the application, representations or notice made by that party.
- (4) Where the authority adjourns the hearing to a specified date it must forthwith notify the parties of the date, time and place to which the hearing has been adjourned.

**Procedure at hearing**

21. Subject to the provisions of the Regulations, the authority shall determine the procedure to be followed at the hearing.
22. At the beginning of the hearing, the authority shall explain to the parties the procedure which it proposes to follow at the hearing and shall consider any request made by a party under regulation 8(2) for permission for another person to appear at the hearing, such permission shall not be unreasonably withheld.
23. A hearing shall take the form of a discussion led by the authority and cross-examination shall not be permitted unless the authority considers that cross-examination is required for it to consider the representations, application or notice as the case may require.
24. The authority must allow the parties an equal maximum period of time in which to exercise their rights provided for at regulation 16.
25. The authority may require any person attending the hearing who in their opinion is behaving in a disruptive manner to leave the hearing and may –
- (a) refuse to permit that person to return, or
  - (b) permit him to return only on such conditions as the authority may specify,
- but such a person may, before the end of the hearing, submit to the authority in writing any information which they would have been entitled to give orally had they not been required to leave.

## Regulation 8

- (1) A party shall give to the authority within the period of time provided for in the following provisions of this regulation a notice stating –
  - (a) whether he intends to attend or be represented at the hearing;
  - (b) whether he considers a hearing to be unnecessary
- (2) In a case where a party wishes any other person (other than the person he intends to represent him at the hearing) to appear at the hearing, the notice referred to in paragraph (1) shall contain a request for permission for such other person to appear at the hearing accompanied by details of the name of that person and a brief description of the point or points on which that person may be able to assist the authority in relation to the application, representations or notice of the party making the request.
- (3) In the case of a hearing under –
  - (a) section 48(3)(a) (cancellation of interim authority notice following police objection), or
  - (b) section 105(2)(a) (counter notice following police objection to temporary event notice),

the party shall give the notice no later than one working day before the day or the first day on which the hearing is to be held.

- (4) In the case of a hearing under –
  - (a) section 167(5)(a) (review of premises licence following closure order),
  - (b) paragraph 4(3)(a) of Schedule 8 (determination of application for conversion of existing licence), paragraph 16(3)(a) of Schedule 8 (determination of application for conversion of existing club certificate)
  - (c) paragraph 26(3)(a) of Schedule 8 (determination of application by holder of justices' licence for grant of personal licence),

the party shall give the notice no later than two working days before the day or the first day on which the hearing is to be held.

- (5) In any other case, the party shall give the notice no later than five working days before the day or the first day on which the hearing is to be held.

**This procedure has been drawn up in accordance with the Licensing Act 2003 to assist those parties attending Licensing Committee hearings.**

1. The hearing before the Council is Quasi Judicial.
  2. The Chair of the Licensing Committee will introduce the Committee and ask officers to introduce themselves.
  3. The Chair will ask the applicants and other parties to formally introduce themselves.
  4. The Solicitor to the Committee will outline the procedure to be followed at the hearing.
  5. Hearing Procedure:-
    - (a) The Licensing Officer will introduce the report.
    - (b) Questions concerning the report can be asked by Members the applicant and other parties.
    - (c) The Licensing Officer will introduce the applicant for review (or his/her nominated representative) who will be asked to detail the application.
    - (d) Members may ask questions.
    - (e) The Licensing Officer will in turn introduce representatives for the other Responsible Authorities and Interested parties who will be asked to detail their relevant representations
    - (f) Members may ask questions
    - (g) With the leave of the Chair the licensee or his representative may cross examine the representatives of the applicant for review and the other Responsible Authorities and Interested Parties.
    - (h) The licensee (or his/her nominated representative) will then be asked to respond to the application and to any other representations made.
    - (i) The licensee (or his/her nominated representative) may then be asked questions by members and with the leave of the Chair from the other parties present.
    - (j) The applicant will then be given the opportunity to sum up the application.
    - (k) The representatives of the Responsible Authorities will be given the opportunity to sum up
    - (l) The licensee will be given the opportunity to sum up
    - (m) The Licensing Officer will then detail the options.
    - (n) There will then be a private session for members to take legal advice and consider the application.
  6. The decision of the Licensing Committee will be given in accordance with the requirements of the Licensing Act 2003 and regulations made there under.
- NB:
- 1) At any time in the Licensing Process Members of the Committee may request legal advice from the Solicitor to the Committee. This advice may be given in open session or in private.
  - 2) The Board Hearing will be held in public unless and in accordance with the Regulations the Committee determine that the public should be excluded.