

## PROTECTIVE MARKING


**METROPOLITAN  
POLICE**
**TOTAL POLICING**

Form 693

**Form for Applying for a Summary Licence Review**
**Application for the review of a premises licence under section 53A of the Licensing Act 2003**  
 (premises associated with serious crime, serious disorder or both)

**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.

**Insert name and address of relevant licensing authority and its reference number:**
**Name: Southwark Licensing Team**
**Address:**
**3rd Floor 160 Tooley Street**
**Post town: Southwark**
**Post code:**
**SE1 2QH**
**Ref. No.:**
**I Ian Clements PC2362 AS**

on behalf of the chief officer of police for the Metropolitan 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 club premises, or if none, ordnance survey map reference or description:**
**Afrikiko Restaurant & Night Club**
**Post town:**
**London**
**Post code:**  
 (if known)

**SE15 1NX**
**2. Premises licence details**
**Name of premises licence holder or club holding club premises certificate (if known):**
**Afrikiko Restaurant & Nightclub Limited**
**Number of premises licence or club premises certificate (if known):**
**870250**
**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 serious 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)

**Introduction**

1. In 2017 this premises known as Afrikiko, 871 Old Kent Road, operated as a nightclub on both ground and basement floors. On 8<sup>th</sup> August 2017, a Superintendent from Southwark Police Station certified that the premises was associated with serious crime and disorder. An application was made by the police licensing unit at Southwark Police Station for a summary review of the premises licence following a murder at the venue.
2. The licence was suspended as an interim measure pending a full summary review hearing. A decision was made at the full hearing not to revoke the premises licence, as the police had proposed, but instead to modify the licence considerably to restrict its use to that of a restaurant. The Council accepted that the premises was associated with serious crime and disorder. This association with serious crime and serious disorder continues until today. The 2017 summary review application and Council's Decision Notice are attached.
3. The current licence was granted following an application to vary the premises licence made in December 2019. Objections to this variation were submitted by the responsible authorities including one from the Metropolitan Police. Despite the concerns of the responsible authorities the variation was granted giving the premises the ability to operate as a nightclub once more in the basement area.
4. Following the outbreak of the Covid-19 virus pandemic in the UK, which has to date, led to the deaths of over 40,000 people, the government has announced a series of lockdown measures and restrictions on licensed premises and those that operate in the hospitality industry. These restrictions are primarily contained in the Health Protection (Coronavirus, Restrictions)(No.2) (England) Regulations 2020 (as amended). Since March there has been a constant in that that nightclubs are not permitted to open. This is well known to everyone.
5. Covid-19 is a potentially fatal infectious disease which is spread as a result of activities carried out by people, and in particular those in close contact.
6. For this reason it is essential for the regulations to be abided by and social-distancing

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measures to be implemented by licensed operators. A breach of recommended guidelines and regulations risks human health and life and leads to an increased chance of further lockdown measures being imposed in London that may have a catastrophic further impact on the UK economy and legitimate businesses.

7. If certain premises, such as Afrikiko, chose to operate in deliberate and flagrant breach of regulations and guidelines they imperil others. If this type of behaviour is not deterred by a robust police and Council response then other licensed premises may be tempted to follow suit.
8. it is the belief of the Metropolitan Police that this premises has knowingly (or at the very least recklessly) decided to ignore not only the Government's advice and legislation regarding the prevention of spreading this infection, but also the efforts of Metropolitan Police Officers that have tried, without success, to positively engage with the premises and provide the operator with warnings to improve.
9. The operator's actions has put its staff and patrons at risk of contracting and spreading this infection, and increases the risk to London's wider communities.
10. The above venue has been observed on numerous occasions operating as a prohibited nightclub in contravention of these and other regulation. The premises has also permitted vertical drinking, and allowed and encouraged patrons to dance whilst playing amplified music with a DJ and music decks.
11. On several of these occasions staff at the venue have been deliberately obstructive by physically preventing officer's entry and intentionally or recklessly creating dangerous conditions whilst officers are investigating potential offences. The venue has shown complete disregard to the above legislation as well as the Licensing Act and Health and Safety at Work Act and its regulations.
12. The continued association of this premises with serious crime and disorder from 2017 until today justifies the police instigating a summary review.
13. A Superintendent has certified that this premises is associated with serious crime and/serious disorder. The certificate is attached.

**Legal Framework**

14. Pursuant to section 53A of the Licensing Act 2003 the chief officer of police for the area in which licensed premises are located can apply to the relevant licensing authority for a summary review of such a licence. The application must be supported by a certificate given by a senior member of that police force stating that in his opinion “*the premises are associated with serious crime or serious disorder or both*” (as per s.53A(1)(b)).
15. Pursuant to section 53A(4) of the 2003 Act, “*serious crime*” is defined for these purposes by reference to section 81(3) of RIPA, which provides:
- “(a) that the offence or one of the offences that is or would be constituted by the conduct is an offence for which a person who has attained the age of twenty-one and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or*
- (b) that the conduct involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.”*
16. The Superintendent’s certificate is signed on the basis that premises is associated with serious crime. These points are relevant:
- a. The murder in 2017 is clearly serious crime and that association has not ended in 2020.
  - b. Knowingly and deliberately putting the public at serious risk of contracting a potentially fatal respiratory illness COVID-19, at a time of a pandemic in the UK, can amount to the criminal offence of causing a public nuisance: *R v Rimmington & Goldstein* [2005] 3 W.L.R. 982
  - c. Public nuisance can include jeopardising public health by increasing the risk of spreading an infectious disease, see: *Vantandillo* (1815) 4 M & S 73 and *R v Henson* (1852) 1 Dears 24
  - d. Causing a public nuisance carries a maximum sentence of life imprisonment. Whilst public nuisance covers a wide scope of acts of varying seriousness, defendants have been sentenced to 3 years or more imprisonment for the offence of causing a public nuisance: eg *R v Harvey* [2003] EWCA Crim 112 (life imprisonment reduced to 3

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years on appeal).

- e. Given the frequency of these events where large amounts of alcohol was being sold the activity at Afrikiko in recent weeks would have resulted in substantial financial gain to the operator.
- f. Given the number of people found on the premises on several occasions the conduct was by a large number of person in pursuit of a common purposes, namely to flout the regulations by attending a prohibited nightclub and not abide by social-distancing requirements.

17. The senior officer's certificate "*of itself has no immediate and direct effect on others ... all the circumstances... can be examined fairly on the merits when the application for summary review is under consideration*" (*R (Lalli) v Commissioner of Police for the Metropolis and Newham London Borough Council* [2015] EWHC 14 (Admin) at [76]). The certificate:

*"is merely something that has to be provided to enable an application to be made by the chief officer of police to another body. That application... itself imposes no restriction on the use of the licensed premises. It is that other body, in this case the licensing authority, which has the discretion to determine what steps may be necessary for the promotion of the licensing objectives that may affect the rights of others"* (*Lalli* at [69]).

18. Consequently it was held in *Lalli* that the licensing authority "*should be entitled to treat an application for a summary review made by the chief officer of police as valid if it is accompanied by a certificate that apparently meets the requirements of section 53A(1) and has not been quashed*" (*Lalli* at [70], emphasis added).

### Timeline

19. Attached is a timeline of incidents that has led to this Summary Review application.

### Interim Steps

20. The police invite the Council to suspend the premises licence as an interim step pending the full review application which must be heard within 28 days.

At the full review hearing it is anticipated that the police will invite the Council to permanently revoke the premises licence.

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<b>Signature of applicant</b>			
Signature:	[REDACTED]	Date:	1 <sup>st</sup> September 2020
Capacity:	Police Licensing Office [REDACTED]		
<b>Contact details for matters concerning this application</b>			
Surname:	Clements	First Names:	Ian
Address:			
Southwark police station, 323 Borough High Street			
Post town:	London	Post code:	SE1 1JL
Tel. No.:	[REDACTED]	Email:	SouthwarkLicensing@met.police.uk

**Notes for guidance**

- A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both. Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:

  - conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
  - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.

