

**BRIGHTON & HOVE CITY COUNCIL**  
**LICENSING PANEL (LICENSING ACT 2003 FUNCTIONS)**

**10.00am 1 MAY 2015**

**COMMITTEE ROOM 3, BRIGHTON TOWN HALL**

**MINUTES**

**Present:** Councillor ; Hyde, Lepper and Simson

**Officers:**

**PART ONE**

**54 TO APPOINT A CHAIR FOR THE MEETING**

Councillor Simson was appointed Chair for the meeting.

**55 PROCEDURAL BUSINESS**

**55a Declaration of Substitutes**

55.1 There were none.

**55b Declarations of Interest**

55.2 There were none.

**55c Exclusion of the Press and Public**

55.3 In accordance with section 100A of the Local Government Act 1972 ('the Act'), the Licensing Panel considered whether the press and public should be excluded from the meeting during an item of business on the grounds that it was likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press or public were present during that item, there would be disclosure to them of confidential information (as defined in section 100A(3) of the Act) or exempt information (as defined in section 100I of the Act).

**55.4 RESOLVED** - That the press and public be not excluded from the meeting during consideration of Item 56 onwards.

**56 PREMISES LICENCE REVIEW, OXYGEN, 75 WEST STREET, BRIGHTON**

56.2 The Panel considered a report of the Director of Public Health in relation to a request for a review of the premises licence for Oxygen, 75 West Street, Brighton. In attendance

were Peter Saville (Barrister, Sussex Police), Jean Irving (Sussex Police), Sergeant Ben Hearth (Sussex Police), Lara Stockham (Sussex Police), Jim Whitelegg (Licensing), Sarah Cornell (Licensing), Alun Cance (Environmental Health), Donna Lynsdale (Trading Standards), Andy Grimsey (Solicitor, Licence Holder), Saeid Zargham (Licence Holder) and Ed McCrea Steele (General Manager, Oxygen).

- 56.3 The Chair began the hearing by ensuring that all present had a copy of all the relevant paperwork, which was: the main agenda, appendix F to the report (which was distributed after the main agenda), a bundle of papers provided by the Licence Holder, a letter from Chief Superintendent N Kemp (Sussex Police) together with two officer statements and Facebook and Twitter screenshots submitted by Sussex Police. All parties present confirmed they had had sight of the papers.

#### **Introduction from Licensing Officer**

- 56.4 The Senior Environmental Health Officer, Jim Whitelegg, introduced the matter and stated that this hearing was for a review of the Premises Licence for Oxygen, 75 West Street, Brighton. The Licence was granted in 2007 with a Café/Bar condition and no Regulated Entertainment. The premises were located towards the bottom of West Street on the eastern side which was within our Cumulative Impact Zone (CIZ). The Police called for this review (16<sup>th</sup> March 2015) of the premises licence on the bases that the Licensing Objectives of the Prevention of Crime and Disorder, the Prevention of Public Nuisance, and the Protection of Children from Harm had been seriously undermined following a failed test purchase, incidents of crime and disorder and failures by management to promote the Licensing Objectives. Three representations had been received from the Licensing Authority, Trading Standards and the Environmental Protection Team supporting the review application on the grounds of all four of the Licensing Objectives. The review application was asking for suspension of the licence for a period of three months, reduction of hours and modification of conditions. In addition to the published agenda, an evidence bundle was received from the Licence Holder's solicitors, Popplestone Allen on Tuesday 28 April 2015 which was immediately emailed to Democratic Services and the Relevant Authorities. These papers included the Premises Licence Holder's responses to the Conditions requested by the Police. On the 29 April 2015 the Police emailed two Officer Statements in response to one of the points raised and these were subsequently emailed to the relevant parties, then on the 30 April 2015 the Police submitted some Facebook screenshots of inside the venue which were also circulated.

The Premises Licence Holder (PLH) and Designated Premises Supervisor is Saeid Zargham. The premises licence was issued to Mr Zargham as the Premises Licence Holder in January 2007.

The current licence allows:

- Alcohol – 9am – 3am
- Late Night Refreshment – 11pm – 3am
- Opening hours 9am – 3.30am

There was a previous review hearing 19 February 2009 following a failed test purchase. The Panel at that hearing suspended the licence for one week, removed the Designated Premises Supervisor and added conditions.

