

**THE COMMISSIONER OF POLICE FOR THE METROPOLIS**

**Applicant**

**And**

**MCGETTIGANS LTD**

**Respondent**

*References to page y of Witness Statement of Nicole Sondh of 18 September 2024 - SWS/y*

**Introduction**

1. This is the Applicant's skeleton argument for the summary review hearing of the premises license for McGettigans, 1 Fulham Broadway, Fulham SW6 1AA.
2. The Applicant originally sought revocation of the premises license in its witness statement dated 18 September 2024 by PC Nicole Sondh. However, following collaboration and proposed changes agreed between the parties, the Applicant now seeks a two-week suspension of the license to allow those changes to be implemented.

**Facts**

*The incident*

3. On 31 August 2024, during a private party at the premises McGettigans, an altercation occurred, in which a female was hit on the head, causing a large lump to form on her forehead. Fifteen minutes later, the same female suffered a seizure; **SWS/2**.
4. The police were called following the fight at 23:34. However, it was relayed to them that a minor altercation had occurred and was not related to the women who had a seizure; **SWS/2**.
5. The woman was attended to by the Local Ambulance Service ("LAS"), who later transported her to St Mary's Hospital for further treatment; **SWS/2**.
6. Police were called back to the premises a short time later by LAS, who believed that the women had been assaulted prior to the seizure; **SWS/3**.

7. Officers then re-attended the scene. It was confirmed to them by the security staff that the female had been hit by something other than a fist, perhaps a bottle, and that she had “definitely been assaulted;” **SWS/3**. When the police arrived, witnesses were not forthcoming, and suspects had not been identified nor detained by the staff at the premises.
8. The CCTV provided by the premises does not show the assault specifically, however, it does depict a large coming together of people, which was clearly more than minor as originally described by the door staff.

*The premises response*

9. On 2 September 2024, a Post Incident Report was sent to Deborah Gomes, the then designated premises supervisor (“**DPS**”), with a request that she detail her knowledge of the incident and the corresponding actions taken by the staff.
10. The police found the contents of the returned report unsatisfactory. There was no mention of the altercation that had taken place. Instead, the report discussed the medical treatment the female received. Ms Gomes also presumed that the investigation was closed, when it was in fact ongoing.
11. Police also checked the police indices in relation to the incident at the premises. Disappointingly and alarmingly, no call was received by the premises in relation to the incident; **SWS/3-4**.
12. Police further came across two incidents at the premises that raised concerns:
  - a. CAD 711/27JAN24 – a call was received at 02:08 by a member of staff at McGettigans stating that parties were arguing at premises with potential for escalation. However, whilst on the call security requested to cancel police assistance as the situation was now under control. However, a call was made only 11 minutes later...
  - b. CAD 737/27JAN24 – a call was received at 02:19 by member of the public stating that there was a fight in the street and that the staff had lost control. When the police attended no allegations were made and the two females suspected of fighting were no longer on the scene; **SWS/4**.

*Meeting with DPS and Donal O'Doherty on 4 September 2024*

13. Prior to the meeting on 4 September, the police became aware that the incident had actually occurred outside the hours of licensable activity; **SWS/5**.
14. During the meeting, the then DPS, Deborah Gomes, consistently displayed a misapprehension of the events that took place on 2 September 2024 and the inadequacy of the premise's response. For example:
  - a. She appeared to be under the misapprehension that no fight had occurred.
  - b. She held that the victim's seizure had occurred due to her epilepsy.
  - c. She could provide no answer as to why police were not informed of the assault at their first attendance at the premises, and why the security staff had treated the two incidents as separate; **SWS/6**.
15. Upon review of the premises logbook, required to be kept pursuant to condition 29 of the premises license, the police noticed further instances that had not properly been reported. In May 2024, there was an entry relating to a sexual assault of a female, whereby she had been grabbed and groped outside the premises by a male who was then allowed inside the premises to buy her a drink. The police were not called nor notified and when the Ms Gomes was asked about the incident, she could provide no recollection; **SWS/7-8**.

*Progress following meeting of 4 September<sup>1</sup>*

16. The police had a meeting with the premises on 19 September 2024, in which the evidence to support the alleged assault was explained and that the police would be seeking a revocation of the license.
17. In an email dated 25 September, McGettigans confirmed that the management of the premises needed to be reviewed and that they were seeking the employment of an experienced candidate to take over the role of the DPS. They further confirmed that the CCTV system would be undergoing an upgrade to include further cameras.