Serious disorder is not defined in legislation, and so bears its ordinary English meaning.
- Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

## Afrikiko Timeline

31/07/2020 at approximately 23:45

Police from the night time economy team visited the premises due to information that the premises were operating as a night club. The ground floor of the premises was fairly quiet, however loud music could be heard coming from the basement area of the venue, known to operate as a night club.

On entering the basement approximately 20 persons were sitting together, music was being played so loud that officers had to shout to make themselves heard. A DJ was standing behind the DJ booth adjacent to the dancefloor area. Whilst no dancing was witnessed at time of visit, the facilities for dancing were obvious.

On speaking with the manager at the time it was apparent that no Covid risk assessment had been completed. They were advised to correct this matter before reopening to the public. See attached MG11 Ref IJC1

15/08/2020 at approximately 23:00

Police attended the venue it was observed to be operating as a nightclub where patrons were observed standing amongst the tables, dancing to amplified music whilst a DJ was behind the decks playing music. The person in charge was issued with a prohibition notice for this offence on 19/09/2020. An inspection was also conducted and a notification of offences was issued for the following offences:  
Please see attached document IJC2

*Section 57 (4) Failure to secure a premises licence or a certified copy at the premises or to prominently display a summary of the licence.*

*Section 57(7) Failure to produce a premises licence or a certified copy*

*And*

*Contravention of conditions 288 and 289 respectively as outlined below:*

*288 - That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing an image of every person who enters the premises.*

*289 - That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to officers of the Police and the Council.*

19/08/2020 at approximately 15:38

Police attended the venue to issue the prohibition notice for the offences apparent in the visit on the 15/09/2020. However whilst at the premises Police spoke to a staff member who was not in possession of a premises licence. No DPS or holder of a personal licence was present at the time of our visit. It is a condition of their premises licence that there must be a personal licence holder on premises at all times alcohol is for sale or is exposed for sale. The venue was open with low lighting switched on, alcohol in fridges exposed for sale and clean glassware on the bar for. The premises were issued with a closure notice for:

**Carrying on a licensable activity on a premises otherwise in accordance with an authorisation.**

**And;**

**Exposing alcohol for retail without an authorisation.**

**Please see attached document IJC3**

**29/08/2020 at approximately 01:00**

**Police attended the venue to conduct an inspection under the licencing act 2003 to confirm compliance with the closure notice Police had issued on the 19/08/2020. Entry was made under s179 of The Licensing Act 2003. Police then attempted to gain access to the downstairs area however they was physically obstructed by staff. The door to the downstairs area being braced from the other side. Prior to Police approaching the door a person was heard calling "KRISSEY SHUT THE DOOR!" Entry was then forced and we found the premise operating as a nightclub. As Police entered they heard an amplified voice stating to the patrons "SIT DOWN, SIT IN YOUR SEATS!" and "NO DANCING...JUST LOOK AT EACH OTHER." As a prohibition notice had already been issued, the issue of a further notice would have served no purpose. Please see attached document IJC4**

**04/09/2020**

**Joint visit with Southwark council and Police in regards to reports of operating as a club and no covid restrictions or preventative measures in place. Upon visit basement not in use due to flood damage. Southwark council officers seized some disco lighting equipment and based on CCTV evidence issued a prohibition notice.**

**Manager Daniel Dormer present and was unable to operate the CCTV, issued with form 694.**

**05/09/2020 venue attended and two portable storage devices given too Daniel along with a request for CCTV notice**

**See attached document IJC5&6**

**27/09/2020**

**2015 hours:**

**Attended to obtain CCTV that was requested from venue on 04/09/2020. USB's issued to Daniel Dormer were returned and provided CCTV mg11.**

**2249 hours:**

**Police attended the venue to inspect the premises and to check compliance with the new regulations under The Health Protection (Coronavirus, Restrictions)(No.2) (England)(Amendment) (No.5) Regulations 2020 recently bought into force. As Police pulled up there were numerous cars parked in the venues parking space and numerous males and females gathered outside smoking and vaping dressed in evening attire. PC O'Mahoneywitnessed up to 30 patrons inside the address sitting at tables and drinking after the time the venue was meant to be closed. As mandated by:**

***The Health Protection (Coronavirus, Restrictions)(No.2) (England)(Amendment) (No.5) Regulations 2020 which stipulate:***

***“ 4A.—(1) A person responsible for carrying on a restricted business or providing a restricted service (“P”) must not carry on that business or provide that service during the emergency period between the hours of 22:00 and 05:00, subject to paragraphs (2), (3) and (4).”***

The patrons were then observed to move hurriedly out of sight, the venue took approximately 3 minutes to open the door and allow us entry. Police then asked to check the basement area, this request was refused. Both doors to the basement area were locked. It was then apparent that one door was being held shut from the other side. The cctv camera feeds that covered the downstairs area were cut and showed no footage. When the manager was challenged about this he claimed ignorance stating it must have broken. This is despite officers checking the premises 2 hours before and finding the CCTV in working order.

The manager and other staff refused to open the doors to the basement, claiming that the key was with the cleaner. Police requested more units to assist with gaining entry to the basement area. Once more units were present Police entered other parts of the address to inspect. During that inspection no patrons were present, only staff members.

The male who is believed to be the organiser came out of the basement entrance wearing very smart attire. He was extremely obstructive and refused police entry to the basement. Officers had to resort to reasonable force in order to counter his obstruction. Eventually the front basement door opened and a large number of patrons wearing evening wear holding filled drinks filed out of the venue.

Prior to this the power was cut to the basement and its adjoining stairwell. Requests were made to the manager to re-engage the power however this was refused. This created a dangerous environment for both police and patrons and is believed to have been done on purpose. Downstairs there was no emergency lighting and officers had to rely on torch light. In the basement Police encountered several persons who claimed to be cleaning staff, they were in full evening attire. One of the persons purporting to be staff had a 6 month year old child with toys and activity's strewn about the table. On the tables were discarded paper cups and bottles filled with alcohol and used glassware. The manager and staff were informed that further enforcement action will be considered before leaving the venue.

Please see attached document IJ7&8


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

**PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST**

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Use additional sheets if necessary.

**Insert name and address of relevant licensing authority and its reference number:**
**Name:** London Borough of Southwark

**Address:**

Floor 3, 160 Tooley Street, London, SE1

**Post town:** London

**Post code:** SE1 2QH

**Ref. No.:**

I Mark Lynch PC246MD

on behalf of the chief officer of police for the Metropolitan 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 club premises, or if none, ordnance survey map reference or description:**

Afrikiko 871 Old Kent Road

**Post town:** London

**Post code:** SE15 1NX  
 (if known)

**2. Premises licence details**
**Name of premises licence holder or club holding club premises certificate (if known):**

Afrikiko Bar, Restaurant and Night Club

**Number of premises licence or club premises certificate (if known):**

857167

**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 serious disorder or both, and the certificate accompanies this application.

 Please tick the box to confirm:

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**4. Details of association of the above premises with serious crime, serious disorder or both**  
(Please read guidance note 2)

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Afrikiko is a dual purpose venue with a restaurant operation on the ground floor and a night club situated in the basement, both operations run on the same premises licence, with additional control measures for when the basement night club is in operation.

On Tuesday 8th August 2017 at 02:02hrs an Emergency call was made to Police from member of public in nearby flats as reports of a knife seen at venue, and large fight. The knife is possibly a kitchen knife, approximately 30 males and 3 – 4 females, still fighting. They are now hitting each other with planks of wood, smashing bottles, a vehicle trying to run over people, according to informant. Police units were dispatched arriving at 02.08hrs to establish male unresponsive on floor. There was still a large number of people around the club that had now closed.

It has been described as serious crime and disorder with numerous fights occurring. From CCTV viewed by officers it showed a large group outside club at 0200hrs, the terminal hour is 0130. A suspect is seen chasing victim into car park and punch victim. This fight is broken up, and victim is then seen to get to the suspect with broken broom handle. Two suspects are seen to come at the victim, who runs and suspect stabs victim. The victim has died as a result of the injuries received.