Reference was also made to irresponsible drinks promotions within the Police's review application. The Home Office s182 Licensing Act 2003 states that an irresponsible promotion is one that fits one of the descriptions below (or substantially similar), is carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises. The aim of the condition is to prohibit or restrict promotions which encourage people to drink more than they might ordinarily do and in a manner which undermines the licensing objectives, e.g. Drinking games, Irresponsible promotions can include activities, whether drinking games or not, which may require or encourage individuals to drink a quantity of alcohol within a time limit, or drink as much alcohol as possible within a time limit or otherwise. For example, this may include organised 'drink downing' competitions. This would not prevent the responsible person from requiring all drinks to be consumed or abandoned at, or before, the closing time of the premises. Nor does it necessarily prohibit 'happy hours' as long as these were not designed to encourage individuals to drink excessively or rapidly.

S182 Guidance on Reviews advises that:

Where the licensing authority considers that action under its statutory powers is necessary it can take the following steps:

- Modification of licence conditions – adding, modifying or removing conditions
- Exclusion of a licensable activity – this could include limiting hours or activities in all or part of the premises
- Removal of a designated premises supervisor
- Suspension of the licence for a period not exceeding 3 months
- Revocation of the licence
- Or do nothing

11.20 In deciding which of these powers to invoke, it is expected that licensing authorities should so far as possible seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken should generally be directed at these causes and should always be no more than an appropriate and proportionate response.

11.21 For example, licensing authorities should be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

11.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

The Council's Licensing Enforcement Policy has adopted the approach set out by the Home Office and DCMS document entitled "Problem Premises on Probation - Red and Yellow Cards; How it would work". This is highlighted in Appendix F (Annex A & B) of today's report. - The document sets out to encourage partnership working in identifying problem premises and lists steps to be taken in first and second intervention measures together with a list of possible tough conditions. First intervention maybe suspension with conditions (yellow card) and second intervention would look to revoke a licence (red

card). The Guidance makes it clear that proposed interventions would not prevent the giving of an instant red card in an appropriately serious case. In these circumstances it would be a straight red leading to a withdrawal of the licence.

- 56.5 The Chair asked if there were any points of clarification for the Licensing Officer but there were none.

### **Representations**

- 56.6 Mr Saville, Sergeant Hearth and Ms Irving set out the representations for the Police. Mr Saville stated that when the licence was first granted it was for a Café/Bar but it had become a vertical drinking establishment. There had been a review in 2009 following three failed test purchases. An agreement was then reached for a new approach to be employed by the premises, but once again it was found that those under 18 were still being served. The Police had provided a list of incidents which showed excessive drunkenness by customers, breaches of the Conditions of the Licence and irresponsible drinks promotions, which had placed a disproportionate drain on police resources. A meeting was held on 18 December 2014 with Sergeant Hearth and Ms C Abdelkader from Sussex Police and Mr S Zargham and Mr D Croft (General Manager) from Oxygen to address the areas of concern. Following the meeting an action plan was provided from Mr Croft to address the issues raised. On 1 January 2015 the police visited the premises and noted four persons were being served in the area of the bar defined as waiter/waitress service under Condition 1 of the licence. This was raised with Mr Croft who stated that he had not informed his staff that customers should not be served there despite that matter being raised at the meeting in December. Customers were still getting excessively drunk and irresponsible drinks promotions being held. As of yesterday, the week of this hearing, the premises Facebook page still showed drinks promotions stating the more you drank the cheaper the drinks would be. This was a very serious case.
- 56.7 Sergeant Hearth said that there had been many incidents of excessive alcohol which had led to cases of assault and crime. People acted differently after drinking too much, which resulted not only in police time being taken to investigate but a possible criminal record for those involved. The police had met with the Licence Holder twice in the last twelve months to discuss the areas of concerns, in particular their concern over drinks promotions and the resulting levels of intoxication. It was suggested by the police that Vulnerability training be provided. There had been an incident in December 2014 where a young female, who had been drinking heavily, had left the premises on her own and then decided to walk home where she was subjected to a serious sexual assault. Her leaving the premises had been witnessed by door staff but they had not intervened. The Police met with the DPS and the General Manager to discuss the areas of concern and an action plan had been agreed. However, there continued to be serious incidents and in February 2015 there were two failed Test Purchases at the premises.
- 56.8 Ms J Irving said that it was the first time she had known a premises to have failed five Test Purchases. The names of the drinks were a great concern and she believed that they could amount to a Section 5 offence, causing 'alarm and distress'. The premises Facebook was still, as of yesterday, promoting drunkenness with a drinks promotion stating 'the more you drink the cheaper it is'. Ms Irving said that she did not believe

those running the premises would change the way they operated, and she was at a loss as to why they thought it was appropriate in a lovely seaside town.