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<sup>1</sup> See also Witness Statement PC Sondh of 30 September 2024.

18. In response, the Police proposed that the present conditions 27 and 28 in the premises license be replaced with the following:

*“1. High Definition CCTV shall be installed, operated and maintained, at all times that the premises are open for licensable activities and;*

- shall be checked every two weeks to ensure that the system is working properly and that the date and time are correct. A record of these checks, showing the date and name of the person checking, shall be kept and made available to Police or authorised Council officers on request*
- one camera will show a close-up of the entrance to the premises, to capture a clear, full length image of anyone entering.*
- shall cover any internal or external area of the premises where licensable activities take place.*
- recordings shall be in real time and stored for a minimum period of 31 days with date and time stamping.*
- footage shall be provided free of charge to Police or authorised council officer within 24 hours of a request.*
- a staff member from the premises that is conversant with the operation of the CCTV system shall be on the premises at all times. This staff member will be able to show police or authorised officers of the Licensing Authority recent data footage with the minimum of delay when requested. This data or footage reproduction shall be almost instantaneous.”*

19. Further, the present condition 29 be replaced with:

*“2. A daily incident log shall be kept at the Premises and made available on request to an authorised officer of the Council or the Police or the Fire Service which shall record the following:*

- (a) all crimes reported to the venue*
- (b) all ejection of patrons*
- (c) any complaints received*
- (d) any incidents of disorder*
- (e) seizures of drugs or offensive weapons*

- (f) any faults in the CCTV system*
- (g) any refusal of the sale of alcohol*
- (h) any visit by a relevant authority or emergency service.”*

*3. The incident record shall be kept on the premises and be available for inspection by the police or an authorised officer of the Licensing Authority at all times the premises is open.*

*4. Where SIA registered door supervisors are used at the premises, a record shall be kept of their SIA registration number and the dates and times when they are on duty.*

*5. All door supervisors shall be provided with a radio which allows communication between all members of the door supervisor team and the premises manager.*

*6. All door supervisors shall be provided with body worn cameras, these must be activated when dealing with any incidents involving disorder or allegations of crime.*

*7. All staff shall be trained in how to manage a crime scene and crime scene preservation. This training shall be repeated at least once a year and written records of the training kept on the premise and made available to Police and authorised officers of the Licensing Authority on request.*

*8. The premises shall operate a ‘Challenge 25’ age-restricted sales policy and promote it through the prominent display of posters.*

*9. The licence holder shall put arrangements in place to ensure that before serving alcohol or other age-restricted goods to customers they believe to be less than 25 years of age, staff ask to see accredited proof of age: that is, proof of age cards carrying the ‘PASS’ logo (and no others), a Passport, or UK Driving Licence bearing the photograph and date of birth of the customer.*

*10. The Premises shall have a policy to ensure the welfare and safeguarding of vulnerable patrons. Staff shall be able to support and assist people who feel unsafe, vulnerable or threatened. Should customers approach the venue for assistance, these incidents shall be recorded in the incident log. This policy shall be made available to police or authorised officers of the Licensing Authority upon request.*

*11. In the event that a serious assault is committed on the premises (or appears to have been committed) the management will immediately ensure that:*

- (a) The police (and, where appropriate, the London Ambulance Service) are called without delay;*
- (b) All measures that are reasonably practicable are taken to apprehend any suspects pending the arrival of the police;*
- (c) The crime scene is preserved so as to enable a full forensic investigation to be carried out by the police; and*
- (d) Such other measures are taken (as appropriate) to fully protect the safety of all persons present on the premises.*

*12. A Log shall be kept of all the private events held at the premises, including contact details of the event organiser. This log shall be kept on the premises at all times and made available on request to the Police and officers of the Licensing Authority upon request.*

*13. Ms Deborah GOMES is not to be employed in any capacity on or at the premises or involved in the management or ownership of the premises either directly or indirectly.”*

20. On Monday 30 September, the premises agreed to the proposed conditions.

21. Further, in email dated 29 September, McGettigans confirmed that they had identified two potential replacements for the current DPS: George McGettigan and Timothy Hughes. CVs for both individuals were provided and both are undertaking a personal license course.

