

**NOTICE OF DECISION**

**LICENSING SUB-COMMITTEE – 6 DECEMBER 2013**

LICENSING ACT 2003

Club Couture, 58A Camberwell Church Street, London SE5

1. The council's licensing sub-committee, having had regard to the application by environmental protection team for a review of the premises granted under the Licensing Act 2003 to OHMS ENT Limited in respect of the premises known as Club Couture, 58a Camberwell Church Street, London SE5 and having had regard also to all other relevant representations has decided it necessary for the promotion of the licensing objectives to:

Revoke the licence

- 2 **Reasons for the Decision**

The reasons for this decision are as follows:

This was a review hearing submitted by the council's environmental team and supported by the Metropolitan Police Service in addition to 16 representations. The review was raised on the grounds of prevention of public nuisance. The licensing sub-committee heard evidence from the environmental protection officer, who expressed concern with a number of complaints and incidents of disorder and rowdy behaviour by patrons related to the premises. He stated that there were 13 complaints from four different households since March 2013, and a statutory noise nuisance notice had also been served on the premises. He further highlighted various conditions of the licence had been breached, including condition 841, where it had been witnessed that there were in excess of seven patrons outside the premises at any one time, furthermore that alcohol had been served beyond the permitted hours and patrons permitted entry beyond the terminal hour.

He also referred to the various complaints as noted within the report, illustrating the licence holder's persistent breaches of the licensing conditions and further showing little or no regard to their neighbours, further demonstrated by the various complaints of noise nuisance received beyond the premises' operating hours.

The environmental protection officer's review was also supported by the Metropolitan Police Service, who had also received complaints regarding the operation of the premises; in particular noise caused by patrons outside the premises and operation beyond the agreed terminal hour. The police referred to an event on 19 October 2013, whereby they witnessed patrons being permitted entry to the premises beyond the licensable hours; police submitted that police spoke directly to the license holder, and security staff refused entry to uniformed police officers. The police further stated that the current operation of the premises was having a clear detrimental effect on the living standards of residents, and gave their full agreement and support for the revocation of the licence.

The council also heard from the licensing authority, who stated that they considered there were clear management issues with the premises. In doing so, he referred to the premises licence review which was considered in June 2006. Although an appeal was made to the magistrates' court and upheld on the basis that management had put in place measures to

alleviate concerns for crime and disorder and public safety; however, he submitted that since this time the premises do not appear to be operating in a responsible way and in compliance with the licensing conditions and objectives, and therefore he supported the application to revoke the licence.

The sub-committee also heard from residents who stated that the public nuisance had increased as a result of the premises' failure to comply with the licensing conditions since 2010, and noted that such issues appeared to be as a result of failure to manage individuals outside the premises, either while smoking or leaving the premises. The residents highlighted that the issues continued throughout the night and into the morning, and therefore suggested a breach of the licensed hours. Residents further referred to their submissions contained within the licensing report, which set out a series of in excess of 20 incidents, including yelling and loud noise by patrons outside the premises and thumping music. Residents stated that there was a consistent pattern of public nuisance whereby their nights are routinely disturbed as a result of the premises, and they could therefore see no alternative but to support the application to revoke the licence.

The sub-committee heard from the licence holder's representative, who stated that he did not consider there was sufficient evidence to consider revocation or suspension of the licence, and that he understood that the premises had a noise limiter; and further stated that there was no evidence of criminality as a direct association with the premises. He stated that he did not consider that the responsible authority had sought to engage with the licence holder, and said that the licence holder had not received letters referred to in the environmental protection team's submission to the sub-committee. Despite hearing the representations, he stated that he did not consider that there was evidence of music being a problem, and highlighted that the appeal was upheld in 2006 and that the review has not been brought due to violence.

The sub-committee also heard directly from the licensee, who stated that he felt that the premises were a legitimate business with responsible management, and he did not feel there were any issues until they were brought to his attention. He further stated that he wanted to engage with the responsible agents and local residents, and stated that whilst there was an abatement notice served on the premises, he is currently appealing this to the magistrates' court. He submitted that he did not consider that the breaches of the conditions happened.

The licensing sub-committee considered the evidence and concluded that the licence holder is not taking responsibility to fulfil his obligations under his licence, this was in view of the 16 representations received from local residents and ward councillors supporting the application, and various complaints about the premises to the night time economy team, and evidence provided demonstrating a wilful disregard of the licensing objective as matters had been going on for a significant time.

### 3 **Appeal Rights**

This decision is open to appeal by either:

- a) The applicant for the review;
- b) The premises licence holder; or
- 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' chief executive 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.