The seriousness of this incidents passes the threshold test for what amounts to serious crime, and of particular concern is the club had no control over the dispersal of customers, and made no call to police.

It has been established that the premises were also operating in breach of the premises licence and as such were operating without the correct authorisation. The conditions of the premises licence are designed to promote the licensing objectives, on this occasion conditions designed to promote the prevention of crime and disorder were breached.

**Condition 336** *That a personal licence holder shall be on the premises at all times that intoxicating liquor is supplied.*

I have spoken to the DPS Mr Emmanuel Kpakpah who has admitted that there was not a personal licence holder on the premises on the night in question.

**Condition 303** *That you shall require any regular and external promoters hiring the premises to complete a venue hire agreement and once completed you shall ensure that a copy is provided to the police and Southwark Licensing a minimum of 14 days prior to the date of hire*

Mr Kpakpah also admitted that it was an oversight that no 696 was submitted. When asked to explain why, Mr Kpakpah stated that he was actually unaware the premises was open and that his business partner must have organised this event without his knowledge.

**Condition 347** *Only persons of age 21 years and over to be admitted to the basement area for promoted events. This age restriction will be displayed on all promotional material including and limited to websites and flyers.*

Initial investigation shows that the victim is 18 years of age and a number of significant witnesses were also under the age of 21.

The premises has a history of non-compliance, although very little to report for 2017, the closure of the premises for refurbishment might well have had an impact on this.

In 2016 there were at least four occasions where the premises were found to be operating in breach of the premises licence, on each occasion the premises were issued with closure notices. A warning letter was also sent as a follow up to a number of alleged breaches.

Immediate steps are required to promote the prevention of crime & disorder and public safety licensing objectives. Police are asking the licensing sub committee to consider the suspension of the premises licence pending the full licensing review.

PROTECTIVE MARKING

**Signature of applicant**

**Signature:** [REDACTED]

**Date:**

**9<sup>th</sup> August 2017**

**Capacity: Metropolitan Police Licensing Officer**

**Contact details for matters concerning this application**

**Surname: Lynch**

**First Names: Mark**

**Address:**

Southwark Police station, 323 Borough High Street,

**Post town: London**

**Post code: SE1 1JL**

**Tel. No.: 0207 232 6756**

**Email: SouthwarkLicensing@met.police.uk**

**Notes for guidance**

1. A certificate of the kind mentioned in the form must accompany the application in order for it to be valid under the terms of the Licensing Act 2003. The certificate must explicitly state the senior officer's opinion that the premises in question are associated with serious crime, serious disorder or both.  
Serious crime is defined by reference to section 81 of the Regulation of Investigatory Powers Act 2000. In summary, it means:
  - conduct that amounts to one or more criminal offences for which a person who has attained the age of eighteen and has no previous convictions could reasonably be expected to be sentenced to imprisonment for a term of three years or more; or
  - conduct that amounts to one or more criminal offences and involves the use of violence, results in substantial financial gain or is conduct by a large number of persons in pursuit of a common purpose.Serious disorder is not defined in legislation, and so bears its ordinary English meaning.
2. Briefly describe the circumstances giving rise to the opinion that the above premises are associated with serious crime, serious disorder, or both.

## PROTECTIVE MARKING

On Tuesday 8th August 2017 at 02:02hrs an Emergency call was made to Police from member of public in nearby flats as reports of a knife seen at venue, and large fight. The knife is possibly a kitchen knife, approximately 30 males and 3 – 4 females, still fighting. They are now hitting each other with planks of wood, smashing bottles, a vehicle trying to run over people, according to informant. Police units were dispatched arriving at 02.08hrs to establish male unresponsive on floor. There was still a large number of people around the club that had now closed.

It has been described as serious crime and disorder with numerous fights occurring. From CCTV viewed by officers it showed a large group outside club at 0200hrs, the terminal hour is 0130. A suspect is seen chasing victim into car park and punch victim. This fight is broken up, and victim is then seen to get to the suspect with broken broom handle. Two suspects are seen to come at the victim, who runs and suspect stabs victim.

The seriousness of this incidents passes the threshold test for what amounts to serious crime, and of particular concern is the club had no control over the dispersal of customers, and made no call to police.

It has been established that the premises were also operating in breach of the premises licence and as such were operating without the correct authorisation. The conditions of the premises licence are designed to promote the licensing objectives, on this occasion conditions designed to promote the prevention of crime and disorder were breached.

Other procedures under the licensing act have been considered, however a standard review is considered inappropriate due to serious nature of the allegations and the clear issues at the venue with disorder and possible future disorder.

The venue has a number of events scheduled for the coming weeks, a standard review can take up to 8 weeks to come before the sub committee with the addition of any possible appeal procedures.

Immediate steps are required to promote the prevention of crime & disorder and public safety licensing objectives.

### Signature

Signature: 

Date:

8<sup>th</sup> August 2017

## NOTICE OF DECISION

### LICENSING SUB-COMMITTEE – 28 November 2019

#### LICENSING ACT 2003: AFRIKIKO BAR, RESTAURANT AND NIGHTCLUB, 871 OLD KENT ROAD, LONDON SE15 1NX.

#### 1. Decision

That the application made by Afrikiko Bar, Restaurant and Nightclub Limited for the premises licence to be varied under section 34 of the Licensing Act 2003 in respect of the premises known as Afrikiko Bar, Restaurant and Nightclub, 871 Old Kent Road, London SE15 1NX be granted in part as follows:

Live music, recorded music, performances of dance, entertainment similar to live & recorded music and the sale of alcohol to be consumed on or off the premises	Sunday to Thursday from 11:00 to 00:00 Friday and Saturday from 11.00 to 01.30
Late night refreshment	Sunday to Thursday from 11:00 to 00:00 Friday and Saturday from 11.00 to 01.30
Opening Hours	Sunday to Thursday from 11:00 to 00:30 Friday and Saturday from 11.00 to 02.00

#### 2. Reasons

The sub-committee heard from the applicant's representative, who stressed that there have been no problems at the premises for over two years following the previous review and the changes made to the licence as a result. He reminded the sub-committee that each application must be considered on its own merits and submitted that the previous, admittedly serious, incident should not now be used as a stick to beat the applicant with.

The applicant had made demonstrable and significant changes. It was now reasonable to look at the licence again. The proposal was to retain the use of the ground floor as a restaurant, but the applicant wished to extend the use of the basement area, which currently has a lounge bar atmosphere with music and games. The applicant wants to make a better offer to his patrons and attract others, who tend to go out later in the evening and would wish to stay longer. The applicant acknowledged that the premises are in a residential area and currently benefit from longer opening hours than are indicated by the council's statement of licensing policy. However, as the planning officer himself pointed out, the premises are not overlooked, are relatively isolated and the risk of noise nuisance is therefore minor.

In support of the application, a very comprehensive operating schedule was being proposed, with 61 conditions designed to ensure proper management. The proposed capacity was being reduced from 200 to 150 for the whole premises. Alcohol would be ancillary to food on the ground floor (as now) and available at all times in the basement area. The conditions offered included effective soundproofing, ID scanning and a dispersal policy.

Clearly, there is always a risk when the use of premises changes, but that cannot be determinative of the application. The sub-committee must not base its decision on conjecture, but on the evidence of the last two years of effective management.

The sub-committee heard from the representative of the licensing authority, who reminded them that the premises is in a residential area and already benefits from longer than usual opening hours. The proposal now was clearly for a nightclub use, which is unsuitable for a premises in this area. The licensing authority were not reassured by the limited changes and conditions proposed. The reduction in hours and change of use as a result of the review had prevented a repetition of problems at the premises. There were concerns that the applicant had continued trading and ignored warnings after it was discovered that the layout of the premises was inconsistent with the plan attached to the licence. The licensing authority recommended that the application be refused.

The sub-committee heard from the representative of the Metropolitan Police Service, who reiterated that the changes made following the review had successfully prevented incidents of violence at the premises, which were in any event located in an area where nightclubs are discouraged by the licensing policy. He too requested that the application be refused.