- 56.9 The Chair asked if there were questions for the Police.
- 56.10 Councillor Hyde asked, for clarification, whether it was an offence to sell alcohol to someone who appeared to be drunk and incapable and was advised it was.
- 56.11 Councillor Lepper noted the licence was for a Café/Bar and asked if food was available, and what food the Police had seen being provided. Sergeant Hearth said that no food had been seen at the premises.
- 56.12 The Chair asked if the layout of the premises was sufficient to comply with the Café/Bar Conditions. Ms Irving said that the plan for the licence showed more tables and chairs than were actually there, and it in her view the layout would not allow for the Conditions to be met. Sergeant Hearth said he felt it would be difficult to comply.
- 56.13 The Chair said she was surprised there had not been a request for revocation of the Licence. Ms Irving said that that option had been seriously considered, but it had not been requested as she did not want to see a boarded up premises but in view of the management not taken the areas of concern seriously, she now felt that the decision not to request a revocation was a mistake.
- 56.14 The Chair noted the request to close the premises earlier, but suggested that rapid drinking could happen at any time and closing the premises earlier would only bring the problems forward. Ms Irving said that the premises generally got busier later in the night and so didn't think that would happen.
- 56.15 The Chair asked whether, if the Conditions were varied, the Police would have confidence that they would be met. Ms Irving said that the Police no longer would.
- 56.16 Mr A Grimsey, solicitor for the Licence Holder, referred to the Condition that allowed for the sale of intoxicating liquor to those not seated in 25% of the inside area and asked if the Police agreed that the premises had complied with that Condition. Sergeant Hearth said that the photographs provided showed people standing at the bar which covered more than 25%. The solicitor said that Fire Safety allowed for three people per m<sup>2</sup> drinking at the bar and four people per m<sup>2</sup> drinking away from the bar. The size of the premises was 79m<sup>2</sup>, so 25% of that would be 19m<sup>2</sup> which would equate to 57 people being allowed to drink at the bar. He asked the Police if they had seen more than 57 people drinking at the bar. Sergeant Hearth said the premises looked busy, but he was unsure of the numbers. The solicitor referred to the Vulnerability training and asked if that was new. Sergeant Hearth said that it was and would be rolled out over the next few weeks. The solicitor asked if the police had seen changes to the levels of intoxication over the last few weeks and Sergeant Hearth confirmed he was not aware of any recent incidents. The solicitor asked if the Condition that the outside area closed at 20.00 had ever been breached and was advised that the police were not aware that it had.
- 56.17 Ms Cornell set out the Representation of the Licensing Authority, stating that the Authority supported the request made by the Police to review the Premises Licence on

the grounds of Prevention of Crime and Disorder, Public Safety and Protection of Children from Harm. Ms Cornell referred to her letter to the Head of Regulatory Services dated 7 April 2015 which fully set out the concerns. The premises had had many visits from the Authority and advice had been given which had not been adhered to, and there was concern over the high turnover of managers at the premises. The Authority would support the suspension and modification of the Licence.

56.18 The Chair asked if there were questions for the Authority but there were none.

56.19 Ms Lynsdale set out the Representations of Trading Standards, and referred to the letter from Ms J Player to Environmental Health, Brighton & Hove City Council, dated 1 April 2015 which set out the concerns of Trading Standards. Trading Standards supported the Police's request for a review of the Premises Licence.

56.20 The Chair asked if when the current training had been provided, there had been any staff in attendance that had previously undertaken the training and was advised there weren't; all the staff were new. There were no further questions.

56.21 Mr A Cance set out the Representations of Environmental Health and referred to his letter to the Licensing Team dated 14 April 2015 which explained his concerns. He said that since writing the letter the Licence Holder had expressed agreement to a noise limiter being used.

56.22 The Chair referred to his letter and asked why the penultimate paragraph said that an AVC would be set at an approved level *'if requested'*. Mr Cance said that allowed Environmental Health the freedom to say that wanted to visit a premises to set the noise limiter. There were no further questions.

56.23 Mr A Grimsey (Solicitor) spoke on behalf of the Licence Holder. He said the he would not try to defend the indefensible, and accepted there had been serious breaches of the Conditions of the Licence. However, to suspend the licence for three months would extinguish the business, as would a change to the Licence to amend the closing time to midnight. If the Licence was changed to not allow any vertical drinking it would reduce the number of patrons by 40% which would not be sustainable. It was important that Mr Zargham convince you that he understands the Licensing law and the steps which must be taken to ensure the Licensing Objectives were met and the conditions of the licence adhered to.