4 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: 6 December 2013

**NOTICE OF DECISION**

**LICENSING SUB-COMMITTEE – 8 APRIL 2014**

**LICENSING ACT 2003 – Kalabash, 58A Camberwell Church Street, London, SE5 8QZ**

**1. Decision**

That the application by Mr Amaechi Billa Mackenzie Achuka for a grant of a premises licence issued under the Licensing Act 2003 in respect of Kalabash, 58A Camberwell Church Street, London, SE5 8QZ is granted as follows:

<b>Licensable Activity</b>	<b>Monday</b>	<b>Tuesday</b>	<b>Wednesday</b>	<b>Thursday</b>	<b>Friday</b>	<b>Saturday</b>	<b>Sunday</b>
Sale and supply of alcohol (on the premises)	10.00 to 00.00	10.00 to 00.00	10.00 to 00.00	10.00 to 00.00	10.00 to 00.30	10.00 to 00.30	10.00 to 23.30
Late night refreshment (on the premises)	23.00 to 00.00	23.00 to 00.00	23.00 to 00.00	23.00 to 00.00	23.00 to 00.30	23.00 to 00.30	23.00 to 23.30
Hours premises are open to the public	10.00 to 00.30	10.00 to 00.30	10.00 to 00.30	10.00 to 00.30	10.00 to 01.00	10.00 to 01.00	10.00 to 00.00

**2. Conditions**

The operation of the premises under the licence shall be subject to relevant mandatory conditions, conditions derived from the operation schedule highlighted in Section M of the application form and the following conditions:

- 1) That there be no new entry to the premises after 23.30.
- 2) That The premises shall operate strictly as a restaurant where the sale of alcohol is ancillary to the consumption of food. Alcohol will only be sold to persons seated and taking a table meal. Service to tables will be by waiting staff only.
- 3) That no more than five patrons shall be permitted on the Camberwell Church Street frontage to smoke at any time when the premises is open and trading.
- 4) That all deliveries, collections and external cleaning shall occur between the hours of 08.00 and 20.00 on any day
- 5) That the premises will have signage on all doors to the external used by patrons asking patrons to be considerate to nearby residents and not cause disturbance when leaving.
- 6) That an appropriately trained member of staff will supervise patrons leaving the premises on any day when the premises is open beyond 00.00.

- 7) That arrangements will be made with a local taxi/cab company to collect patrons from the premises, enabling patrons waiting for a taxi/cab to stay within the premises. If a taxi/cab is ordered close to closing time and patrons are likely to still be waiting after the premises has closed both they and the taxi/cab will be directed to a clear and suitable collection point well away from the premises

### 3. **Reasons**

This was an application submitted by Mr Amaechi Billa Mackenzie Achuka for a grant of a premises licence issued under the Licensing Act 2003 in respect of Kalabash, 58A Camberwell Church Street, London, SE5 8QZ

The licensing sub-committee heard evidence from the applicant's representative who informed the sub-committee that the applicant was the sole director of the limited company that owns Kalabash. The applicant had been a tenant for the last 18 months and a copy of the lease and Land Registry documents were produced. They advised that the premises was a small African restaurant (36 covers), independent of the basement premises, Club Couture. The applicant assured the sub-committee that there were no managerial or business connections with Club Couture, say for the fact that they shared the same landlord, as evidenced in the lease. The applicant advised that the conditions in their operating schedule and the further conditions as agreed with the police and the environmental protection team, would ensure that the premises would operate strictly as a restaurant and not as a bar.

The applicant advised that whilst they had previously operated under the shared licence with Club Couture, which had covered the whole building, it was always their intention to apply for a separate licence. Despite having the ability, under the current shared licence, to operate late, Kalabash had chosen not to do so and had been closing around 23.30 during the week and 01.00 at the weekends. Should the appeal relating to the revocation of the shared licence be successful, the applicant's representative advised that the applicant would submit a minor variation application to remove Kalabash from this licence in order to allay any concerns that they would wish to operate as a club or bar.

The licensing sub-committee noted that the Metropolitan Police Service and the environmental protection team had conciliated subject to the conditions listed above being agreed to by the applicant.

The licensing sub-committee heard from local residents, including a representative of the Camberwell Society, who advised that there had been a number of serious issues relating to the premises over the years and the way that it was previously managed. The local residents were sceptical that Kalabash and Club Couture were separate businesses, sharing an internal fire escape route. They said that the conciliated conditions with the police and environmental protection team would be hard to enforce and would move any nuisance elsewhere in the vicinity. They felt that even with the reduction in operating hours that this was still inconsistent with the hours that they would expect of a restaurant. They advised that this was a residential area and that they had concerns relating to noise nuisance and crime and disorder.