The sub-committee heard from the representative of the council's planning department, who referred them to a series of photographs. He observed that the premises did not have large windows offering a good view of what is going on outside. They were not surveilled or closely overlooked. They were not in the town centre, but were relatively isolated. These factors tend to make premises more prone to incidents of anti-social behavior, though he accepted that noise nuisance was less likely to present a problem. He too emphasised that when the premises had been permitted to open later, there had been a problem with crime.

The sub-committee shared the concerns of the responsible authorities that there was a significant risk of further incidents of crime and anti-social behavior if the application was granted. Further, it was clear from the council's own statement of licensing policy that premises in residential areas are considered unsuitable for nightclub use and the longer opening hours sought. However, the sub-committee also acknowledged that the premises has been operating without problems since the review and noted that the applicant's clientele, who are largely from the African or Hispanic community, tend to eat later in the evening. The sub-committee therefore decided that it would be appropriate to grant the application in part, by permitting slightly longer hours for licensable activities on Friday and Saturday, and adding 30 minutes drinking-up time all week.

The sub-committee noted with approval the applicant's willingness actively to promote the use of public transport to and from the premises, to retain the current use of paper straws and to eliminate the use of single-use plastics.

In reaching its decision, the sub-committee had regard both to the revised guidance and to its own statement of licensing policy, and considered that its decision was appropriate and proportionate in order to promote the licensing objectives, in particular the prevention of crime and disorder and the prevention of public nuisance.

### **3. Appeal rights**

The applicant may appeal against any decision to modify the conditions of the licence; and

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

- a) That the variation ought not to have been made; or
- b) That, when varying the licence, the licensing authority ought not to have modified 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 Magistrates' Court for the 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 Law and Democracy.

Date: 28 November, 2019.

### WITNESS STATEMENT

**Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B**

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Statement of: PS Keith Dempster PS216AS

Age if under 18: Over 18 (if over 18 insert 'over 18') Occupation: Police Officer

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Witness Signature: ..... Date: 19/8/2020

I am a Police Officer part of the Night Time Economy Team (NTE), a partnership team based at Southwark police station. As part of my patrol duties, I visit licensed premises on the borough, with the objective of compliance with licensing conditions of venues. In the current period we are also visiting premises to check compliance of Coronavirus legislation and the close of certain businesses under the Act.

On Friday 31 July 2020 I was on duty in full uniform in the company of PC O'MAHONEY 2321AS and PC HOLLEY 1989AS we were on patrol in an unmarked vehicle. There had been reports of a premises with large groups outside and operating as a nightclub. This activity is prohibited under current Coronavirus legislation. A club is permitted to open as a bar or pub, but must not have amplified music and facility for dancing.

At Approximately 2345 hours we attended the premises known as Afrikiko, 581 Old Kent Road SE15. There was about 10 people outside the door on Ilderton Road SE15, and was met by a male I now know to be Daniel Donor. He invited us in to the venue, and took us through the door into the ground floor bar that is a restaurant. This was not busy. I was then alerted by PC O'MAHONEY to the basement area, as she heard music. We entered the door to the basement and could hear loud amplified music. As we entered the basement, I could see approximately 20 people sitting together. The music was loud and I had to shout to be heard. I could see a male in a booth, and was acting as a DJ. In front of the booth was an area that can be described as a dance floor. Due to having amplified music and a DJ with dancing facilities, I considered this to be nightclub.

We returned to the ground floor and PC O'MAHONEY asked about the ID scanner. Daniel asked a door supervisor to show the system, and after a while showed it to be working. I went outside and was joined by Daniel. I asked him if he had completed a Risk Assessment prior to opening the premises to the public. He replied "in the pipeline". I asked what safeguards were in place to protect his staff and his customers. He said he had a thermometer to take peoples temperature. He had not checked anyone that had entered since we had been at the venue. He was asked what else could be put in place, and there was pause. I said hand sanitisers. And he replied, that is all there. I asked how he was keeping social distancing downstairs, and another male, who name I do not have replied one metre, and were operating at reduced capacity there.

Witness Signature: .....

Signature Witnessed by Signature:.....

Continuation of Statement of:

I explained that as he had a DJ and dancing facilities he was a nightclub. I advised him that he should put tables and chairs on the dance floor so people would not be tempted to dance. I said he needed to do a risk assessment, and to read the guidance before opening there.

I was then asked to sign to say had visited. We then left the premises to continue our patrols.

On Saturday 15 August 2020, I attended the venue, in company of PC 1989AS HOLLEY and SC SHIRLEY, with another marked police unit. This was as a result of call from Southwark council here was a large group outside the premises.

We arrived at approximately 2300 hours, and PC HOLLEY and SC SHIRLEY entered the premises to do a licensing inspection and I went to park the vehicle, before going to the premises. I spoke briefly to the door supervisor, who explained it was a South American crowd that evening. After a short while I was met by PC HOLLEY and SC SHIRLEY who explained they had been downstairs, but were shown down the back stairs. In entered the venue and went to the basement area. There was loud music that could be heard outside, and about 30 people in the area. I could see the DJ booth with DJ and people dancing on the nearby dancefloor. The lighting was dark with flashing strobe lights. This was a nightclub.

I went back up to the ground floor with other officers, and asked SIA staff who was in charge on the night. She asked someone to find them. I asked if it was Daniel, and the reply was "not Daniel". I could then see a black male, holding a book with PC HOLLEY who appeared to be in charge. I went into the ground floor bar area, and was again met with loud music, and the lighting dark. I spoke to PC HOLLEY and SC SHIRLEY who were still conducting their inspection, when suddenly Daniel appeared and asked "what are you saying". I said I was talking to my colleagues. I explained I had been here two weeks ago, and asked why he was still operating as a nightclub. He denied there was people dancing. I asked how he knew how many people were in the premises, and he said he used the ID scanner. He said that someone had taken the clicker counter system home with them the previous night. After a brief conversation about the dancefloor, I enquired about a risk assessment, and Daniel said he had one, and went to look for it. After some minutes he returned, and showed me the risk assessment. It was a template from guidance from Government website, and was completed and appeared to cover what may be expected. I asked Daniel to speak outside as it was quieter there. I explained to him that he could operate as a bar, but cannot open as a nightclub. He said it wasn't a nightclub. I said we had been to the basement and seen people dancing and there was amplified music there.

I explained everyones health is at risk, and he said he would get security staff to cover the dance floor. We then left the premises to continue patrols in the borough.

Witness Signature: .....

Signature Witnessed by Signature:.....



# Notification of alleged offences under the Licensing Act 2003

Venue Name: AFRINTO REF: (CAD/CRIS etc.) \_\_\_\_\_

Address: 871 OLD NEW ROAD SE15 1ND

Date: 15/08/2003 Time: 126

Details of person in charge at the relevant time: DANIEL DODD

DPS  Personal Licence Holder

### Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y  No  )
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y  No  )
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y  No  )
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

288 no working C690

289 CTR ✓ to be made available to police

P4

Issuing officer: PC HOLLAN [Redacted] Print: DANIEL DODD

I acknowledge receipt of this form: (venue) \_\_\_\_\_

The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001



# Notification of alleged offences under the Licensing Act 2003

Venue Name: AFRIKANO RESTURANT, NICHOLLS REF: (CAD/CRIS etc.)