### **Law, Policy and Guidance**

*Licensing Act 2003*

22. Applications for summary review are addressed under s.53A of the 2003 Act:

- (1) The chief officer of police of a police force for a police area may apply under this section to the relevant licensing authority for a review of the premises licence for any premises wholly or partly in that area if—
  - (a) the premises are licensed premises in relation to the sale of alcohol by retail;  
and
  - (b) a senior member of that force has given a certificate that it is his opinion that the premises are associated with serious crime or serious disorder or both;

and that certificate must accompany the application.

- (2) On receipt of such an application, the relevant licensing authority must—
  - (a) within 48 hours of the time of its receipt, consider under section 53B whether it is necessary to take interim steps pending the determination of a review of the premises licence; and
  - (b) within 28 days after the day of its receipt, review that licence in accordance with section 53C and reach a determination on that review.

23. Section 53C addresses the powers available to a licensing authority under summary review of a premises licence. Section 53C(2) and (3) states:

- (2) The relevant licensing authority must—
  - (a) hold a hearing to consider the application for the review and any relevant representations; and
  - (b) take such steps mentioned in subsection (3) (if any) as it considers appropriate for the promotion of the licensing objectives;
- (3) Those steps are—
  - (a) the modification of the conditions of the premises licence,
  - (b) the exclusion of a licensable activity from the scope of the licence,
  - (c) the removal of the designated premises supervisor from the licence,
  - (d) the suspension of the licence for a period not exceeding three months, or
  - (e) the revocation of the licence.

*London Borough of Hammersmith & Fulham Statement of Licensing Policy 2022-27*

24. Policy 16 addresses “the safety of women and girls in licensed settings:”

*“The licensing authority will use its powers to regulate the night-time economy, both with specific regard to spiking incidents and more generally in relation to violence against women and girls.”* This may include:

- a. Using the Licensing Authority’s powers to impose conditions or revoke premises licenses, where venues do not take sufficient measures to protect and provide support to customers in spiking incidents.

- b. Considering the prevalence, prevention and reporting of sexual harassment and misconduct and gender-based violence in licensed premises.
- c. Requiring the presence of suitably trained and accredited door staff.
- d. Require presence of CCTV, or to introduce entry searches for example.”

(emphasis added)

## **Submissions**

### *Associated with crime and disorder*

25. At present, the premises are associated with crime and disorder. During the key incident on 2 September 2024, there was minimal cooperation with the police by the staff at the premises. Indeed, police had to attend on two occasions, both of which times the police received an entirely different response with regards to the same incident. Namely that, upon the first attendance, police were told that it was a minor incident and the victim’s injuries were unrelated and, on the second visit, the police were informed the victim “definitely” had been assaulted. As a result, it became more difficult for suspects to be identified and witnesses gathered.
26. Further, several incidents have not been reported. This includes another large fight and an alleged sexual assault of a woman occurring on the premises.
27. As such, the premises should be considered associated with crime and disorder. Further, given that the incidents largely concern violence and allegations of sexual assault towards women, the committee should have regard to Policy 16 of the Statement of Licensing Policy and exercise its powers pursuant to s.53C of the 2003 Act to remedy the situation.
28. Additionally, the premises are failing to promote the public safety objective. Paragraph 2.9 of the Government’s statutory guidance produced pursuant to s.182 of the 2003 Act states:
- “A number of matters should be considered in relation to public safety. These may include:
- ...



- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts (see paragraph 2.4 above).”

29. The premises has clearly failed on a number of occasions to properly communicate with the police. This has resulted in the obstruction of investigations, or some incidents going unreported altogether.

*The proposed remedy*

30. However, following cooperation between the parties and commendable steps taken by the premises to introduce measures to solve the problems, the Applicant is no longer seeking revocation of the license.

31. Instead, the Applicant requests a two-week suspension of the license, pursuant to the committee’s powers under s.53C(3)(d), to give time for the proposed changes to be implemented. Specifically, the introduction of a new DPS and CCTV system.

32. Further, under s.53(C)(a), it is requested that the current conditions 27, 28 and 29 in the premises license be modified to include the new conditions detailed at paragraphs 18 and 19 above.

**Conclusion**

33. The Applicant therefore requests a two-week suspension of the license and the modification of existing conditions 27, 28 and 29, so as to allow time for the premises to implement the necessary changes already agreed.

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**1 October 2024**