The sub-committee accepted the evidence put forward by the applicant that they would operate a completely separate business from Club Couture and accepted that the conciliated conditions would address the existing concerns raised by the residents.

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 it was appropriate and proportionate to attach these conditions in order to address the licensing objectives.

#### 4. **Appeal rights**

The applicant may appeal against any decision:

- a) To impose conditions on the licence
- b) To exclude a licensable activity or refuse to specify a person as premises supervisor.

Any person who made relevant representations in relation to the application who desire to contend that:

- a) That the licence ought not to be been granted; or
- b) That on granting the licence, the Licensing Authority ought to have imposed different or additional conditions the conditions of the licence, or ought to have modified them in a different way

May appeal against the decision.

Any appeal must be made to the magistrate court for the petty sessions area in which the premises are situated. Any appeal must be commenced by notice of appeal given by the appellant to the justices' clerk for the magistrates' court within the period of 21 days beginning with the day on which the appellant was notified by the licensing authority of the decision appealed against.

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

Date: 8 April 2014

# Licensing Act 2003 Premises Licence



Environmental Health & Trading Standards  
Licensing Unit  
Hub 2, 3rd Floor  
PO Box 64529  
London, SE1P 5LX

Premises licence number

844027

## Part 1 - Premises details

<b>Postal address of premises, or if none, ordnance survey map reference or description</b>	
Kalabash Ground Floor 58a Camberwell Church Street London SE5 8QZ	
Ordnance survey map reference (if applicable), 176689532798	
<b>Post town</b> London	<b>Post code</b> SE5 8QZ
<b>Telephone number</b>	

<b>Where the licence is time limited the dates</b>
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<b>Licensable activities authorised by the licence</b>
Late Night Refreshment - Indoors Sale by retail of alcohol to be consumed on premises

<b>The opening hours of the premises</b>
For any non standard timings see <b>Annex 2</b>
Monday            10:00 - 00:30
Tuesday           10:00 - 00:30
Wednesday       10:00 - 00:30
Thursday          10:00 - 00:30
Friday             10:00 - 01:00
Saturday          10:00 - 01:00
Sunday            10:00 - 00:00

<b>Where the licence authorises supplies of alcohol whether these are on and/ or off supplies</b>
Sale by retail of alcohol to be consumed on premises

<b>The times the licence authorises the carrying out of licensable activities</b>
For any non standard timings see Annex 2 of the full premises licence

**Late Night Refreshment - Indoors**

Monday	23:00 - 00:00
Tuesday	23:00 - 00:00
Wednesday	23:00 - 00:00
Thursday	23:00 - 00:00
Friday	23:00 - 00:30
Saturday	23:00 - 00:30
Sunday	23:00 - 23:30

**Sale by retail of alcohol to be consumed on premises**

Monday	10:00 - 00:00
Tuesday	10:00 - 00:00
Wednesday	10:00 - 00:00
Thursday	10:00 - 00:00
Friday	10:00 - 00:30
Saturday	10:00 - 00:30
Sunday	10:00 - 23:30



**Part 2**

**Name, (registered) address, telephone number and email (where relevant) of holder of premises licence**

Amaechi Billa Mackenzie Achuka

[Redacted]

**Registered number of holder, for example company number, charity number (where applicable)**

**Name, address and telephone number of designated premises supervisor where the premises licence authorises for the supply of alcohol**

Amaechi Billa Mackenzie Achuka

[Redacted]

**Personal licence number and issuing authority of personal licence held by designated premises supervisor where the premises licence authorises for the supply of alcohol**

[Redacted]

Licence Issue date 09/04/2014

[Redacted]

Anti-Social Behaviour, Noise Nuisance &  
Licensing Manager  
Hub 2, 3rd Floor  
PO Box 64529  
London, SE1P 5LX  
020 7525 5748  
licensing@southwark.gov.uk

## **Annex 1 - Mandatory conditions**

**100** 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

**101** Every supply of alcohol under the Premises Licence must be made, or authorised by, a person who holds a Personal Licence

**491** (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) In this condition:-

(a) "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;

(b) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(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.

(3) Where the permitted price would not be a whole number of pennies, the permitted price shall be taken to be the price rounded up to the nearest penny.