Address: 871 OLD HENT ROAD SE15 1NX

Date: 19/02/20 Time: 18:00

Details of person in charge at the relevant time: REFUSED

DPS  Personal Licence Holder

### Summary of alleged offences identified

- Section 57(4) Failure to secure premises licence or a certified copy at the premises or to prominently display a summary of the Licence.
- Section 57 (7) Failure to produce a premises licence or a certified copy.
- Section 109 (4) Failure to secure that a copy of the Temporary Event Notice (TEN) is prominently displayed at the premises or secure that a copy of the TEN is in the custody of an appropriate person.
- Section 109 (8) Failure to produce a TEN to a police officer.
- Section 135 (4) Failure to produce a personal licence to a police officer.
- Section 136 (1) Carrying on or attempting to carry on a licensable activity on or from any premises otherwise and in accordance with an authorisation or knowingly allowing a licensable activity to be carried on. (Sec19 issued Y  No  )
- Section 137 (1) Exposing alcohol for retail without an authorisation. (Sec19 issued Y  No  )
- Section 138 (1) Keeping alcohol on a premises for an unauthorised sale. (Sec19 issued Y  No  )
- Section 140 (1) Knowingly allowing disorderly conduct on a licensed premises.
- Section 141 (1) Knowingly selling or attempting or allowing alcohol to be sold to a person who is drunk.
- Section 144 (1) Knowingly keeping or allowing non duty paid goods or unlawfully imported goods to be kept on premises.
- Section 145 (1) Allowing an unaccompanied child on a premises (used primarily or exclusively for the sale of alcohol).
- Section 146 (1) Selling alcohol to an individual aged under 18.
- Section 147 (1) Knowingly allowing the sale of alcohol to an individual under 18.
- Section 153 (1) knowingly allowing an individual under 18 to make a an unsupervised sale of alcohol.
- Section 179 (4) Intentionally obstructing any authorised person exercising a power of entry under section 179.

Details of alleged offence(s) including relevant Cad and Crime report details:

condition 336 - A personal licence holder should be on premises at ALL times where liquor is supplied PH

No personal licence holder at time of visit

Issuing officer: [Redacted]

Print: P242227

I acknowledge receipt of this form: (venue) REFUSED

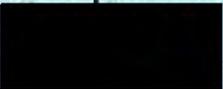
The purpose of this notice is to inform you that the failure to comply with the Licensing Act 2003 may result in the police initiating criminal proceedings against the DPS, premises licence holder, or both. This notice may also be used in evidence to support a review of the premises licence pursuant to section 51 Licensing Act 2003 and/or an application for a closure order under section 20 Criminal Justice and Police Act 2001

**CLOSURE NOTICE - SECTION 19 CRIMINAL JUSTICE AND POLICE ACT 2001**

Date of the Closure Notice: 19/08/2020 Time Served: 1538

Authority issuing Notice: Metropolitan Police Service

Name and rank of person making the notice: PETER HOLLEY PC

Signature:  1989AS

Name (if applicable) and address of the affected premises:  
AFRI KITA RESTAURANT AND NIGHT CLUB, 871  
OLD Kent ROAD SE15 1NX

**Alleged unauthorised use of the premises (section 19 (6)(a))**

The officer serving this notice is satisfied that the above premises are being, or within the last 24 hours have been, used for the unauthorised sale of alcohol for consumption on, or in the vicinity of the premises. The specific details of the alleged use are:

sale of Alcohol with no personal licence holder  
present condition 336 - of Prem licence

Grounds upon which the person serving the Notice was satisfied of the existence of such unauthorised use:

Establishment was open - No personal licence produced  
STAFF refused to give details

**Steps that may be taken to end the alleged unauthorised use of the premises, or to prevent it from re-occurring (section 19 (6) (c))**

Have a personal licence holder present when  
selling Alcohol

**Third party consideration (section 19.4)**

Are there any other persons occupying the premises who need to be informed of this notice?

Yes/No (details) No

If yes they must be issued with a copy of this form

**Effect of section 20, Application for closure order.**

A failure to take remedial action to prevent further or continued unauthorised use may lead to an application being made to a Magistrates court for a closure order under section 21 Criminal Justice and Police Act 2001.

The Person (if applicable) on whom the closure notice has been served:

Name REFUSED

Signature REFUSED

Date 19/08/2020

**STATEMENT OF WITNESS***(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)*

URN

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Statement of: Constable Peter Holley

Age if under 18: Over 18

Occupation: Police officer

This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature: 

Date: 29 Aug 2020

As I was writing this statement I viewed BWV footage that I recorded during the inspection and entry to the premises. I exhibit this footage titled "Afrikiko Inspection 29/08/2020 " as PWH/7

On SATURDAY 29 AUGUST 2020 at approximately 0100 hours I was on patrol in full uniform attached to AS 49N apart of OP EQUINOX. I attended AFRIKIKO RESTAURANT AND NIGHT CLUB, 871 OLD KENT ROAD SE151NX with a view of conducting an inspection of the premises under the Licencing Act 2003. This was due to our prior attendance on the 19th of AUGUST 2020 in which a s19 closure notice was issued as there was no personal licence holder on premises and was as a result, selling alcohol not in accordance with a premises licence or other authorisation. My attending was also to check if the premises was not operating as a nightclub as on prior occasions the venue was operating as a nightclub with dancing, amplified music and a DJ. This would be a contravention of The Health Protection (Coronavirus, Restrictions) (No.2) (England) Regulations 2020. I arrived at the venue and stated to the security staff: "HELLO IM CONDUCTING A LICENCING INSPECTION OF THE PREMISES. WE'RE GOING DOWN INTO THE BASEMENT TO INSPECT THE PREMISES." The security staff stated in words similar OK BUT YOU WILL HAVE TO WAIT FOR MY MANAGER FIRST. s179 of the Licencing Act 2003 confers the power of entry to a constable with a view of inspecting a premises to see if they are carrying out a licensable activity in accordance with an authorisation. The section also permits the use of reasonable force if necessary in order to facilitate a power under that section. I believed that the security staff member asking me to wait was obstructing the inspection and that delaying us entering would frustrate the purpose of the inspection. I then explained to him in words similar: WE ARE CONDUCTING A LICENCING INSPECTION. YOU CANNOT STOP US FROM ENTERING. The security staff member stated: "IM NOT TRYING TO STOP YOU. YOU CAN DO WHAT YOU CAME HERE TO DO. I'LL JUST GET MY MANAGER TO FOLLOW YOU DOWN." I then walked past the security staff member and entered the premises. From prior visits to the venue I was aware that there is a door in front of the rear entrance that leads to a narrow staircase to a basement area where from previous visits to the establishment is a bar, DJ booth, dance floor and an arrangement of tables and chairs. As I waked towards the door leading to the basement I saw a IC3 male approximately 5ft11 slim build wearing a white t-shirt catch sight of me. I then saw this male look to the side and shouted the words: SHUT THE DOOR! KRISSY SHUT THE DOOR!" The door then closed in front of me. I tried to push the door but it was being braced from the other side. At that point I believed that the persons behind the door were attempting to obstruct the inspection of the premises. Using s179(3) of the Licencing Act 2003 I then pushed firmly against the door and stated: "HELLO! EXCUSE US WE ARE ENTERING" I then looked to the side and I saw the IC3 MALE in the white T-Shirt behind him was a IC3 female wearing checked shirt and had dreadlock hair. It appeared that the female was bracing herself against the door by placing two hands against and leading on it. She then turned her head and looked towards me. I then asked him "WHY DID YOU HOLD THE DOOR SHUT?" The male exclaimed in a stammering voice words similar to ER...ER... NO ONE WAS HOLDING THE DOOR. YOU JUST PUSHED THE DOOR WHEN SHE

Signature: 

Signature Witnessed by:

Continuation of Statement of: Constable Peter Holley

WAS LEANING AGAINST IT. I then walked down into the basement and I saw a large number of IC3 males and females aged between 18-30 all standing around. There were by my rough head count approximately 60 people in the basement area, most of whom were standing up looking confused. As I entered I heard an amplified voice stating to the patrons "SIT DOWN, SIT IN YOUR SEATS!" and "NO DANCING...JUST LOOK AT EACHOTHER." Due to the large number of people standing up, their sudden confusion and the DJ telling the patrons over amplified speakers that they had just been playing amplified music and there was dancing occurring at the venue. I am aware that under condition 428 of there Premises licence that the venue is fitted with a a limiter/cut out device to halt the playing of amplified music or any audio output. I believe that in the time of my entry being obstructed at the entrance and at the door to the basement stairs that they may have activated this in order to conceal the prohibited activity. I then proceeded back up the stairs and saw DANIEL DONOR, a male who I know is a personal licence holder for the venue was present at the time of me inspecting the venue. I then spoke to him whilst I was outside of the venue. I explained to him my observations that the premises was operating as a night club. He then stated that it was not operating as such. I then challenged him about the DJ telling everyone to sit down and not dance. I informed him that I would be reporting my observations to the council and that if they deemed that he was operating a the venue as a nightclub he could be liable to a fine. I then departed the venue in the company of AS49N.

