



NOTICE OF DECISION

LICENSING SUB-COMMITTEE – 16 SEPTEMBER 2013

LICENSING ACT 2003: DISTRIANDINA, UNIT 6 FARRELL COURT, ELEPHANT ROAD, LONDON SE17 1LB

1. Decision

That the council's licensing sub-committee, having had regard to the application by Metropolitan Police for a summary review under Section 53A of the Licensing Act 2003 of the premises licence granted to Distriandina (UK) Limited in respect of the premises known as Distriandina, Unit 6 Farrell Court, Elephant Road, London SE17 1LB and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Modify the conditions of the licence as follows:

- i) That all licensable activities shall stop at 04.00 and the premises shall close at 04.30 on Friday and Saturday.
- ii) That no spirits (alcohol containing more than 20% abv) shall be sold by the bottle or half bottle.
- iii) That all spirits (alcohol containing more than 20% abv) shall be sold by the measure of 25ml or 35ml at a maximum of two measures per container/glass.
- iv) That polycarbonate/plastic drink ware be used by all persons after 22.00. All alcoholic and soft drinks are to be decanted by the premises staff into such drink ware at the point of sale.
- v) That no bottles or glass be stored between 22.00 and 06.30 in a place where the public have access.
- vi) That the premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Metropolitan Police Service. All entry and exit points shall be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of the police or authorised officers throughout the proceeding 31 day period. The CCTV system shall be updated and maintained according to police recommendations.
- vii) That there be a full change of designated premises supervisor of the venue.
- viii) That there be a change of security company employed by the premises.

- ix) That an ID scanning system, to the reasonable satisfaction of the police, be installed and maintained. The system shall be capable of sharing information about banned customers with other venues, identify the hologram of an ID, read both passports and ID cards and identify fake or forged documents to a reasonable standard. The system will be in operation at all times that the premises are in operation under the premises licence. All persons in the premises prior to 20.00 must be scanned at this time.
- x) That a minimum of five SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business on Friday and Saturday, at least one of whom shall be a female. There shall be three SIA licensed door supervisors on duty Sunday to Thursday after 20.00 till the terminal hour, one of whom shall be a female.
- xi) That a management policy be submitted by the security company employed by the premises to the Metropolitan Police Service and Southwark's licensing unit within 14 days.
- xii) That condition 342 be amended condition to read: There shall be no new admissions or readmissions to the premises after 2.00am on any day with the exception of smokers. There shall be no more than five persons who can be smoking outside the premises at any one time in the designated smoking area.
- xiii) That no drinks be removed from the premises at any time.

The operating hours shall be:

	Sunday to Thursday	Friday and Saturday
Activity		
Opening Hours	08:00 to 03:00	08:00 to 04:30
All licensable Activities	08:00 to 03:00	08:00 to 04:00

2. Reasons

The reasons for this decision are as follows:

This was a hearing of an application by the Metropolitan Police Service for a review of the premises known as Distriandina, Unit 6 Farrell Court, Elephant Road, London SE17 1LB.

This application was made under Section 53A of the Licensing Act 2003 for serious disorder.

The licensing sub-committee heard evidence from the Metropolitan Police Service the applicant for the review who confirmed the grounds for the review related to the prevention of crime and disorder licensing objective. The premises had been involved in two incidents of serious disorder in the three weeks prior to 19 August 2013. On 27 July 2013, serious disorder broke out involving approximately 20 people, fighting with poles and weapons who were all seen coming out of the premises. On 18 August 2013, a male was seriously assaulted outside the premises, having been punched by a customer from the venue. The victim sustained life changing injuries and was in a coma in hospital.

On 20 August 2013, the licensing sub-committee considered the application under Section 53B of the Licensing Act and imposed interim steps pending the full review hearing of today.