56.24 Mr Zargham spoke and said that he had taken his eyes off the ball and left his managers to run the bar. He said he understood that mistakes had been made and he would do all he could to ensure the breaches of the Conditions of the Licence and the Licensing Objectives would not happen again. He said that if the license was suspended for three months he would go bankrupt which showed how important the business was to him. He said he had taken the following steps:

- An ID Scanner would be used for all customers, and if someone was 40 plus years old and didn't carry ID they would have their picture taken before they could enter the premises.
- Training for all staff. ID training was being carried out next week, and three members of staff were undertaking Personal Licence training. His new General Manager would be undertaking DPS training.

- CCTV had been improved and was now HD with footage being stored for 35-40 days. An alarm would be fitted to the system to alert the supplier if there were any technical problems with the equipment.
- ID training for all staff would be held every 3-6 months.
- Environmental Health had informed him there had been problems with noise from the premises and he had agreed to reduce the level of the Limiter.
- A new food menu was being devised which would be available every day until 10pm and thereafter pizza would be available.

Mr Zargham said that he would give 100% to the bar to ensure all the Licensing Objectives were met. Mr Zargham said that he had received advice from the police and the council and was sorry that he had not heeded that advice. He said that he had relied on his managers and that had been wrong. The solicitor asked his client how long he'd been a Licensee in Brighton and was advised it was 27 years. The solicitor noted that there had been a number of managers in 2014 and asked if that had been a difficult year. Mr Zargham said that prior to 2014 he had had the same manager for five years, but in 2014 he had had two to three managers. The current manager had previously been the assistant manager and understood the Licensing Objectives. With regard to the failed test purchases, the solicitor said that whether those involved were known to the door staff was not an excuse which Mr Zargham agreed with. Mr Zargham said that since the test purchase the door staff had been changed. The premises would have a manager and assistant manager at all times and they would ensure that the door staff were doing their job correctly, and would check the premises every 10 minutes to ensure no one was drunk.

56.25 Mr E McCrea Steele, the current General Manager, spoke and said that he had worked at the premises since February 2015 and had been the General Manager for the last three to four weeks. He had an action plan of things he wanted to put in place:

- He had arranged Vulnerability training for 26 June 2015.
- He understood that his duty of care extended past the front door and he would ensure treatment of vulnerable people was a priority.
- He would undertake regular checks on door staff to ensure they were properly scanning all those who visited the premises. In addition he would make regular checks within the venue every 15 minutes.
- Training sessions for staff would be held every four weeks to ensure everyone knew their role and their duty of care
- A new food menu was being devised, to include such things as fish and chips, calamari and chips, nachos etc
- A new chef had been appointed and he wanted people to know that it was primarily a food establishment, with food being served in the outside area
- He wanted to open the premises earlier to encourage people to come into eat
- There would be a separate late night menu serving pizza after 10pm
- The CCTV had been improved and now stored footage for 35 days. If there were any incident in the premises the footage would be logged.
- There would be a CCTV by the front door to view door staff
- A new ID scanner had been installed, and if anyone looked over 30 and didn't have ID their name and a photo would be taken
- There would be a checklist of things to do each day

- The names of the irresponsible drinks such as 'Woody's' would be changed and the establishment would focus on cocktails and wine to encourage less binge drinking
- There would be a zero policy on drugs.
- There would be a list of who was in charge, so all staff would know who to report to
- Social media would be monitored every day and anything irresponsible would be removed.

The solicitor asked Mr McCrea Steele if the Wolf of West Street promotion would remain, and he said that that had been introduced by the previous manager and he had no intention of using it. The solicitor asked Mr McCrea Steele what the average ABV of the shots was and was advised it was an average of 21.

56.26 The Chair if there were any questions for the Licence Holder.

56.27 Councillor Lepper asked if Mr Zargham acknowledged the reputation the premises had as a 'shot bar', and asked how the changes to the establishment would be promoted. Mr McCrea Steele replied and said that he hoped that by opening earlier, at 5pm, it would change the atmosphere and draw in a different clientele.