Witness Signature:



Signature Witnessed by:



# STATEMENT OF WITNESS

(Criminal Procedure Rules, r 16.2; Criminal Justice Act 1967, s. 9)

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**Statement of (full name): Raymond Henry MOORE**

**Age of witness (if over 18, write "over 18" ): Over 18**

This statement (consisting of 2 pages) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

I am employed by the London Borough of Southwark as a Principal Trading Standards Enforcement Officer and as such I am an authorised officer under the relevant provisions of the Public Health (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 and the Licensing Act 2003.

On Friday 4<sup>th</sup> September 2020 I met up with three colleagues from the London Borough of Southwark, Richard KALU (from the Licensing Team); Farhad CHOWDHURY (from the Health and Safety Team) and Andrew BOLTON (from the Noise Team) close to the premises trading as "Afrikiko" at 871 Old Kent Road, London, SE15 1NX. We also met up with two police officers from the police Night Time Economy Team, PC Mark LYNCH and PC Jonathan DUCKER. We all entered the premises at about 20:00hrs and I introduced myself and asked to speak to the owner. The music was initially quite loud in the ground floor area of the premises. We were visiting the premises after the police had complained about the basement of the premises being used as a very crowded nightclub the week before in contravention of the emergency measures brought in as a result of the COVID-19 pandemic. Under the Public Health (Coronavirus, Restrictions) (No 2) (England) Regulations it is a criminal offence to open as a nightclub at the current time. No music

**Signed:** ..... **(witness)** **Date:** .....

**(To be completed if applicable: ..... being unable to read the above statement I, ..... of ....., read it to him/her before he/she signed it.**

**Signed:** 

**Date:** 1<sup>st</sup> October 2020 )CL4

and dancing is allowed on commercial premises. I spoke to a man who said he was the owner of the business who gave his name as Daniel DORNOR. He said that he was the director of the company running the business, Afrikiko Nightclub and Restaurant Ltd. It later transpired that this is in fact not the case. Although the premises license is in the name of that company, the sole director is Zeona Naa Densuah ANKRAH (DOB: August 1993). We discussed the allegations that the premises had been used as a nightclub and I asked to be shown the downstairs area. We went down there and it was clear there had been a problem with the sewers earlier in the week which had caused them to back up. The basement area was not at that time usable. There were no decks or amps present as a result of this as they had been removed. Richard Kalu then sat down with him to view the CCTV footage from weekends when it was alleged that the premises had been used as a nightclub. Mr DORNOR did various things with it but claimed he didn't know how to bring up the relevant bits. I then proceeded to seize some of the lights from the basement and two speaker cable and said that the business could have them back at a time when they were once again allowed to operate as a nightclub. These items were seized under powers granted in the Public Health (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020. Richard KALU had identified a number of conditions on the premises license which had not been complied with. These were conditions 255 and 289. I gave notice numbers 1176 and 1177 for the items seized and the breached license conditions. I had a body worn camera on for the full time of the visit which recorded all conversations and actions on the premises. I also issued a prohibition notice under the previously mentioned regulations that stated the premises was not to be used as a nightclub or for music and dancing to take place there. I informed him of the consequences of failing to comply with the prohibition notice.

Signed .....  .....

**STATEMENT OF WITNESS***(Criminal Procedure Rules, r. 16.2; Criminal Justice Act 1967, s. 9)*

URN

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Statement of: Constable Peter Holley

Age if under 18: Over 18

Occupation: Police officer

This statement is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it, anything which I know to be false, or do not believe to be true.

Signature:



Date: 27 Sep 2020

As I was writing this statement I viewed BWV footage of the incident titled: "Afrikiko COVID 19 Regulation breach 26/09/2020" I exhibit this footage as PWH/8.

On SATURDAY 26 SEPTEMBER 2020 at approximately 2249 hours I was on duty in plain clothes alongside PC MARIA O'MAHONEY attached to the NIGHT-TIME ECONOMY TEAM. We were passing AFRIKIKO RESTURANT AND NIGHT CLUB 871 OLD KENT ROAD SE15 1NX. We were attending the premises to check its compliance with the new COVID 19 restrictions that were imposed on 24th SEPTEMBER 2020. The regulations imposed under The Health Protection (Coronavirus, Restrictions)(No.2) (England)(Amendment) (No.5) Regulations 2020 which stipulate:

" 4A.—(1) A person responsible for carrying on a restricted business or providing a restricted service ("P") must not carry on that business or provide that service during the emergency period between the hours of 22:00 and 05:00, subject to paragraphs (2), (3) and (4)."

AFRIKIKO, a bar and restaurant is defined as a restricted business and must comply with section 4A (1). I approached the rear door to the premises where I was spoken too by a very nervous looking IC3 female in a party dress. She asked in a nervous voice why we were attending the venue. I stated that we were there to conduct a licencing inspection. PC O'MAHONEY then along the pavement and looked into the address. The bottom half of the exterior windows are opaque and you cannot see in. However the top half of the exterior windows are transparent and can be seen through if you stand on your toes. As I stood at the rear door, PC O'MAHONEY called to me and stated "THERE ARE PEOPLE IN THERE!". I then moved toward her position and looked in. I asked "WHAT DID YOU SEE?" she replied: "I SAW 20 PEOPLE SAT AT THE TABLES THERE JUST NOW." I then looked in but couldn't see anyone. However I could see a male who I know to be DANIEL DORMER who is the manager for the premises. PC O'MAHONEY then shouted to him words to the effect of: COME OUT WE NEED TO SPEAK TO YOU. Approximately a minute later after knocking on the door. DORMER opened the door, I then showed him my warrant card that was on prominent display around my neck in a MPS blue lanyard. PC O'MAHONEY stated: "WE NEED TO SEE THE DOWNSTAIRS. CAN WE COME IN AND INSPECT THE DOWNSTAIRS AREA?" DORMER AGREED and allowed us inside. As I had reason to believe a licensable activity was being carried on inside the venue. I entered under s179 of The Licencing Act 2003 which allows a constable to enter a venue to inspect it to see if the licensable activity is being carried on in accordance with an authorisation. DORMER then lead us to the bar area, PC O'MAHONEY then asked him again if we could see the downstairs area. DORMER then took us down a staircase behind the bar. This staircase leads to a large dancefloor area that has been populated with tables, chairs, DJ decks. PC O'MAHONEY tried the door but announced "ITS LOCKED" I then went upstairs and spoke to DORMER. I said to him "ARE YOU ABLE TO OPEN THE DOOR FOR US MATE?" DORMER replied: "WHAT IS IT LOCKED?,"

Signature:



Signature Witnessed by:

Continuation of Statement of: Constable Peter Holley

a unknown male sitting at the bar stated: "I THINK THE KEY IS WITH THE CLEANER AND SHE HAS GONE HOME." I then asked DORMER: "CAN I LOOK AT THE CCTV THERE PLEASE?" I then approached the CCTV area and viewed the multi-feed monitor that was switched on. From my visit approximately 2 hours prior to this attendance, I was able to view the CCTV monitor and I could see the feed from downstairs as well as the feed from the adjoining staircases and lobby areas. However on this occasion I could see that only 6 feeds were active. Camera feed 15 which was the feed to the downstairs area was disabled and showed no footage. I then asked DORMER: WHY IS THERE NO DOWNSTAIRS AREA BEING LOGGED?" DORMER replied: "WE HAVE A PROBLEM WITH HE CCTV!" I replied: "MATE I CAME HERE A FEW HOURS AGO AND THE CCTV WAS WORKING. WHY IS IT NOT WORKING ANYMORE?" DORMER stammered and stated: WA..WHAT DOES IT HAVE TO DO WITH ME?" I stated: "ITS YOUR VENUE..." DORMER then began talking over me. I then stated: "I THINK ITS RATHER ODD THAT YOUR TELLING ME THAT THE DOWNSTAIRS DOESN'T HAVE ANY PEOPLE AND NOW THE FOOTAGE IS GONE." DORMER then reiterated that the cameras were gone already. I then walked back to MARIA to inform her of the development. I believe that DORMER intentionally cut the feed to the downstairs area to obstruct police in our inspection of the premises and to conceal evidence of an offence under The Health Protection (Coronavirus, Restrictions)(No.2) (England)(Amendment) (No.5) Regulations 2020 in that he was harbouring patrons inside the venue past the restricted period. We then went back to the rear door to the downstairs area that was locked too. This continued for approximately 20 minutes all the while DORMER was stating: "THE KEY IS COMING, THE KEY IS COMING." I then came to the conclusion that the door would not be opened voluntarily. I then called for more units and for a Method of Entry (MOE) device. At one point PC O'MAHONEY tried to push open the rear door downstairs. The door opened for a few seconds then slammed shut. It was clear the door was being held from the other side. When more units arrived I asked for assistance in inspecting the upstairs area using s179. No unusual activity was found upstairs. We then proceeded downstairs to try and open the doors once more. As we were trying to push the door open, the lights in the hallway suddenly cut out. Officers tried to flip the light switches but nothing would turn on. It would appear that DORMER had tripped the breaker on the downstairs area lighting in an attempt to obstruct us further and to conceal an offence taking place. We then went to the staircase at the rear of the bar when a IC3 male dressed in DARK BLUE BLAZER, TROUSERS and GREY TURTLE NECK came up the stairs from the basement area. I then explained to him that we needed to check the downstairs area. The male refused to open the door for us stating he wanted to let the people out in the basement. I refused him and stated that I needed to inspect the downstairs area. I then observed him leaning close to the door and called to someone on the other side in a language I did not understand. It became apparent that the male would not open the rear basement door so we moved back to the upstairs area to try and open the door that was being held shut. I considered forcing entry to this door however I was conscious of the fact that if someone was bracing against the door then they could fall down the stairs if the door was forced. I know from previous visits that the patrons have obstructed me by bracing themselves against the door in an attempt to bar entry to the downstairs area. As I believed forcing entry to be too great a risk to the person braced on the other side, I stood with the other PC's now in attendance and attempted to negotiate the opening of the door. The male in the DARK BLUE BLAZER, TROUSERS and GREY TURTLE NECK came behind us and shouted: "YOU ARE NOT BOOTING IN THE DOOR." I then observed him put his hand on a uniformed officer who was close to the door inspecting it. As I believed the male was obstructing the constable in the execution of his lawful duty and fearing that he would assault him. The constable shouted to the male: "DON'T BASH ME LIKE THAT! MOVE OUT OF THE WAY. I pushed the male away from him with my RIGHT ARM and stated firmly: "OUT OF THE WAY, MOVE OUT OF THE WAY NOW! GET BACK OR YOU WILL BE ARRESTED." The door then opened and a long file of patrons in party dresses and evening dress came out towards us. Most if not all were carrying filled cups of alcohol out with them and leaving the venue. I attempted to count the number of patrons leaving but I lost count. I would estimate there were more than 60 people that were downstairs that came upstairs to leave the venue. Once the majority had left there were still some stragglers left downstairs. I then went downstairs with PC O'MAHONEY and officers from ERPT. As the lights were still off and PC O'MAHONEY made several requests to DORMER to turn the lights back on which were ignored. In doing this DORMER made the situation for more dangerous with the intent to obstruct us further. I was apprehensive in entering as it was still very dark and the patrons that remained downstairs refused to leave. We then arrived downstairs and I observed approximately 12 people remaining. There was even one IC3 woman who had a 6 month old child with her. The woman stated she was doing the cleaning at the address.

Witness Signature:

 *PH*

Signature Witnessed by:

Continuation of Statement of: Constable Peter Holley

However it was worth noting that she had full make up on and in evening dress attire. She informed us that we were disgusting for the fact we were closing the venue. The situation was deteriorating as the shouting from the persons downstairs was increasing as well as threatening language and posturing. Looking around I could see numerous glass bottles and Poole cues within easy reach of the patrons. I believed this to be a volatile situation that thankfully was de-escalated with the assistance of the ERPT officers present in the downstairs area, all of whom had TASERS. When we established that no more patrons remained and only staff were present I, PC O'MAHONEY and the ERPT officers withdrew. Before doing so I went upstairs and informed DORMER we would be reporting to the council to seek a review of his premises licence. I then departed the scene in the company of PC O'MAHONEY.

Two hours prior I visited AFRIKIKO RESTURANT AND NIGHT CLUB 871 OLD KENT ROAD SE15 1NX and observed the downstairs CCTV functioning. I could see there were a few people downstairs walking between the tables and chairs. I exhibit the footage titled "AFRIKIKO Visit 27/09/2020" as PWH/9

I believe that DORMERS and the conduct of the venue was appalling and a blatant violation of The Health Protection (Coronavirus, Restrictions)(No.2) (England)(Amendment) (No.5) Regulations 2020 at a time where cases of COVID 19 and deaths attributed to it are rising exponentially. On top of this he and others in the venue: obstructed police in the execution of their duty, obstructing entry for inspection, concealing offences and deliberately creating a hostile and dangerous environment for officers and patrons attending. This evident when he locked in a large amount of patrons in the downstairs area with no lighting, restricted ventilation and with a 6 month old child effectively trapped downstairs. It is my opinion DORMER is unfit to manage the premises and further to this AFRIKIKO RESTURANT AND NIGHT CLUB 871 OLD KENT ROAD SE15 1NX is a dangerous venue and in clear breach of the licencing objectives under The Licencing Act 2003. I strongly urge a review of their licence be conducted due to the clear concerns regarding public safety and public nuisance.

The Metropolitan Police Service work tirelessly to ensure the prevention of crime and disorder; the prevention of harm; the preservation of life and preserving the peace. When we go into venues like AFRIKIKO who breach the COVID 19 regulations we put our health, our families and friend's health at risk. To ensure compliance and to do our part in stopping the spread of this pandemic and to fulfil our duty in preventing serious illness and death without fear or fervour.

Witness Signature:

 *PAS*

Signature Witnessed by:

## WITNESS STATEMENT

Criminal Procedure Rules, r 27. 2; Criminal Justice Act 1967, s. 9; Magistrates' Courts Act 1980, s.5B

URN

Statement of: PC Maria O'MAHONEY 2321AS

Age if under 18: over 18 (if over 18 insert 'over 18') Occupation: Police Officer

This statement (consisting of 2 page(s) each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated in it anything which I know to be false, or do not believe to be true.

Witness Signature: PC [REDACTED] 2321AS Date: 26/09/2020

Before writing this statement I have viewed my Body Warn Video (BWV) which I exhibit as MVO/1 and MVO/2.

I am a Police Officer attached to Southwark Night Time Economy Team and as part of my duties I visit licenced premises on the borough to check for licensing compliance and also Coronavirus compliance. As of Thursday the 24th September 2020 all pubs and restaurants have to be closed by 22:00 hours to 05:00 hours due to new regulations the Government had brought in to tackle the rise in coronavirus infections. The Health Protection (Coronavirus, Restrictions) (No. 2) (England) (Amendment) (No. 5) Regulations 2020 amend The Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020.

On Saturday the 26<sup>th</sup> September 2020 I was on duty in plain clothes in the company of PC HOLLEY 1989AS. At approximately 22:55 hours I was driving past Afrikiko Restaurant and Night Club 871 Old Kent Road SE15 1NX when I noticed a group of approximately 10 to 15 people standing outside the back of the premises in the nightclub carpark which was also full to capacity with vehicles. I had visited the premises earlier that evening at approximately 20:00 hours to pick up a USB stick. I had spoken to the manager Daniel DORMER who returned the USB stick stating that he had downloaded the requested CCTV footage. This was from a previous weekend when officers believed that the manager of the premises had not been following the coronavirus regulations and operating as a nightclub. Whilst I was speaking to DORMER I had to ask him to turn down the music as it was so loud and I was unable to hear him and had to shout to get myself heard.