(4) Where the permitted price on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax, the permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

**485** (1) The responsible person shall take all reasonable steps to 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 in a manner which carries a significant risk of leading or

contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children

(a) games or other activities which require or encourage, or are designed to require, 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 (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on -

(i) the outcome of a race, competition or other event or process; or

(ii) the likelihood of anything occurring or not occurring;

(e) 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.

**486** The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that person is unable to drink without assistance by reason of a disability).

**487** The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

**488** (1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) 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 a holographic mark.

**489** The responsible person shall 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 -

(i) Beer or cider: 1/2 pint;

(ii) Gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) Still wine in a glass: 125 ml; and

(b) Customers are made aware of the availability of these measures

## **Annex 2 - Conditions consistent with the operating Schedule**

**4AA** A Challenge 25 proof of age policy shall be operated at the premises and only photographic driving licence, valid passport or proof of age card with the bearers photograph and the PASS logo/hologram on it will be accepted as proof of age.

**4AB** All staff shall be trained for their role on induction and refresher training given at regular intervals of six months thereafter. Training for their role will include

- a) the operation of Challenge 25
- b) identifying persons under 25
- c) making a challenge
- d) acceptable proof of Age ID and checking it
- e) making and recording refused sales
- f) avoiding conflict and responsible alcohol retailing

**4AC** Notices shall be prominently displayed at the entry and point of sale stating that "CCTV & Challenge 25 are in operation and provisions of the Licensing Act regarding underage/proxy sales"

**4AI** A written refusals log shall be kept and made available to Police Or Council Officers upon request

**288** That the CCTV system installed upon the premises shall be maintained in good working condition and operable at all times

**289** CCTV covering the inside and outside of the premises shall be installed, it shall be capable of taking a head and shoulders shot of persons entering the premises and storing images for at least 31 days. The CCTV shall be in operation at all times that the premises is open to the public.

**311** Notices will be prominently displayed by the exit advising customers

- a) to respect nearby residents and leave quietly.
- b) that drinks are not permitted to be taken outside the premises at any time
- c) due to the DPPO, not to loiter outside the restaurant and to keep noise down whilst outside smoking.

**332** Unnacompanied children shall not be allowed in the restaurant after 20:00.

**336** A personal licence holder shall be on duty after 20:00 on Friday and Saturday while alcohol is available for sale.

**324** A taxi-cab will be called for customers requiring the service and a local taxi-cab number shall be displayed at the premises.

**340** A member of staff capable of downloading images of the CCTV for the police or authorised council officers shall be on duty at all times that the premises is open to the public.

**341** Written records of training shall be kept and made available to Police or Council officers on request

**342** A till prompt shall be displayed by each till to remind staff to check for proof of age

**343** The premises shall actively engage with and work with Police and Safer Neighbourhood Team

**344** A minimum of two staff shall be on duty in the restaurant at all times that alcohol is available for sale.

**345** Management and staff shall discourage persons loitering outside the front of the restaurant and ensure that no drinks will be permitted outside the front of the restaurant at any time.

**346** No more than 5 smokers shall be permitted outside in the smoking area to the front at any time. A notice shall also be displayed advising customers of this policy

**347** A suitable container shall be provided for cigarette butts.

**348** The restaurant frontage shall be kept tidy and swept at close.

**349** A member of staff shall be detailed to monitor the use of the front, including smokers and tidiness of the area.

**350** A member of staff shall be detailed to monitor departing customers conduct on Thursday to Saturday nights at closing and shall encourage customers to leave the area quietly and not to loiter outside the premises.

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

**305** The premises will have signage on all doors to the external used by patrons asking patrons to be considerate to nearby residents and not cause disturbance when leaving.

**308** There shall be no new entry to the premises after 23.30

**352** The premises shall operate strictly as a restaurant where the sale of alcohol is ancillary to the consumption of food. Alcohol will only be sold to persons seated and taking a table meal. Service to tables will be by waiting staff only.

**353** No more than five patrons shall be permitted on the Camberwell Church Street frontage to smoke at any time when the premises is open and trading.

**354** All deliveries, collections and external cleaning shall occur between the hours of 08.00 and 20.00 on any day.

**355** An appropriately trained member of staff will supervise patrons leaving the premises on any day when the premises is open beyond 00.00.

**356** Arrangements will be made with a local taxi/cab company to collect patrons from the premises, enabling patrons waiting for a taxi/cab to stay within the premises. If a taxi/cab is ordered close to closing time and patrons are likely to still be waiting after the premises has closed both they and the taxi/cab will be directed to a clear and suitable collection point well away from the premises.

**Annex 4 - Plans - Attached**

Licence No. 844027

Plan No. 4748

Plan Date Jan 2010