56.28 Councillor Hyde noted Mr Zargham had been a Licensee for 27 years and had said he took the Licensing Objectives seriously but the CCTV was not working, police advice had been ignored, there had been under age drinking, no food served and no concern for customer vulnerability etc and so although the venue would no longer be a 'shot' venue and serve food, she was still concerned that the Licensing Objectives would not be met and that the intention was to sell as much alcohol as possible regardless of the outcome. Mr Zargham said he apologised for what had happened; the manager had not done their job and the advertising was wrong. He added that it was 'shot-tail' bar rather than just a 'shot' bar. He said that he had been a licence holder for 27 years; he had six children and could not afford to make mistakes. The new manager was very good and had showed him he would be able to do the job well. He said that they now had a new ID scanner which monitored the number of people entering the premises and from that they could see that the current average spend was £6.50 to £8 per person.

56.29 The Chair asked Mr Zargham if this was his only establishment. He said he had had others, but this was the only one he currently had.

56.29 The Chair asked who managed the social media and why the promotions which had caused concern were, as of yesterday, still available. Mr McCrea Steele said that an external promoter was used, and had been busy getting the action plan in place and he hadn't realised what was on Facebook and Twitter.

56.30 The Chair asked why the original application for a Licence stated the premises would be a café/bar when it was a shot-tail bar. Mr Zargham said the premises just had a shot-tail menu.

56.31 The Chair noted there was a range of prices for the drinks and asked what the highest ABV was. Mr Zargham said it would be 38.

- 56.32 The Chair noted that Mr Zargham had said that the business could not survive if there was no vertical drinking, but the current Licence only allowed for 25% of the premises to be used for drinking whilst not seated. The solicitor said that that equated to 19m<sup>2</sup> which was space for 57 people. The Chair noted that that 25% was for people to stand and have a drink whilst waiting to be seated. The solicitor suggested that the wording could interpret in different ways.
- 56.33 The Chair noted that measures had been put in place to check peoples ID when they entered the premises, but asked how Mr Zargham would ensure that once people were inside the premises they would not drink excessively. He said that customers would be monitored.
- 56.34 Mr Saville asked who was responsible for Facebook and Twitter and was advised it was an external promoter. Mr Saville asked how long that promoter had been used and Mr McCrae Steele said it was three to four weeks. Mr Saville noted that some of the comments on Twitter which came from the premises had been made on Sunday 26 April 2015 and asked if the promoter worked on a Sunday. Mr McCrae Steele said they did. Mr McCrae Steele added that he had spoken to the promoter last night and told them not to put any more comments on social media.
- 56.35 Mr Saville asked when the decision had been taken to change the emphasis to providing food at the premises. Mr McCrae Steele said that it was since he had become General Manager. Mr Saville noted that the web page had no food menu and did not give the indication that the establishment was food-led. Mr McCrae Steele said he was working with a chef now to decide on a menu and to agree when the chef could start.
- 56.36 Mr Saville referred to the papers submitted by the Licence Holder and Training Schedule for Staff Members for the period April to June 2015 and asked why it was only being undertaken now despite meetings with police in July and December 2014. Mr Zargham said it took a while to arrange the training. Mr Saville asked if any training was undertaken between December 2014 and February 2015. Mr Zargham said it had and was conducted by the previous General Manager Mr D Croft; he had sat in on the training.
- 56.37 Ms Irving asked if the premises still employed a promoter, and Mr McCrae Steele said they did. Ms Irving asked why a café/bar would need a promoter, and was advised it was to promote the food menu and to get the message out that food was available.
- 56.38 Ms Cornell noted that Mr Zargham said he would be more involved with the running of the business and asked how that would be done. Mr Zargham said that he would now be working in the premises all the time rather than leaving everything to the manager.
- 56.39 Councillor Hyde referred to Mr Zargham's comment that the average spend was £6.50 to £8.00 per head which she questioned as that would only equate to around three shots which would be around 75ml per person. Mr McCrae Steele said that the new ID recorded the number of people in the venue and they divided that by the amount taken in sales.
- 56.40 The Chair asked how many people could be seated in the premises and was advised there were 80 seats. She referred back to number of vertical drinkers in the premises,

and whilst accepting that the Condition could be more tightly worded, was surprised that if there were 80 people already eating that the establishment would allow 57 people to be waiting to be seated. Mr Zargham said he would be increasing the seating area which would reduce the area for waiting to be seated to 16m<sup>2</sup>.

56.41 The Chair suggested that if the premises were going to change its focus to a food led establishment that it might be easier to close for a while and then re-open. Mr Zargham said he could not afford to close the establishment.