Whilst the review was instigated by the incidents that took place on 27 July 2013 and 18 August 2013, the Metropolitan Police submitted that since May 2012, there had been 13 crime reports for serious violent offences linked to the premises. This included seven incidents of grievous bodily harm, two instances of actual bodily harm, one incident of violent disorder and three robberies. The police indicated that either the victim or the suspect of these incidents were intoxicated at the time of the offences, having been inside at the time or having just left the premises. Furthermore, the police advised of an incident in May 2013 when police were called to a fight at the location and a female was found with facial injuries, believed to have been from the fight. It transpired that the female had been inside the premises and had got so intoxicated that she was unable to stand and kept falling over, hitting her face. The police were of the view that the premises and the management undermined the crime and disorder licensing objective by the continued sale of alcohol to drunk and intoxicated people within the premises. There was also no control measure in place to deal with the sale of bottles of spirits and its consumption resulting in excessive amounts of alcohol being consumed and individuals being the victim of crime or perpetrating one.

The officer from the police advised the sub-committee that despite this a number of conditions had been conciliated as set out in the document entitled "Requested Conditions Distriandina".

The licensing sub-committee heard evidence from the representatives of Distriandina who informed the sub-committee that in spite of the serious incident that took place on 27 July 2013 the police did not apply for the expedited review until 18 August 2013. After the incident on 27 July 2013, the police and the premises were in negotiations to find an amicable resolution to the situation. He advised that it was unfortunate that a further incident occurred on 18 August 2013 after which, interim steps were properly imposed.

The representative for Distriandina advised that the premises catered for the Latin American community and that the premises were generally run well. An analysis of the incidents contained in the papers before the sub-committee indicated that the instances of disorder occurred after 05.00. Therefore, it would be more appropriate for the hours to be restricted to 04.00 rather than the restriction to 02.00, as imposed by the interim steps.

The clientele mainly worked in the service industry and came to the premises after work, which was generally after midnight. Patrons come from all over London. Under the interim steps, the 02.30 closing time and licensable activity restriction to 02.00 had resulted in a drop of 70% in takings and a continued restriction to the operating hours would lead to the club's closure.

Having viewed the CCTV footage from the incident of 27 July 2013, the sub-committee were extremely concerned by the incident where a male from the club starting to push and fight with a group, people coming out of the club and a large scale fight occurring outside in addition to a male picking up a security barrier and throwing it at the crowd.

The sub-committee took a very dim view of the outcome of the inspection that took place on 31 August 2013. An officer from the licensing unit attended the premises to check compliance with the interim steps (that no spirits (alcohol containing more than 20% abv) were to be sold by the bottle or half bottle). The officer witnessed large sports type plastic bottles on the tables. It transpired that alcohol above 20%abv was contained in these bottles. The officer was required to explain that this defeated the objective of the interim measure, which was for the premises to take control over how intoxicated people may get and that if people have to order drinks one at a time, the staff would be able to make a decision as to whether the person appeared drunk before they were sold any more alcohol. The officer also noted a male slumped at a table, intoxicated.

The sub-committee feel it important that the licensee takes some responsibility in the level of intoxication of their patrons. The amended guidance under section 182 of the Licensing Act 2003, paragraph 10.50 provides that the responsible person "shall ensure that the following drinks, if sold or supplied on the premises in the following measures...gin, rum, vodka or whisky in 25ml or 35ml measures". Whilst the representative advised the customary alcoholic drink of many of the patrons was 29%abv, it was lower than gin, rum, vodka or whisky as referred to in paragraph 10:50 of the guidance. Due to the level of incidents involving intoxicated patrons, this licensing sub-committee feel it appropriate and necessary to impose the two conditions (conditions 2 and 3 of the requested conditions).

In reaching this decision the sub committee had regard to all the relevant considerations and the four licensing objectives.

The licensing sub-committee considered that its decision was appropriate and proportionate in order to address the licensing objectives.

3. Appeal rights

This decision is open to appeal by:

- a) The applicant for the review
- b) The premises licence holder
- c) Any other person who made relevant representations in relation to the application.

Such appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court for the area within the period of 21 days beginning with the day on which the appellant was notified by this licensing authority of the decision.

This decision does not have effect until either:

- a) The end of the period for appealing against this decision or
- b) In the event of any notice of appeal being given, until the appeal is disposed of.

Issued by the Constitutional Team on behalf of the Director of Legal Services

Date: 16 September 2013