At 22:55 hours we decided to enter the premises to ensure that it was being compliant with the new coronavirus regulations and that it was closed as it was almost one hour after closing time. PC HOLLEY and I knocked on the door several times and shouted loudly can you open up we are police but received no reply. I decided to walk to the front of the club and knock on the window. As I walked past the window to the basement club I could see that the light was on. I looked through the gap in the window and could see that a table had been pushed against the door. I walked to the front of the club and peered in the window where I could see about 15 people sitting and standing with drinks in their hands. I knocked on the window and held up my warrant card and asked that someone open the door. The patrons ignored me and would not make eye contact. I walked back to PC HOLLEY to inform him that there were people at the front of the club. When I returned to the front of the building they had all moved and I could no longer see them. I then knocked on the window very loudly and Daniel DORMER came into my line of vision. I asked him to open the door.

Witness Signature: PC [REDACTED] 2321AS

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Continuation of Statement of:

He nodded that he would so I returned to the back door. I knocked several more times and DORMER failed to open the door. I then called up on my radio for another unit to join me at the venue as DORMER was not allowing me access and I believed that licensable activities were taking place. I then shouted to DORMER that I had called for more units and that if he did not let us in his door was going to be put through. After a few more minutes he finally opened the door. I told DORMER that I wanted to go downstairs. He ignored my request and walked into the restaurant area past the door to the basement. In the restaurant there was about 8 to 10 people with bottles of beer in front of them sitting at different tables still eating and drinking. None of the staff that were working behind the bar had facemasks on. I then proceeded to the staircase that is at the back the club behind the bar that leads to the basement. I tried to open the door and found that it was locked. I asked where the key is and DORMER stated that the cleaner has left and taken the key with her. I pointed out that there are people in the basement and that if there is a fire there is nowhere for them to escape. Whilst waiting for another unit to join us I went back to the entrance and asked them to open the door. DORMER keeps shouting that he wanted the entrance door locked. I tried the door at the front of the club that leads to the basement and it opened slightly. I then felt someone pulling it shut from the other side. I ask DORMER again about who is downstairs and he insisted that there is no one in the basement and that the cleaner is bringing the key back. I then ask DORMER if I can look at the CCTV for the basement and he claimed it was not working. PC HOLLEY viewed the CCTV monitor and found that all the cameras for the basement had been disconnected. When I return to look through the window leading to the basement all the lights have been switched off leaving the basement in complete darkness. I ask DORMER again to open the basement door and he still insisted that the cleaner has gone with the key. Other officers try and reason with him but he still refused to open the doors. We then went upstairs to see if the customers had gone up there to hide but found it was staff cooking in the kitchen.

When I went back down I tried the door to the basement again and felt someone pulling against it. I explained to DORMER that I know he has customers in the basement and that the reason he is preventing me from going down is that he knows that he is breaching the coronavirus regulations.

After about 10 minutes of asking and trying to reason with DORMER to unlock the doors to the basement I can hear a bit of a commotion coming from the stair case that is behind the bar. I go over to it and see a male with cornrows on the staircase and with the door partially open I make way down but he closes the door and someone locks it. I explain to him that I need to go in there and check on who is in the basement. The male refuses me entry and says that he will not allow the people to leave the basement until police move away. We then move from the staircase and he still refuses to unlock the door. Fearing for the safety of the people locked in the basement I make my way to the front staircase and start to force the door open whilst PC Holley calls up for an enforcer. As we are forcing the door the male with the cornrows attempts to prevent police from releasing the people being held in the basement. He has to be told to stay back several times and told that if he continues to try and prevent police from opening the door he will be arrested for obstruction.

Suddenly the door opens and people start making their way up the stairs and out of the venue. I counted at least 47 people leave the basement which is in total darkness. As they come up the stairs they all appear very subdued and none of them say anything. I ask DORMER again to turn on the lights for the basement as I feared for the safety of the

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Continuation of Statement of:

customers and also for myself having to go down the stairs and into a basement that is in total darkness. DORMER completely ignored repeated request for the lights and the CCTV to be put on. He then walks away and disappears behind the bar. We use torches and go into the basement. All the tables have shisha pipes on them and are littered with glasses, beer bottles and buckets containing bottles of wine. There are about 10 people still in the basement. Sitting at a table are three females who are still drinking with cups in their hands. One of them then turns round and I am absolutely shocked to see that she is holding a small baby who is approximately six months old. She then proceeds to tell police they are disgusting. When it is pointed out to her the danger she is putting her child in by being in a closed environment without ventilation and containing at least 50 people so that there is no social distancing. The female and her two companions then state that she is the cleaner.

I found as well as the Health and Safety and Coronavirus breaches there was a number of Premise Licence breaches.

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.

I have been unable to ascertain who the DPS is and if he holds a Personal Licence.

276 - That the basement area is to be equipped with extract ventilation and chilled intake replacement air to facilitate music and dancing until requested terminal hour.

I found the there was no ventilation in the basement.

288 - That a CCTV system be installed at the premises and be maintained in good working order and be continually recording at all times the premises are in use under the licence. The CCTV system must be capable of capturing an image of every person who enters the premises.

289 - That all CCTV footage shall be kept for a period of thirty one (31) days and shall, upon request, be made immediately available to officers of the Police and the Council.

CCTV not recording in the basement. DORMER stated that it was not working.

291 - That any events operating after 22:00 hours shall have two SIA registered door supervisors, one of whom shall be female, until the terminal hour that the premises are in use under the licence including any temporary event notice. Hand held search wands will be used to assist in searching all persons entering the premises. All persons to include staff, performers, guests and members of the public. Counting devices shall be used to ensure that the accommodation capacity is not exceeded. The number of attendees shall be recorded periodically whilst the premises is in operation. This information will be made available to the Police and officers of the council and any other authorised persons immediately upon request.

No SIA door staff.

Witness Signature: [Redacted] 23/1/15

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Continuation of Statement of:

312 - Customers shall use no outside area after 22:00hrs except those who temporarily leave to smoke, with no more than 10 persons at any one time. Those customers shall be identified by a token or some other method with approval of the Police and Local Authority. Customers shall not take drinks outside after 22:00hrs.

At least 10 people standing outside in the carpark none of whom were smoking.

344 - An ID scanning system to the reasonable satisfaction of police will be installed and maintained. The system should be capable of sharing information about banned customers with other venues, identify the hologram of an ID and read both passport and ID cards, able to identify fake or forged ID documents.

345 - An ID Scanning system to the reasonable satisfaction of Police be installed and maintained. The system should be capable of sharing information of banned customers with other venues, identify the hologram from a form of ID and read passports and ID cards, and be able to identify fake or forged ID documents. This system is to be used for access to the basement area of the premises only. All members of the public, DJs and associated staff will have their ID scanned and stored on the system prior to being permitted access to the basement area. The system will be in use at all times after 22:00 and the terminal hour the premises are in use under its licence and when regulated entertainment is being provided in the basement area of the premises.

ID scan has not been used.

346 - All customers entering the basement area will be identified with an ink stamp on initial entry. Persons without the approved ink stamp will not be permitted entry to the basement area via the internal ground floor door and will be required to enter via the external door located in Ilderton Road only. Restaurant users are to access the premises via the entrance on Old Kent Road only. If restaurant users wish to gain access to the basement area, they must conform with the usual security requirements and enter via the entrance on Ilderton Road.

None of the customers from the basement had an ink stamp.

Having worked as an Officer on Night Time Economy for over three years this is the most dangerous premises I have ever visited. Customers were put at extreme risk by being locked in a basement with no lights or air conditioning. Should a fire break out they've no escape route as the manger had locked both the exit doors and turned the lights out leaving the basement in total darkness. There was at least fifty people in the basement along with a small baby. The manager was obstructive and uncooperative putting both the police and his patrons in hazardous situation. Four more police units had to attend taking a total of 14 officers of the street because the manager was so obstructive.

I do not believe that this establishment should be allowed to continue trading as it is putting people's health and lives at risk.

Witness Signature: [Redacted] 2321AS

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