### Summaries

56.42 The Licensing Officer said that the proceedings set out in the 2003 Act for reviewing premises licences and club premises certificates, represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate. Where the licensing authority considered that action under its statutory powers was necessary it could take the following steps:

- Modification of licence conditions – adding, modifying or removing conditions
- Exclusion of a licensable activity – this could include limiting hours or activities in all or part of the premises
- Removal of a designated premises supervisor
- Suspension of the licence for a period not exceeding 3 months
- Revocation of the licence
- Or do nothing

Where responsible authorities such as the police or environmental health officers had already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, Licensing Authorities should take this into account when considering what action was appropriate.

Licensing Authorities should also note that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate means of promoting the Licensing Objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it would always be important that any detrimental financial impact that may result from a licensing authority's decision was appropriate and proportionate to the promotion of the Licensing Objectives. But where premises were found to be trading irresponsibly, the Licensing Authority should not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures were deemed insufficient, to revoke the licence.

56.43 Mr Saville said that the evidence presented showed long standing and persistent undermining of the Licensing Objectives. In 2009 the Licence was reviewed following three failed test purchases, which led to the licence being suspended. In 2014 the Police raised concerns over the way the premises was being run and met with Mr Zargham and the manager of the premises to address the areas of concern, but earlier this year there

were a further two failed test purchases. As of yesterday there were still irresponsible drinks promotions on both Facebook and Twitter. The Police were now asking for the licence to be suspended. The argument put forward today against possible suspension was financial but that was no answer to the persistent failings.

56.44 Ms Cornell said that there had been a history of undermining the Licensing Objectives despite advice being offered. The Licensing Authority supported the Police's request for a review.

56.45 Ms Lynsdale and Mr Cance said they had nothing further to add.

56.46 Mr Grimsey said that, following the Chair's comments, Mr Zargham would agree to close for one month. He disputed that there had been a pattern of bad behaviour at the premises, but accepted that there had been two dips but said that Mr Zargham had not been 'sticking two fingers' up to the Authority since 2009. There had been a high turnover of managers at the premises, but the irony was the better the staff were the more likely they were to leave. He said that he did not agree that the Condition to allow 25% of the premises to be used for drinking whilst not seated had been breached. The conditions the police had suggested were too onerous. Mr Zargham had agreed to install an ID scanner and a breathalyser. The premises could trade more as a Café/Bar with more emphasis on being a bar in the evening, but closing at midnight would be difficult. Mr Zargham said that he would no longer rely on his manager and would be more involved in the business.

56.47 At 12.15pm the Panel withdrew to make their decision and reconvened at 1.35pm.

56.48 **RESOLVED:** The Panel's decision was as follows:

The panel have considered this application for review, the relevant representations and submissions made at this hearing.

The review was brought by Sussex Police on the basis of Prevention of Crime and Disorder, Protection of Children from Harm and Public Safety. Supporting representations were received from the Licensing Authority, Trading Standards and Environmental Health concerning all four Licensing Objectives.

The panel accepts the Police's evidence of the serious incidents that have occurred. These include, the sale of alcohol to minors, irresponsible drinks promotions including drinking games, resulting in extreme intoxication, no apparent duty of care for vulnerable customers which on one occasion lead to a serious sexual assault and incidents of Actual Bodily Harm. The police also have concerns relating to the wording on promotional materials and the panel share these concerns.

There have also been a number of breaches of the premises licence that have not been rectified despite numerous interventions by Sussex Police and the Local Authority. We have been told that the Responsible Authorities present have worked with and have offered advice to the management of Oxygen over a period of time following the first review, but in spite of assurances given by the management they have failed to address the breaches in the licensing conditions and to uphold the licensing objectives.

The panel must take statutory steps under the Licensing Act in response to the review to promote the licensing objectives. The panel have considered all the options available to them.

In terms of conditions or exclusion of licensing activities, the panel consider removal of the DPS is not appropriate as he is also the PLH.

In terms of suspension of the licence the panel has considered this but has no confidence that following a period of suspension the management would improve given the past history of failures.

The panel does not have confidence in the PLH also the DPS who by his own admission has been a licence holder for 27 years. We would expect that such a long standing licensee would have a much greater understanding of the Licensing Act and the Licensing Objectives.

We did consider changing conditions on the licence but excluded this because of the management's inability to adhere to the existing conditions.

Taking into account what has clearly been extremely bad management practice by the Premise Licence Holder, the panel has no other option but to revoke the licence as a necessary and proportionate response to this review.

56.16 The Panel solicitor reminded the applicant of his appeal rights to the Magistrates Court under the Licensing Act and that appeals must be made within 21 days of written notification of the decision given at the meeting.

The meeting concluded at 12.50pm

Signed

Chairman

Dated this

day of